



# **COUNTRY OF ORIGIN INFORMATION IRAQ**

**United Nations High Commissioner for Refugees (UNHCR)  
October 2005**

This report has been produced by UNHCR on the basis of information obtained from a variety of publicly available sources, analyses and comments. The purpose of the report is to serve as a reference for a breadth of country of origin information and thereby assists, *inter alia*, in the asylum determination process and when assessing the feasibility of returns to Iraq in safety and dignity. The information contained does not purport to be exhaustive with regard to conditions in the country surveyed, and incomplete, inaccurate or incorrect information cannot be ruled out. The inclusion of information in this report does not constitute an endorsement of the information or views of third parties. Neither does such information necessarily represent statements of policy or views of UNHCR or the United Nations. In particular the use of ethnic-sectarian terms such as ‘Shiite’, ‘Sunni’ or ‘Kurd’ does not constitute an endorsement of sectarianism but merely reflects the current realities on the ground (i.e. these groups should not be considered homogenous entities).

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## List of Acronyms

ACLU	American Civil Liberties Union
AMS	Association of Muslim Scholars
CCCI	Central Criminal Court of Iraq
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPA	Coalition Provisional Authority
CRRB	Combined Review and Release Board
CSIS	Center for Strategic and International Studies
DFID	(UK) Department for International Development
ExCom	(UNHCR) Executive Committee
GDP	Gross Domestic Product
GSD	General Security Directorate
HIEC	Higher Independent Electoral Commission
IAJ	Iraqi Association of Journalists
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
ICS	Iraqi Correctional Service
ID	Iraqi Dinar
IDP	Internally Displaced Person
IED	Improvised Explosive Device
IFJ	International Federation of Journalists
IGC	Iraqi Governing Council
IIG	Iraqi Interim Government
ILCS	Iraq Living Conditions Survey
ILO	International Labour Organization
IMF	International Monetary Fund
IMK	Islamic Movement in Kurdistan
INC	Iraqi National Congress
INIS	Iraqi National Intelligence Service
IOM	International Organization for Migration
IPCC	Iraq Property Claims Commission
IRCS	Iraqi Red Crescent Society
IRFFI	International Reconstruction Facility Fund for Iraq
IRIN	United Nations Integrated Regional Information Networks
ISF	Iraqi Security Forces
IST	Iraqi Special Tribunal
ITF	Iraqi Turkmen Front
ITG	Iraqi Transitional Government
IWCP	Iraqi Workers' Communist Party
IWPR	Institute for War and Peace Reporting
JTJ	Jama'at Al-Tawhid wal Jihad
KDP	Kurdistan Democratic Party
KRG	Kurdistan Regional Government
KWAHK	Kurdish Women Action Against Honour Killings
LAIC	Legal Aid and Information Centre
LIS	Landmine Impact Survey
MFP	Medicine for Peace
MNF	Multinational Forces (US-led Coalition Forces)

MNSTC-I	Multi-National Security Training Command - Iraq
MoDM	Ministry of Displacement and Migration
MoLSA	Ministry of Labour and Social Affairs
MoPDC	Ministry of Planning and Development Cooperation
NCMDP	National Centre for Missing and Disappeared Persons
NGO	Non-Governmental Organization
NICE	National Independent Cadres and Elites
NPA	Norwegian People's Aid
OHCHR	Office of the High Commissioner for Human Rights
OWFI	Organization of Women's Freedom in Iraq
PDS	Public Distribution System
PKK	Kurdistan Workers' Party
PSD	Personal Security Detail
PUK	Patriotic Union of Kurdistan
RCC	Revolutionary Command Council
RPG	Rocket-propelled Grenade
RSD	Refugee Status Determination
RWICC	Rewan Women's Information and Cultural Centre
SCIRI	Supreme Council for the Islamic Revolution in Iraq
TAL	Transitional Administrative Law
TNA	Transitional National Assembly
UIA	United Iraqi Alliance
UK	United Kingdom
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNOPS	United Nations Office for Project Services
US	United States
UXO	Unexploded Ordnance
WFP	United Nations World Food Programme
WHO	World Health Organization
WTO	World Trade Organization



## Executive Summary

*The transformation from dictatorship to civil society is 'a major task' likely to take many years.*

(Iyad Allawi, former Interim Prime Minister, on the occasion of the handover of sovereignty on 28 June 2004.)

Iraq continues to be in a phase of transition, both politically and economically, and is faced with the immense task of rebuilding its institutions, its infrastructure, the rule of law and, above all, reconciling its people after years of oppression and conflict. Important steps have been taken in that direction, in particular as regards the political process with the Transitional National Assembly (TNA) elections held on 30 January 2005 and a referendum on the draft constitution planned for October 2005, thus paving the way for new National Assembly elections expected to take place in December 2005. Nevertheless, the ongoing insecurity in large parts of the country has resulted not only in high numbers of civilian casualties but has also hampered urgently needed reconstruction efforts in the country.

This report looks at the situation in Iraq since the handover of sovereignty on 28 June 2004, which marked a hopeful step in the transition process of Iraq. It seeks to provide in-depth information on the political, economic, security and human rights situation in the country, with a view to highlighting not only current developments but also to identifying potential opportunities and/or risks for the solution/creation of present and future conflicts.

The political and security environment is largely dominated by sectarian identity and divisions. After decades of domination by the Sunni Ba'ath Party and the repression of the Shiite and Kurdish populations, the latter gained political power in the 30 January 2005 elections. The Sunnis, who largely boycotted the elections for reasons of security or political conviction, have been sidelined. Despite efforts which have associated them with the drafting process of the Permanent Constitution, it remains to be seen whether compromises on deeply dividing issues such as federalism can be found. These difficulties in finding an understanding between the different competing political groups are a reflection of the current security situation.

The insurgency, be it nationalist groups fighting what they consider 'foreign occupation' or groups employing terrorist means to frighten the civilian population and undermine the government's legitimacy, is on the one hand largely Sunni-dominated. On the other, most Shiites and Kurds have jumped at the chance to rule the country and dominate Iraq's political scene as well as its law enforcement structures. Parts of the insurgency have vowed to stir sectarian violence into an all-out civil war by deliberately targeting the Shiite community. It appears that Kurdish and Shiite-dominated security forces and militias tasked with defeating the deadly insurgency, often show little respect for humanitarian and human rights law when launching attacks on insurgent hotspots or when raiding houses and arresting suspected insurgents – including civilians, thereby increasing sectarian divisions.

The re-establishment of law enforcement agencies has made progress with increasing numbers of trained and equipped Iraqi troops who are gradually taking over added responsibilities in providing security and fighting the insurgency. The Iraqi authorities have emphasized on several occasions the need for the continued presence of the Multinational Forces (MNF) until the Iraqi Security Forces (ISF) reach their full strength – much to the disapproval of large segments of the Iraqi population that would like to see the withdrawal of foreign troops soon, or at least a clear timetable for their withdrawal.

The ISF is not yet able to provide security and protection to the population. Above all, they are a major target of the insurgency which regularly launches attacks on police stations, army checkpoints, recruitment centres and senior officials. Special Police Commandos that fight at the forefront against the insurgency have become notorious not only for their efficiency but also for serious human rights violations which have been documented by numerous reliable sources and have the potential of increasing sectarian tensions. The various militias, mainly the Shiite Badr Brigade and the Mehdi Army as well as the Kurdish Peshmerga have become a major factor in providing security. While they have partly been included in the ISF, their members' loyalty to and control by the Central Government is questionable.

The security situation remains highly unstable in the Centre areas as well as the Northern Governorates of Kirkuk and Mosul and the Upper South areas of the so-called 'triangle of death', with daily security incidents including armed combat between the MNF/ISF and the insurgency, attacks on the ISF, politicians and religious leaders, Shiite civilians and public infrastructure. The situation in the three Northern Governorates of Dohuk, Erbil and Sulaymaniyah as well as in the Lower South is considerably more stable, but due to a number of mainly political factors, continues nevertheless to be unpredictable and tense.

The Iraqi population as a whole is affected by the declining economy as a result of years of wars and economic sanctions and the ongoing insecurity in large parts of the country. Despite its vast oil wealth and abundant water resources, Iraq's ranking in the UN Human Development Index dropped from 76 in 1991 to 127 in 2001. According to WFP, approximately 25 percent of the Iraqi population is highly dependent on the Public Distribution System (PDS) and approximately 11 percent of the households in Iraq, or roughly 2.6 million people, are poor and food-insecure despite the PDS. Unemployment runs high due to general insecurity with many businesses and public offices not working regularly and reconstruction faltering, loss of employment due to *De-Ba'athification* and the disbanding of the Iraqi Army. Apart from damaged and illegally occupied property, the UN Development Group/World Bank estimate that there are currently 1-1.5 million housing units missing, affecting up to 9 million people, thereby representing a housing 'crisis'. The country's health system has deteriorated leading to high maternity and child mortality rates and the recurrence of formerly well-controlled diseases. Iraq's adolescents today have a higher rate of illiteracy than previous generations, a clear indication of the deterioration of Iraq's once renowned education system.

The general human rights situation is no longer marked by the repressive system used by the former regime to suppress large parts of the society, and many legal and practical restrictions on human rights have been lifted. Nevertheless, the current violent climate in many parts of the country, the increasing sectarian tensions as well as the dire state of the country's basic services severely limit the enjoyment of human rights in today's Iraq. All parties to the conflict have been accused of violating basic standards of international humanitarian law, including the killing of civilians. In the name of security, people are arbitrarily arrested and detained, tortured and tried without due process of law. Deliberate attacks by insurgent groups have caused high numbers of civilian casualties. Targeted assassinations of politicians, civil society actors, academics and journalists infringe on people's rights to be part of an evolving process of rebuilding their country. The situation of women, which had already deteriorated after the 1991 Gulf War and the sanction regime, has further worsened due to insecurity and high criminality, insufficient protection provided by the Iraqi authorities, the poor state of the country's infrastructure as well as the general population's embracing of stricter Islamic values, often enforced by militias, families or clans. The debate about the role of women in Iraq's society is reflected by the ongoing discussions as to the role of Islam in the Permanent Constitution. To what degree more liberal actors, including the growing civil society, will be able to influence decisions which may be detrimental to women's rights in Iraq still remains to be seen. The Iraqi

judicial system has undergone significant reform; however, a lack of staff and equipment, years of professional isolation, widespread corruption and the need for further legal reform mean that violations of human rights can rarely be adequately addressed through the existing system.

Since the fall of the former regime, which is held responsible for the widespread displacement of populations both within and outside Iraq, new possibilities to end protracted situations of displacement have opened up. In fact, significant numbers of Iraqis from abroad as well as from within the country have returned to their places of origin or former habitual residence or settled in other areas of their choice. However, the ongoing insecurity, including continued armed conflict and increasing ethnic and religious tensions, new patterns of persecution as well as the acute lack of services and infrastructure (in particular housing) have led to new displacement of Iraqis both inside and outside Iraq. The return and reintegration of Iraqis from abroad is severely hampered by a number of factors, including the destruction of villages and livelihoods, the loss of nationality and documentation, contamination of return areas by mines and unexploded ordnance (UXO) as well as property disputes. The capacity of the Iraqi authorities to provide protection to its people, to devise and implement durable solutions for displaced populations and to address obstacles to return and reintegration has not yet sufficiently developed. In light of these findings, UNHCR has issued its latest *Return Advisory* as well as the *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, which complement this report.

## A. Introduction

This report is intended to provide as much information as possible about the current situation in Iraq. It is based on information gathered from a variety of recognized sources such as reports and surveys published by UN agencies, international and Iraqi NGOs, institutes and the media. The paper focuses on the period between the handover of sovereignty in June 2004 and the end of July 2005, though certain topics are shown in their historical context where this adds to a fuller understanding of the current situation.

The report addresses a wide range of issues such as the political environment, the security situation, the economic situation, infrastructure and reconstruction, situation of women and children, as well as physical, material (including the availability of basic services) and legal safety. In as much as possible, the paper describes the situation in the various parts of the country. Furthermore, it provides an overview of the displacement situation in Iraq – a country that continues to both produce and host considerable numbers of displaced populations. The paper therefore complements the *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*<sup>1</sup> as well as *UNHCR Advisory Regarding the Return of Iraqis*<sup>2</sup> and may be taken into consideration by host governments in the process of adjudicating asylum claims and when assessing whether return to Iraq is feasible in safety and dignity. Given the difficulties to access information as well as the fluid situation on the ground, this paper should by no means be considered exhaustive.

The report consists mainly of two parts: Part B captures the various challenges in today's Iraq, whereas Part C portrays the various issues falling under the components physical, material and legal safety. In addition, annexes complement the main body of the text. The report is sourced throughout and the vast majority of the source material is readily available in the public domain.

This report would not have been possible without the valuable contributions and inputs from various colleagues, both from UNHCR as well as from other agencies, including WHO, UNICEF, UNAMI/HRO, UNDP (Mine Action Centre), UN-Habitat and UNIFEM.

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<sup>1</sup> UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005.

<sup>2</sup> UNHCR, *UNHCR Return Advisory Regarding Iraqi Asylum-Seekers and Refugees*, 27 September 2005, <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.pdf?tbl=SUBSITES&id=4179043a4>.

## **B. Challenges in today's Iraq**

### ***1. Current political environment***

#### **1. Overview of political parties and their role in the Iraqi political system**

After decades of one-party rule by the Ba'ath Party, dozens of political parties and groups are competing for power in Iraq. Since the former regime was removed from power, former opposition parties such as the Shiite Al-Dawa Party, the SCIRI and Ahmed Chalabi's Iraqi National Congress (INC) have moved their headquarters to Iraq, while new parties have emerged. Political parties to a large extent are based on religion or ethnic background. The following contains a brief overview of the political parties currently represented and active in today's Iraq.<sup>3</sup>

##### **a) Main Shia Arab parties and movements**

- Al-Hawza Al-Ilmia (led by Grand Ayatollah Ali Al-Sistani);
- Supreme Council for the Islamic Revolution in Iraq (SCIRI - led by Abdul Aziz Al-Hakim);
- Al-Dawa Party (led by Ibrahim Al-Ja'afari);
- Badr Organization (led by Hadi Al-Amri);
- Islamic Action Organisation/Islamic Action Organization In Iraq - Central Command (IAOI-CC - led by Ridha Jawad Taqi);
- National Independent Cadres and Elites (NICE - led by Fatah Al-Sheikh).

Shia Islamic religious parties, together with secular (e.g. INC) and minority parties (representing Turkmen, Sunni or Faily Kurds) formed a coalition called United Iraqi Alliance (UIA) for the 30 January 2005 TNA elections. The coalition is generally believed to be supported by Grand Ayatollah Ali Al-Sistani, the most widely respected religious figure in Iraq who did not run as a candidate in the elections. Of over 8.46 million votes cast, the UIA received 4.08 million votes, or 48.1 percent, which gives the bloc 140 seats on the 275-seat TNA. The Islamic Action Organization joined the UIA while the IAOI-CC ran with its own list and received 43,205 votes (or 0.51 percent of the votes cast), winning them two seats in the TNA.

The NICE (which is closely associated with the movement of Muqtada Al-Sadr, who did not run in the elections) and the Imam Mehdi Army received less than 70,000 of the votes cast, or 0.8 percent. This earned them three seats in the TNA. Other candidates said to be close to Muqtada Al-Sadr ran on the UIA list and won several seats in the TNA.

##### **b) Main Kurdish parties**

- Patriotic Union of Kurdistan (PUK - led by Jalal Talabani);
- Kurdistan Democratic Party (KDP - led by Massoud Barzani);
- Islamic Movement in Kurdistan (IMK - led by Ali Abd Al-Aziz);
- Kurdistan Sunni Islamic Group (led by Ali Bapir);
- Kurdistan Socialist Democratic Party (led by Muhammed Hadji Mahmoud);
- Kurdistan Communist Party (led by Kamal Shakir);
- Kurdistan Islamic Union (led by Salahadin Mohammed Baha Al-Din);
- Kurdish Toilers Party (led by Qadir Aziz).

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<sup>3</sup> For an overview of the political parties/movements and their political agenda, please refer to Global Security, *Political Parties*, <http://www.globalsecurity.org/military/world/iraq/party.htm>; Radio Free Europe/Radio Liberty, *Iraqi Political Groups, Part 1*, <http://www.rferl.org/specials/IraqCrisis/specials-politicalgroups.asp> and *Part 2*, <http://www.rferl.org/specials/IraqCrisis/specials-politicalgroups2.asp>.

KDP and PUK (together with parties representing Assyrian/Chaldean and Turkmen groups) formed the Democratic Patriotic Alliance of Kurdistan, an electoral coalition in the January 2005 elections (both for the Iraqi TNA as well as for the Kurdistan National Assembly). The alliance placed second with 25.73 percent of the vote in the national elections and holds the majority of seats in the Kurdistan National Assembly after winning 90 percent of votes cast.

The KIG, a Sunni Islamist Kurdish party, ran independently in the elections and won two seats in the TNA. After the elections, it joined the Democratic Patriotic Alliance of Kurdistan.

### **c) Main Sunni Arab parties and movements**

- Iraqi Sunni Islamic Party (led by Mohsen Abdul Hamid);
- Iraqi National Movement (led by Hatem Mukhlis);
- Association of Muslim Scholars (AMS - led by Sheikh Dr. Harith Al-Dari);
- The Iraqis (led by Ghazi Al-Yawar);
- Reconciliation and Liberation Bloc (led by Misha'an Al-Jibouri).

Parties representing the Sunni Arab community, such as the Iraqi Islamic Party and the AMS, boycotted the elections, saying that the prevailing security situation in the mainly Sunni areas of Central Iraq made it impossible to hold fair elections. They called for the elections to be postponed until the safety of voters could be guaranteed. The turnout in Sunni areas was very low after militant Sunni groups conducted a campaign of intimidation and a series of attacks against voter registration offices or persons involved in the election process.<sup>4</sup> Sunni parties won only 17 seats in the new TNA; five seats were won by The Iraqis (the largest Sunni party that participated in the elections) and one seat was won by the Reconciliation and Liberation Bloc.

The winning parties gave assurances that Sunnis would be adequately represented in the Government and would remain involved in the drafting of the Permanent Constitution.

### **d) Parties representing other minorities**

- Iraqi Turkmen Front (ITF - led by Farok Abdullah Abdurrahman);
- Assyrian Democratic Movement (led by Yonadem Kana).

The ITF, which seeks to represent the Turkmen people of Iraq and includes several political entities, received just over 90,000 of the votes cast (1.1 percent). This won them three seats in the TNA. After the elections, the ITF lodged a number of formal complaints with the Independent Electoral Commission of Iraq alleging vote fraud by the Kurdish parties and protesting the Commission's decision to allow Kurdish internally displaced persons (IDPs) to vote in the places from which they had been expelled under the former regime.<sup>5</sup> After ITF leader Farok Abdullah Abdurrahman met with Grand Ayatollah Ali Al-Sistani in March 2005, he reportedly declared that the ITF would support the UIA, the winner of the Iraqi national

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<sup>4</sup> See for example, The Washington Institute for Near East Policy, *The Elections and the Insurgency*, 31 January 2005, <http://www.washingtoninstitute.org/templateC05.php?CID=2247>; Aljazeera, *Mosul residents fear elections*, 29 January 2005, <http://english.aljazeera.net/NR/exeres/B497F1E0-B459-49CD-BF62-C0EE194E6E69.htm>; Reuters, *Annan warns against voter intimidation in Iraq*, 28 January 2005, [http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/focusoniraq/2005/January/focusoniraq\\_January243.xml&section=focusoniraq](http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/focusoniraq/2005/January/focusoniraq_January243.xml&section=focusoniraq); The Telegraph, *Terrorist threat to Iraq voters*, 31 December 2004, <http://www.telegraph.co.uk/news/main.jhtml;jsessionid=GPSABDPB4JDDNQFIQMFCM50AVCBQYJVC?xml=/news/2004/12/31/wirq31.xml>.

<sup>5</sup> Aljazeera, *Kurds accused of rigging Kirkuk vote*, 6 February 2005, <http://english.aljazeera.net/NR/exeres/563D3875-FE1D-4C26-9146-F91377A4FB19.htm>.

elections. In return, Ali Al-Sistani agreed to support the Turkmen cause.<sup>6</sup>

Chaldean and Assyrian Christian parties formed the National Rafidain List headed by Yonadem Kana. They received support mainly from overseas voters and won 36,255 votes, or 0.43 percent. This earned them one seat, which went to Yonadem Kana.

Other minority parties joined one of the other Coalitions, such as the Democratic Patriotic Alliance of Kurdistan or the UIA.

#### **e) Parties without an overt sectarian identification**

- Iraqi National Congress (INC - led by Ahmed Chalabi);
- Iraqi National Accord (led by Iyad Allawi);
- Iraqi Communist Party (led by Hamid Majid Mousa);
- Iraqi Workers' Communist Party (IWCP);
- National Democratic Party (led by Naseer Al-Chaderchi).

A number of secular Shia parties ran jointly on the Iraqi List in the TNA elections. The alliance is dominated by the Iraqi National Accord, led by former interim Prime Minister Iyad Allawi. It received 13.82 percent of the votes, earning them 40 seats in the TNA. Two seats were won by the Program of People's Unity, a group of communist parties led by Hamid Majid Mousa. Finally, one seat was won by the National Democratic Party. The INC joined the UIA.

Many of these parties have their own militias.<sup>7</sup>

## **2. Overview of political process and current government**

### **a) The 'transitional period'**

The *Law of Administration for the State of Iraq for the Transitional Period* (hereafter the 'TAL') is the current Iraqi Constitution, and was signed on 8 March 2004 by the Iraqi Governing Council (IGC). The TAL came into effect on 28 June 2004 following the transfer of sovereignty from the Coalition Provisional Authority (CPA) to the Iraqi Interim Government (IIG). In its Article 2 it provides that the TAL itself will be applicable for the 'transitional period' which began with the handover of sovereignty on 30 June 2004<sup>8</sup> and will last until the formation of an elected Iraqi Government pursuant to a Permanent Constitution. The TAL outlines a schedule for the political process in Iraq which includes two phases:

- 1) Phase 1: Handover of sovereignty to the IIG on 30 June 2004, which will last until the formation of the Iraqi Transitional Government (ITG) following the election of the TNA (to be held no later than 30 January 2005);
- 2) Phase 2: Sovereignty held by the ITG until the formation of an Iraqi Government pursuant to a Permanent Constitution (to be enacted no later than by 31 December 2005).<sup>9</sup>

The TAL will remain in effect until the Permanent Constitution is adopted in a popular referendum (to be held by 15 October 2005), and the new Iraqi government is formed in accordance (to be formed by 31 December 2005). If the draft Permanent Constitution is rejected in the popular referendum, the TNA will dissolve and new elections must be held by 15

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<sup>6</sup> Az-Zaman Daily, *Sistani Support For Turkmen*, 6 March 2005, <http://www.zaman.com/?bl=international&alt=&hn=17200>.

<sup>7</sup> See the section on 'Militias'.

<sup>8</sup> In fact, the handover of sovereignty took place a few days earlier, on 28 June 2004.

<sup>9</sup> See Article 61 TAL. The TAL can be found at <http://www.cpa-iraq.org/government/TAL.html>.



December 2005. The resulting Second TNA would then be entrusted with writing a Second Permanent Constitution within one year. There is also the provision for a single six-month extension in the process of drafting the First Permanent Constitution if not enough progress has been made on it by 1 August 2005. Acting under Chapter VII of the UN Charter, the Security Council, through its unanimous adoption of Resolution 1546, endorsed the timetable for the political transition leading to a constitutionally elected government in Iraq by 31 December 2005.<sup>10</sup>

The TAL prescribes the set-up and functions of the TNA, the new Iraqi Executive as well as the new Judiciary.

## **b) Transitional National Assembly elections and formation of the Iraqi Transitional Government**

In accordance with the TAL, Iraq held its first free elections for the 275-member TNA on 30 January 2005, which were followed by the formation of the ITG on 28 April 2005. This was the first general election since the fall of the former Iraqi regime in 2003 and marked an important step in the transition of power from the CPA to the Iraqi people. The TNA's main role is to write a Draft Permanent Constitution by 15 August and submit it to a referendum by 15 October 2005. It will also exercise legislative functions until the new Permanent Constitution comes into effect.

Though more than 120 parties obtained the approval to run candidates in the elections, only a few parties are represented in the TNA. One prominent party that failed to win a seat was the secular but predominantly Sunni Independent Democrats Movement led by former exile Adnan Pachachi, which received only 12,000 votes. The majority of the seats (140 of the 275) were won by the UIA, a list dominated by Shiite parties such as SCIRI and Al-Dawa, but which also includes Christians, Turkmen, Sunnis and Kurds and had the tacit backing of Iraq's most senior Shia cleric, Grand Ayatollah Ali Al-Sistani. The Democratic Patriotic Alliance of Kurdistan, made up largely of the two leading Kurdish parties (the PUK and the KDP) ended up strongly represented with 75 seats. Parties representing the Sunni Arab community are statistically underrepresented with only 17 seats, as major Sunni parties such as the Iraqi Islamic Party and the AMS boycotted the elections and Sunni voter participation was low due to threats from Sunni militants to disrupt the elections. Despite enormous security, political and logistical challenges, a majority of Iraqis turned out on election day. With a total of some 8.4 million votes cast (representing a turnout of approximately 58 percent), Iraq's Higher Independent Electoral Commission (HIEC) considers the election to have been successful. Turnout was high in the Kurdish regions (e.g. 89 percent in the Governorate of Dohuk) and particularly low in the violence-stricken Governorate of Al-Anbar (2 percent turnout). A table of the election results can be found below:

<b>Electoral Alliance</b>	<b>Vote Count</b>	<b>Percentage</b>	<b>Seats</b>	<b>Leaders</b>
United Iraqi Alliance	4,075,292	48.19%	140	Abdul Aziz Al-Hakim, Ibrahim Al-Ja'afari, Hussain Al-Shahristani, Ahmed Chalabi
Democratic Patriotic Alliance of Kurdistan	2,175,551	25.73%	75	Jalal Talabani, Massoud Barzani
Iraqi List	1,168,943	13.82%	40	Iyad Allawi
The Iraqis	150,680	1.78%	5	Ghazi Al-Yawar
Iraqi Turkmen Front	93,480	1.11%	3	Farok Abdullah

<sup>10</sup> UN Security Council, *Resolution 1546 (2004)*, 8 June 2004, <http://www2.unog.ch/uncc/resolutio/res1546.pdf>.



Electoral Alliance	Vote Count	Percentage	Seats	Leaders
				Abdurrahman
National Independent Cadres and Elites	69,938	0.83%	3	Fatah Al-Sheikh
Iraqi Communist Party	69,920	0.83%	2	Hamid Majid Mousa
Islamic Movement in Kurdistan	60,592	0.72%	2	Ali Abd Al-Aziz
Islamic Action Organization In Iraq - Central Command	43,205	0.51%	2	
National Democratic Alliance	36,795	0.44%	1	
National Rafidain List	36,255	0.43%	1	Yonadem Kana
Reconciliation and Liberation Bloc	30,796	0.36%	1	Misha'an Al-Jibouri
Iraq Assembly of National Unity	23,686	0.28%	0	Dr. Nehro Mohammed
Assembly of Independent Democrats	23,302	0.28%	0	Adnan Pachachi
Iraqi Islamic Party	21,342	0.25%	0	Mohsen Abdul Hamid
Islamic Dawa Movement	19,373	0.23%	0	Adil Abd Al-Raheem
Iraqi National Gathering	18,862	0.22%	0	Hussein Al-Jibouri
Iraqi Republican Assembly	15,452	0.18%	0	Sa'ad Al-Janabi
Constitutional Monarchy - Al-Sharif Ali bin Al-Hussein	13,740	0.16%	0	Sharif Ali bin Al-Hussein
Others	309,062	3.65%	0	
<b>Total valid votes</b>	<b>8,456,266</b>	<b>100.00%</b>	<b>275</b>	
<b>Invalid votes</b>	<b>94,305</b>	—		
<b>Total votes cast</b>	<b>8,550,871</b>	—		

All 275 TNA members were sworn in on 16 March 2005. On 4 April 2005, they elected Sunni Arab Hajim Al-Hassani as President and speaker of the TNA; Shiite Hussain Shahrstani and Kurd Aref Taifour were elected as his deputies.

### The Iraqi Transitional Government

According to the TAL, the government consists of a Presidency Council, the Council of Ministers and its presiding Prime Minister.<sup>11</sup> A two-thirds majority of the TNA is required to elect the President of State and the two deputies who will form the 'Presidency Council' to 'represent the sovereignty of Iraq and oversee the higher affairs of the country'.<sup>12</sup> After weeks of negotiations between the dominant political parties, on 6 April 2005 the TNA elected Jalal Talabani, leader of the PUK and former member of the IIG, to head the Presidency Council. His deputies are SCIRI member Adil Abd Al-Mahdi and outgoing Sunni President Ghazi Al-Yawar.

The Presidency Council must make all decisions unanimously. The Presidency Council names the Prime Minister, who takes office along with his Cabinet after they both receive a simple majority vote of confidence from the TNA.<sup>13</sup> On 28 April, the TNA approved the selection of Ibrahim Al-Ja'afari, leader of Al-Dawa party and former Vice-President of the IIG, as Prime Minister. Prime Minister Al-Ja'afari's Cabinet was also approved and sworn in on 3 May 2005 with seven posts left vacant. Six new ministers were approved to fill these vacant positions on 8 May 2005, one of whom, Hashim Al-Shible, rejected his position saying he had not been consulted and was selected only because he is a Sunni. The Prime Minister and his Cabinet exercise most of the day-to-day functions of the government, including effective command of the Iraqi armed forces.<sup>14</sup> The TNA has the right to remove the Prime Minister or any minister

<sup>11</sup> Article 35 TAL.

<sup>12</sup> Article 36(A) TAL.

<sup>13</sup> Article 38 TAL.

<sup>14</sup> Article 39(B) TAL.

with a vote of no confidence.<sup>15</sup>

On 21 May 2005, Sunni leaders announced that they had formed an alliance of tribal, political and religious groups to help Iraq's once dominant minority to break out of its deepening isolation following the deposition of Saddam Hussein. They said they wanted to help write Iraq's Permanent Constitution and compete in future elections, an announcement that broke a *de facto* political boycott by most Sunnis.<sup>16</sup>

### c) The Permanent Constitution

Under the TAL, the TNA is tasked with drafting and adopting the Permanent Constitution by 15 August 2005 and submitting it to a national referendum by 15 October 2005. New elections for a full, five-year government are then scheduled to be held in December 2005. If two-thirds of the voters in at least three of Iraq's 18 Governorates reject the draft constitution, the TNA will be dissolved and new elections will be held.<sup>17</sup>

On 10 May 2005, members of the TNA named a 55-member Constitutional Committee to draft the country's Permanent Constitution. Hummam Hammoudi of the UIA was appointed as the Committee's chairman while Adnan Al-Janabi (a Sunni Arab) and Fouad Massoum (a Kurd) were selected as his deputies.<sup>18</sup> The Constitutional Committee is set-up like the TNA, with a majority of the 28 members drawn from the Shiite alliance that won the 30 January elections. The other 27 members were selected from the other political groups represented in the TNA, mainly the Kurdish coalition and the party of former Prime Minister Iyad Allawi. The Sunni parties that had largely boycotted the elections were represented by only two members, but after weeks of negotiation a compromise was reached to bring in another 15 Sunni Arabs with full votes and 10 Sunni Arabs in an advisory role. A member of another religious minority, the Sabeans, was also given a vote on the committee. The Sunni Arabs agreed to the proposal only after they were assured that decision-making would be based on consensus rather than a vote.<sup>19</sup> The adequate inclusion of the Sunni Arabs is widely seen as essential in order to undermine the Sunni Arab-dominated insurgency<sup>20</sup> and to ensure that the Permanent Constitution is accepted in the popular referendum. As Sunni Arabs enjoy a majority in three or four Governorates<sup>21</sup> and therefore could block the passage of any Constitution they are opposed to under the TAL,<sup>22</sup> their involvement in the drafting process is crucial.

According to an Internet statement, Al-Qaeda in Iraq warned Sunnis not to participate in drafting the Permanent Constitution, saying that those who did were 'infidels'.<sup>23</sup> This threat was repeated by another group calling itself the General Command for Military Forces in Iraq, which

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<sup>15</sup> Article 40 TAL.

<sup>16</sup> The New York Times, *Sunnis in Iraq Unite to Compete With Shiites in Politics*, 22 May 2005, <http://www.nytimes.com/2005/05/22/international/22iraq.html>.

<sup>17</sup> Article 61(C) TAL.

<sup>18</sup> The New York Times, *Iraq Constitution Panel Led by Shiite*, 24 May 2005, <http://www.nytimes.com/aponline/international/AP-Iraq-Constitution.html>.

<sup>19</sup> The New York Times, *Sunnis to Accept Offer of a Role in Constitution*, 17 June 2005, <http://www.globalpolicy.org/security/issues/iraq/election/2005/0616accept.htm>.

<sup>20</sup> The Washington Post, *Sunnis Step Off Political Sidelines*, 22 May 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/05/21/AR2005052100895.html>.

<sup>21</sup> The Governorates are Al-Anbar, Salah Al-Din, Mosul and possibly Diyala; see International Crisis Group, *Iraq: Don't Rush the Constitution*, 8 June 2005, Footnote 2,

[http://www.iraqfoundation.org/projects/constitution/42\\_iraq\\_don\\_t\\_rush\\_the\\_constitution.pdf](http://www.iraqfoundation.org/projects/constitution/42_iraq_don_t_rush_the_constitution.pdf); Arabic News, *Iraqi parliament agrees to Sunni constitution committee members concerns*, 26 July 2005, <http://www.arabicnews.com/ansub/Daily/Day/050726/2005072602.html>.

<sup>22</sup> Article 61(C) TAL.

<sup>23</sup> Reuters, *Iraq's Qaeda warns Sunnis against constitution*, 17 May 2005, [http://www.defenddemocracy.org/publications/publications\\_show.htm?doc\\_id=277388](http://www.defenddemocracy.org/publications/publications_show.htm?doc_id=277388).

circulated leaflets in Ramadi.<sup>24</sup> On 22 June 2005, Sunni Muslim lawyer Jasim Al-Issawi and his son were killed by gunmen in Baghdad's Shula district, a district with a Shiite majority. Al-Issawi, a professor of law at Baghdad University and former editor-in-chief of Al-Siyadah newspaper, had been asked to join the Constitutional Committee a week earlier, but had rejected the offer. Some reports suggest that his death was to set an example of what will happen to Sunnis that join the political process. Saleh Al-Mutlak, Secretary General of the Sunni National Dialogue Council, said he believes there was 'a campaign against Sunni politicians, who have become soft targets. We don't want to have an immediate reaction concerning these assassinations, but if these operations continue, I think many Sunni politicians will stop participating in the political process'.<sup>25</sup>

Since Al-Issawi's death, similar violence has continued unabated. On 19 July 2005, gunmen killed two Sunni Arab members of the Constitutional Committee, resulting in a temporary Sunni boycott of the Committee.<sup>26</sup> In a statement posted on the Internet on 26 July 2005, Al-Qaeda in Iraq warned Sunni Arabs against taking part in the October referendum on the Permanent Constitution, saying their participation would make them 'infidels' and that the punishment would be death.<sup>27</sup>

In a meeting with a group of Sunni and Shiite leaders, Grand Ayatollah Ali Al-Sistani proposed that in future national elections, seats should be set aside for each Governorate instead of employing the single country-wide list that resulted in Sunnis being marginalized after most boycotted the 30 January 2005 elections. Such a change would need to be reflected in the Permanent Constitution which will outline the procedures for the elections of the full-term government to be elected in December 2005.<sup>28</sup>

A key issue to be addressed in the Permanent Constitution is the role of Islam and whether it will be the 'main' or 'sole' source of law – as favoured by many of the slim majority of Shiite legislators – or will be recognized simply as 'a source of law', the more secular option currently enshrined in the TAL. Other issues at stake include the division of powers between the Central Government and the regions (in particular the Kurdish region) and the allocation of oil revenues, an issue closely linked to the future status of the disputed and oil-rich Governorate of Kirkuk. By the end of the reporting period, major issues at stake remained the name of the country (reference to 'Islamic Republic' or 'Arab Nation'), the role of Islam (in particular with regard to regulating matters of family law) and the issue of federalism.<sup>29</sup>

The lack of trust between the main blocs, the Shiites and the Kurds, was shown when the newly appointed ITG of Prime Minister Ibrahim Al-Ja'afari took the oath of office in early May 2005. The oath omitted language in which Ministers would have sworn to preserve Iraq's 'federal and democratic' system, which some Kurds claimed was deliberate. Massoud Barzani, leader of the KDP (part of the Kurdish Alliance) called the omission 'a serious threat for our alliance'.<sup>30</sup>

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<sup>24</sup> Reuters, *Iraq Sunnis set terms for cooperation*, 8 June 2005,

<http://www.swissinfo.org/sen/swissinfo.html?siteSect=143&sid=5856008&cKey=1118266533000>.

<sup>25</sup> The Washington Post, *Car Bombs Kill Dozens in Baghdad*, 23 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/23/AR2005062300363.html>.

<sup>26</sup> BBC, *Iraq constitution boycott is over*, 25 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4713481.stm](http://news.bbc.co.uk/2/hi/middle_east/4713481.stm).

<sup>27</sup> The Associated Press, *Iraq's draft constitution gives Islam key role*, 26 July 2005, [http://www.usatoday.com/news/world/iraq/2005-07-26-iraq\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-07-26-iraq_x.htm).

<sup>28</sup> The New York Times, *Shiite Hints at Wider Voting Role for Sunnis*, 28 June 2005, <http://www.nytimes.com/2005/06/28/international/middleeast/28iraq.html>.

<sup>29</sup> The Washington Post, *Issues in Dispute for Iraq Constitution*, 30 July 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/30/AR2005073000549.html>; The Associated Press, *Iraq Constitution Draft Links Islam, Law*, 25 July 2005, <http://www.guardian.co.uk/worldlatest/story/0,1280,-5166027,00.html>.

<sup>30</sup> Middle East Online, *Barzani warns against cabinet oath removal*, 6 May 2005, <http://www.middle-east->

Without the 75 Kurdish seats, the Shiite alliance cannot maintain the two-thirds majority in the 275-member TNA. The oath was re-administered on 8 May 2005, with a reference to a democratic federal Iraq included.<sup>31</sup>

The TNA may invoke a six-month extension to the deadline for drafting the Permanent Constitution,<sup>32</sup> however it has repeatedly given assurances that it will stick to the timeframe. In an attempt not to miss the deadline, it decided not to include the highly controversial issue of the future status of Kirkuk in its deliberations. In accordance with the TAL, the status of Kirkuk will be discussed after the Permanent Constitution has been ratified.<sup>33</sup>

#### **d) Regional and Governorate authorities**

##### Introduction

The TAL stipulates that Iraq is a federal state with powers ‘shared between the federal government and the regional governments, governorates, municipalities, and local administrations’, thereby preventing ‘the concentration of power in the federal government that allowed the continuation of decades of tyranny and oppression under the previous regime’.<sup>34</sup> The institutions and competences of regions, governorates, municipalities and local administrations are further outlined in Chapter 8 of the TAL.

##### Regional authorities, in particular the Kurdistan Regional Government

In the aftermath of the 1991 Gulf War, and due to ensuing fighting and refugee crisis in Northern Iraq, the US and the UK established a ‘safe haven’ by policing a no-fly zone over much of Kurdish territory. The region thus gained *de facto* independence and was ruled by the two principal Kurdish parties, the KDP and the PUK. Elections were held in 1992 and the KDP and PUK shared power in the nascent Kurdistan Regional Government (KRG) for two years. Disputes over power and revenue led to a three-year civil war from 1994 to 1997 that killed and displaced thousands. Ultimately, the region was effectively divided between the two parties with the KDP controlling the western region from its headquarters in Erbil and the PUK controlling the southeast from its headquarters in Sulaymaniyah. In 1998, the two parties agreed to unify their administrations and hold new elections, but implementation of the agreement was stalled by disputes over revenue and the composition of a joint regional government. A rapprochement between the two parties commenced in 2001 and deepened in anticipation of the US invasion of Iraq. The Kurdish Parliament reconvened for the first time on 5 October 2002.

The TAL recognizes the KRG as the legitimate government in the Kurdish region, which covers the Governorates of Dohuk, Erbil, Sulaymaniyah and parts of the Governorates of Kirkuk, Diyala and Ninewa.<sup>35</sup> The competencies of the KRG include all the functions it exercised prior to the deposition of the former regime, with the exception of those issues which fall within the exclusive competence of the Federal Government as specified in the TAL.<sup>36</sup> In particular, the KRG has the right to control its police forces and internal security and to impose taxes and

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[online.com/english/iraq/?id=13433](http://online.com/english/iraq/?id=13433).

<sup>31</sup> Financial Times, *Iraq parliament forms new body to draft constitution*, 10 May 2005,

[http://www.occupationwatch.org/headlines/archives/2005/05/iraqs\\_national\\_1.html](http://www.occupationwatch.org/headlines/archives/2005/05/iraqs_national_1.html).

<sup>32</sup> Article 61(F) TAL.

<sup>33</sup> Reuters, *With Kirkuk aside, Iraq can meet charter deadline*, 20 June 2005.

<sup>34</sup> Article 4 TAL.

<sup>35</sup> Article 53(A) TAL states: *The Kurdistan Regional Government is recognized as the official government of the territories that were administered by the that government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term “Kurdistan Regional Government” shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region.*

<sup>36</sup> Article 54 TAL.

fees.<sup>37</sup> Other governorates (but no more than three and with the exception of Baghdad and Kirkuk) are allowed to form regions as well.<sup>38</sup>

Elections to Kurdistan National Assembly were held on 30 January 2005. As in the national elections, the major Kurdish parties and a large number of smaller parties (including Islamists, Communists, Christians and Turkmen) ran as a joint list known as the Democratic Patriotic Alliance of Kurdistan. The alliance received 1,570,663 votes, or 90 percent, and will hold 104 of the 111 seats in the Kurdistan National Assembly. The members of the alliance negotiated each party's representation in advance, with the PUK and KDP getting 41 seats each. The KIG obtained 6 seats and the Kurdistan Toilers Party is represented with one seat.

On 29 May 2005, Massoud Barzani, the leader of the KDP, was finally appointed President of the KRG, after weeks of disagreement on the term length and powers this post would entail. The first meeting of the Kurdistan National Assembly was held on 4 June 2005, more than four months after the elections. Adnan Mufti, speaker of the Kurdistan National Assembly, announced on that date that ministries of the two distinct administrations would start to merge within two to three months, with some of the key ministries taking more time.<sup>39</sup> It remains to be seen whether the two major parties will open negotiations on sensitive issues such as the Peshmerga, the intelligence apparatus and finance. By the end of July 2005, the two sides had not reached an agreement on the allocation of ministerial posts nor had they set a deadline to form a Cabinet.

#### Governorate authorities

The TAL provides for elected governors and governorate councils for each of the 18 Iraqi Governorates, as well as mayors and city councils for each city.<sup>40</sup> Elections for these posts were held on the same day as the National Elections on 30 January 2005. Each governorate has a 41-member Governorate Council, except for Baghdad, whose council has 51 members.

The following provides an overview of the difficulties and outcomes in some key Governorates:

In the **Governorate of Al-Anbar**, turnout was very low with only 3,375 votes cast out of a total population of 1.2 million. The Iraqi Islamic Party led by Mohsen Abd Al-Hamid won a majority of seats with 71.3 percent of the votes cast.

In the **Governorate of Mosul**, a province with both Sunni Arab and Kurdish populations, a significant Shiite presence and a Christian minority, elections were won by the Kurdistan Democratic National List, which now holds 31 out of 41 seats in the Governorate Council. The other seats were won by SCIRI, the Iraqi Islamic Party, the Council of the United Clans of Mosul and the National Rafidain List, the main party representing the Christian Chaldeans and Assyrians. The latter claimed polling irregularities such as ballot shortages and too few polling sites, saying that more than 200,000 voters were denied their right to vote.<sup>41</sup>

In the **Governorate of Kirkuk**, the Kurdish-led Kirkuk Brotherhood list won two-thirds of the vote, giving it 26 out of 41 seats in the Governorate Council, where seats were equally divided

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<sup>37</sup> Article 54(A) TAL.

<sup>38</sup> Article 53(C) TAL. There are discussions underway to create a 'Southern Region' encompassing the Governorates of Basrah, Missan and Thi-Qar as part of a federal state; see the section on 'Southern Iraq'.

<sup>39</sup> Radio Free Europe/Radio Liberty, *Iraq: Kurdish Parties Agree To Convene Parliament*, 1 June 2005, <http://www.rferl.org/featuresarticle/2005/06/cdd30af3-e104-43b7-ae90-fad93c5b5007.html>.

<sup>40</sup> Article 55 TAL.

<sup>41</sup> Assyrian International News Agency, *ChaldoAssyrian Coalition Blasts Iraqi Election Commission Report*, 9 February 2005, <http://www.aina.org/news/2005029000000.htm>.



among the various ethnic/religious groups prior to the elections. The ruling by the HIEC allowing more than 70,000 Kurdish IDP returnees to vote in Kirkuk's election<sup>42</sup> was heavily criticized by Turkmen and Arab parties, who also claimed polling irregularities.<sup>43</sup> The potential incorporation of Kirkuk into the areas administered by the KRG is at the heart of disputes between Kurds, Turkmen and Arabs in this region. It has been reported that Arab and Turkmen politicians protested the HIEC's ruling with a series of walkouts and the refusal to sit in council meetings where Kurdish leaders insist on speaking only in their mother tongue. This type of delay made it impossible to appoint a Kirkuk Government by the end of July 2005. It is feared that ethnic tensions could further increase and, given that all sides have armed groups, result in further unrest.<sup>44 45</sup>

## **II. Security situation**

### **1. Overview**

Despite the TNA elections in January 2005, the establishment of an ITG, the signing of the TAL, preparations for a Permanent Constitution and the ongoing reconstruction efforts by the international community, the security situation in Iraq remains highly volatile.

Since the fall of the former regime, Iraqis have been plagued by nearly daily incidents in many parts of the country. The range of such criminal activities includes armed robberies, kidnappings for ransom, harassment, the killing of persons involved in the political process or reconstruction activities, sabotage attacks against civilian infrastructure such as electricity or oil pipelines and full-scale attacks involving bombs and/or other explosives that have killed and injured many civilians. According to General Richard Myers, Chairman of the Joint Chiefs of Staff of the US Army, militants are staging between 50 and 60 attacks each day and are as strong as they were a year ago. This figure covers everything from major bomb blasts to smaller incidents with no casualties.<sup>46</sup> In an interview with BBC, US Defence Secretary Donald Rumsfeld acknowledged that security in Iraq has not statistically improved since the fall of the former regime in 2003, however, he remained confident that Iraq's growing military forces would defeat the insurgency.<sup>47</sup>

Attacks increased in the period preceding the 30 January 2005 elections and then appeared to drop off slightly. However, since the formation of the ITG in late April 2005 a spate of attacks have killed more than 1,000 people in two months as insurgents attempt to destabilize the new administration.<sup>48</sup> In addition, the sophistication of the attacks appears to be increasing, including the use of tandem bombings – where a second explosive device is timed to go off soon after a first – which cause a maximum amount of death and destruction. Such devices make armoured vehicles increasingly vulnerable. Insurgents have also begun using infrared lasers (which cannot be jammed) rather than mobile phones to detonate their explosives.<sup>49</sup>

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<sup>42</sup> Oxford Analytica, *Kurdish Aims For A Post-Election Iraq*, 10 February 2005, [http://www.forbes.com/home/business/2005/02/10/cz\\_0210oxan\\_kurds.html](http://www.forbes.com/home/business/2005/02/10/cz_0210oxan_kurds.html).

<sup>43</sup> Institute for War and Peace Reporting (IWPR), Iraq Crisis Report No. 114, *Kirkuk Council Faces Big Challenge*, 24 February 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_114\\_2\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_114_2_eng.txt).

<sup>44</sup> Knight Ridder Newspapers, *Ethnic tensions in Kirkuk dangerously high*, 6 April 2005, <http://www.realcities.com/mld/krwashington/11327248.htm>.

<sup>45</sup> Also see the section on 'Northern Iraq'.

<sup>46</sup> BBC, *Iraqi insurgency 'undiminished'*, 27 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4488099.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4488099.stm).

<sup>47</sup> Ibid., *Iraq 'no more safe than in 2003'*, 15 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4090626.stm](http://news.bbc.co.uk/2/hi/middle_east/4090626.stm).

<sup>48</sup> Ibid., *Suicide car bomb kills Iraqi MP*, 28 June 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4629133.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4629133.stm).

<sup>49</sup> The New York Times, *Iraqi Rebels Refine Bomb Skills, Pushing Toll of G.I.'s Higher*, 22 June 2005, <http://www.nytimes.com/2005/06/22/international/middleeast/22bomb.html>.

Insurgents have often proved that they are not only able to conduct random attacks but deliberately respond to political developments, thereby providing them with the necessary public attention. A good example is their attempt to undermine the ongoing political process by targeting elections staff and voter registration centres and killing members of the Constitutional Committee during the drafting process of the Permanent Constitution; another example is their success in silencing calls for the international community to re-establish diplomatic missions in Baghdad by directing a spate of attacks against senior foreign diplomats.<sup>50</sup> Insurgent attempts to undermine Iraq's reconstruction have included the kidnapping and killing of international and local humanitarian personnel and private contractors as well the destruction of essential infrastructure. This has resulted in the withdrawal of most international humanitarian staff, the suspension of programmes and the interruption of basic services for Iraq's people. Finally, insurgents seem bent on destabilizing the functioning of the country. Anyone associated with or seen to be supporting the new Iraqi authorities, be they politicians, tribal or religious leaders, members of ethnic or religious minorities, journalists, doctors or lawyers have increasingly become the targets of attacks.

There appears to be a continuing trend towards the targeting of ethnic or religious communities in an aim to arouse ethnic/religious tensions in the country, in particular between the Sunni and Shia religious communities. Increased attacks by Sunni extremist groups against Shiite religious sites or high-profile figures have been reported. One of Abu Musab Al-Zarqawi's stated aims is to sow sectarian strife and provoke civil war as a way to undermine US policy in Iraq.<sup>51</sup> Since May 2005, an unprecedented series of tit-for-tat killings between the two religious communities has been witnessed. Dozens of corpses (mostly Shia but some Sunni) have been found dumped in various locations after having been shot execution-style.<sup>52</sup>

The Shiite religious leaders, in particular Grand Ayatollah Ali Al-Sistani, have warned against revenge attacks that could provoke further violence or civil war, but it appears that some Shia groups are ignoring their leaders' call for restraint in the face of insurgency and have taken up arms.<sup>53</sup> The upsurge in violence has caused a confrontation between the AMS, an influential Sunni Arab group, and the Badr Organisation, the armed wing of SCIRI (one of the two main Shia parties in the ITG). Harith Al-Dhari, leader of the AMS, publicly blamed the Badr Organisation for the deaths of Sunni clerics and raids on Sunni mosques, accusing them of fuelling the escalating sectarian violence. The leader of the Badr Organisation denied the charges and in return accused Sunni clerics of not clearly distancing themselves from the insurgency and of provoking sectarian conflict. Interior Minister Bayan Jabr dismissed accusations that the Badr Organization played a leading role in assassinating Sunni Arab clerics, saying that 80 percent of the roughly 12,000 Iraqi civilians killed in the past 18 months came from the Shiite majority. He further reported that more Shiite mosques and clerics had been attacked than those belonging to the Sunni minority.<sup>54</sup> Some religious leaders have held face-to-face talks, mediated by Shia cleric Muqtada Al-Sadr, in order to ease tensions.<sup>55</sup> In a tape posted on the Internet on 5 July 2005, Al-Qaeda in Iraq announced that it had formed a new armed

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<sup>50</sup> See Amnesty International, *Iraq: targeting of diplomats by armed groups a worrying new trend, says Amnesty International*, 5 July 2005, <http://web.amnesty.org/library/Index/ENGMDI140162005?open&of=ENG-IRQ>.

<sup>51</sup> CNN, *Letter may detail Iraqi insurgency's concerns*, 10 February 2005, <http://www.cnn.com/2004/WORLD/meast/02/10/sprj.nirq.zarqawi/>.

<sup>52</sup> An overview of incidents seemingly aimed at sparking sectarian violence can be found in Annex I.

<sup>53</sup> Agence France-Presse, *Sunni-Shiite vendettas fuel fears of civil strife*, 7 May 2005, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/MHII-6C843Y?OpenDocument&rc=3&cc=irq>.

<sup>54</sup> The New York Times, *Insurgent Attacks in Iraq Kill at Least 33*, 3 June 2005, <http://www.nytimes.com/2005/06/03/international/middleeast/03iraq.html?>

<sup>55</sup> Guardian Unlimited, *Fresh talks aim to avoid religious war*, 30 May 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1495302,00.html>.

wing to fight the Shiite Badr Brigade.<sup>56</sup>

It is reported that sectarian violence is causing the displacement of hundreds of Shiite Muslims from the 'Triangle of Death' south of Baghdad which includes Sunni-Shiite mixed towns such as Latifiyah, Mahmoudiyah and Yusufiyah and other traditionally mixed areas such as the Dora neighbourhood in Baghdad Governorate, Salman Pak and Al-Madaen in the Governorate of Babil. It appears that Sunnis considered too friendly towards Shiites and persons refusing to cooperate with insurgents may also be targeted.<sup>57</sup>

Military raids are routinely conducted by the MNF/ISF in an attempt to put an end to insurgent activities. They have taken place in Fallujah, Ramadi and Mosul, and more recently in Al-Qaim, Karabilah and Haditha in Western Iraq. These raids, which aim to root out foreign fighters and insurgent support systems, often cause the death and displacement of civilians and the destruction of infrastructure and property.

The newly emerging ISF not only suffer high losses in armed clashes with insurgents, they also remain one of the main targets of attacks aimed at undermining the security and political processes in Iraq. Almost daily attacks against checkpoints, police centres, academies and recruitment centres clearly demonstrate this trend.<sup>58</sup>

The main victims of the current security situation in Iraq are the Iraqi people. Many of these acts of violence are perpetrated by Islamic extremist groups such as Al-Qaeda in Iraq or Ansar Al-Sunna and are often announced via Internet websites in order to intimidate the civilian population. Others are carried out by resistance groups still loyal to the former regime, while others are simply acts of personal vendetta. The main goal of most of the attacks appears to be the destabilization of the authorities in Iraq.<sup>59</sup>

Iraq, and in particular Baghdad, also suffers from a high rate of criminality, with criminal gangs being involved in road ambushes, smuggling, stealing and kidnappings for high ransoms. The reasons for this include general insecurity, the lack of law enforcement and criminal impunity, high unemployment and the large number of criminals that Saddam Hussein freed in an amnesty in October 2002. According to the former Minister of Human Rights, Bakhtiar Amin, the number of criminals released was around 110,000, with a majority of them having been involved in 'kidnapping, murder and terrorism'. He further said that 5,000 Iraqis have been kidnapped since the fall of the former regime, with many other kidnappings going unreported.<sup>60</sup> Besides kidnappings taking place for political motives, members of wealthy families, businessmen, professionals and expatriates<sup>61</sup> remain at risk of being kidnapped by criminal gangs and insurgent groups, which often work together.<sup>62</sup> It is suspected that such kidnappings

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<sup>56</sup> Los Angeles Times, *Zarqawi Reportedly Forms New Armed Wing*, 7 July 2005,

[http://www.occupationwatch.org/headlines/archives/2005/07/zarqawi\\_reporte.html](http://www.occupationwatch.org/headlines/archives/2005/07/zarqawi_reporte.html).

<sup>57</sup> Agence France-Presse, *Sectarian killings spark Shiite exodus from Triangle of Death*, 20 May 2005,

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVOD-6CKH6N?OpenDocument&rc=3&cc=irq>.

<sup>58</sup> See Annex II 'Attacks on Iraqi Security Forces'.

<sup>59</sup> For an overview of the different insurgent groups in Iraq, see the section on 'Insurgency'.

<sup>60</sup> Reuters, *Iraq insurgency has killed 6,000 civilians – govt*, 5 April 2005,

<http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/04/05/topnews/iraqinsurgencyhaskilled6000civilians.html>.

<sup>61</sup> United Nations Integrated Regional Information Networks (IRIN), *IRAQ: Focus on increase in kidnappings*, 11 April 2005,

[http://www.irinnews.org/report.asp?ReportID=46576&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46576&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>62</sup> The Washington Times, *Terrorists will keep targeting foreigners*, 6 May 2005,

<http://www.washingtontimes.com/functions/print.php?StoryID=20050505-115954-7286r>.



are carried out as a way to finance the insurgency.<sup>63</sup> Protection against kidnapping depends primarily on private initiatives, be they private security firms or tribal connections.<sup>64</sup>

The three Northern Governorates of Dohuk, Erbil and Sulaymaniyah and the Lower South region are relatively calm compared to the Centre or the Governorates of Kirkuk and Mosul. Still, insurgents continue to operate in these areas, albeit on a smaller scale. The three Northern Governorates benefit from well-trained and well-equipped security forces that implement strict security measures and are highly vigilant. That notwithstanding, groups such as Ansar Al-Sunna still present high security threats and manage to undertake (suicide) attacks, mainly directed against the ruling Kurdish parties and their representatives. The suicide attack on a KDP office in Erbil on 4 May 2005 – which killed at least 60 people and wounded 70 – is an example of an attack that resulted in a high number of civilian casualties.<sup>65</sup> While the Upper South Governorates, in particular the so-called ‘triangle of death’, are the scene of continuous insurgent activities including ambushes, kidnappings and killings of Iraqis and foreigners, the areas further South have been marked by more stability since the end of April/June and August 2004’s military confrontations between the MNF/ISF and the Imam Mehdi Army of Shiite cleric Muqtada Al-Sadr. The strong showing of the Shiite population in the 30 January 2005 elections and their dominant role in the political process seem to be satisfying the majority of people in the South and have decreased popular support for the armed fight against the MNF. Nevertheless, attacks against the MNF/ISF remain common, although usually result in less casualties than attacks in the Centre. It is noteworthy that the ITG is faced with high expectations in terms of providing stability and reconstructing the long neglected areas in the South as well as the withdrawal of foreign forces, and slow progress may result in renewed street protests and armed opposition.

Security is also an issue for the foreign wives of Iraqi returnees, given the fact that they do not have any family or tribal networks that would provide protection against harassment, crime or domestic violence. UNHCR has learned that some women, mainly from Iran, did not voluntarily choose to come to Iraq, and due to their lack of status, are unable to protect themselves and their children vis-à-vis police and community leaders.

In conclusion, the security situation in the Centre, the Governorates of Kirkuk and Mosul and areas south of Baghdad remains highly volatile and insecure and the situation in the three Northern Governorates and the Lower South is more stable but remains insecure and unpredictable due to a number of mainly political considerations.<sup>66</sup>

## 2. Emergency laws

On 7 July 2004, the Iraqi Prime Minister Iyad Allawi signed measures into law giving his Government the authority to invoke emergency powers in Iraq. Under the new measures, the Prime Minister has the right to declare a state of emergency in any part of Iraq where danger exists from ‘an ongoing campaign of violence’. The state of emergency lasts up to 60 days or until the danger is eliminated, whichever comes first. Key points of the so-called *Order of Safeguarding National Security* include the following measures:<sup>67</sup>

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<sup>63</sup> The New York Times, *Gangs in Iraq thriving on threats and profits*, 29 March 2005, <http://www.iht.com/articles/2005/03/28/news/Kidnap.html>.

<sup>64</sup> Chicago Tribune, *Kidnappings in Iraq Strategically Effective*, April 29, 2005, <http://www.rand.org/commentary/042905CT.html>.

<sup>65</sup> CNN, *Suicide bombing kills about 60 in Kurdish city*, 4 May 2005, <http://www.cnn.com/2005/WORLD/meast/05/04/iraq.main/>.

<sup>66</sup> For a detailed description of the security situation, see also the section on ‘Security situation in the different areas’.

<sup>67</sup> The Associated Press, *Iraq's new emergency law*, 8 July 2004,

- Movement restrictions can be imposed on citizens or foreigners in cases where crimes have been witnessed or accusations are supported by credible suspicion;
- A curfew can be imposed in areas facing a dangerous security threat, such as explosions, unrest and large-scale, armed enemy operations;
- Assets of those accused of conspiracy can be frozen;
- Packages, mail, telegrams, and other communications can be monitored;
- Restrictions can be placed on transportation and business, associations, unions, and other establishments;
- Restrictions can be placed on the use or possession of weapons, ammunition, and other 'dangerous materials';
- Assistance can be sought from the MNF in extreme circumstances, for example to conduct large-scale operations in order to confront armed threats;
- Those captured under arrest orders must be presented to an investigative judge within 24 hours;
- Violators of the Prime Minister's orders face up to three years in prison and a substantial fine;
- Security forces in the area where the state of emergency is declared report directly to the Prime Minister.

The imposition of emergency measures must be approved unanimously by the Presidential Council, comprised of the President (a Sunni Arab) and the two Vice-Presidents (a Kurd and a Shiite). The former Minister of Human Rights supported the introduction of the emergency law and vowed to monitor the implementation of the law for any potential abuses.<sup>68</sup>

The *Order of Safeguarding National Security* was first applied on 7 November 2004 on the eve of the US assault on Fallujah and remained in place for 60 days. It gave the Prime Minister the authority to impose curfews, restrict movement between cities and set up around-the-clock courts where the Government could obtain arrest warrants. The application of the law covered all of Iraq except for the areas administered by the KRG. The emergency law was extended on 6 January 2005 for 30 days to guard against attacks in the run-up to the nation's 30 January 2005 elections.<sup>69</sup> Since then, the emergency law has been renewed on a monthly basis.

### **III. Economic situation**

Although Iraq is blessed with abundant natural and human resources, its economy has been crippled in recent decades by the war against Iran, its seizure of Kuwait in August 1990, the subsequent economic sanctions and military action by the international coalition in January 1991, and the widespread corruption and mismanagement that led to the deterioration of the living conditions of the Iraqi people. The implementation of the UN Oil for Food Programme in December 1996 helped to ease the conditions of the average Iraqi citizen but living standards remained well below pre-1991 levels. The highly centralized Iraqi former regime fully dominated industry, agriculture, finance and trade. In addition, the former regime's policy of draining the Southern marshes affected livelihoods and human health and will likely undermine future economic progress.<sup>70</sup>

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[http://www.boston.com/news/world/articles/2004/07/08/iraqs\\_new\\_emergency\\_law/](http://www.boston.com/news/world/articles/2004/07/08/iraqs_new_emergency_law/).

<sup>68</sup> IRIN, *Emergency security laws announced*, 8 July 2004, <http://www.uniraq.org/newsroom/story.asp?ID=891>.

<sup>69</sup> Radio Free Europe/Radio Liberty, *Iraq: Prime Minister Extends Emergency Laws Ahead Of Late-January Vote*, 7 January 2005, <http://www.rferl.org/featuresarticle/2005/01/0a03b90f-8ac8-4a4e-afc9-3dfa5715be52.html>.

<sup>70</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 4,

[http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Asses](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Asses)

The fall of the former regime in April 2003 resulted in the shutdown of much of the central economic administrative structure. Although damages due to military activities during March and April 2003 were relatively minor, looting, insurgent attacks and sabotage have caused further damage to Iraq's already strained infrastructure and are hampering reconstruction.<sup>71</sup> On 22 May 2003 the UN Security Council passed Resolution 1483, lifting sanctions on Iraq and phasing out the UN Oil for Food Programme over six months.<sup>72</sup> The PDS has since been handled by the Iraqi Ministry of Trade. According to WFP, 25 percent of the Iraqis are still totally dependent on the food rations that nearly all Iraqis receive.<sup>73</sup>

Iraq's Gross Domestic Product (GDP) reached US \$89.8 billion in 2004, which represents an increase of 52.3 percent from 2003; however 2003's GDP was exceptional because of the war. Agriculture amounts to 13.6 percent of total GDP, industry 58.6 percent and services 27.8 percent.<sup>74</sup>

The CPA introduced a range of economic reforms to transform Iraq's state-controlled system to a market economy. It removed legal barriers to private economic activity by promulgating market-oriented banking, taxation, foreign trade, investment and business regulations that liberalized most prices. It introduced a new currency, the 'New Iraqi Dinar' (ID), and stabilized the exchange rate. The planned privatization of Iraq's state-owned enterprises did not occur.<sup>75</sup> CPA Order No. 39 allowed foreign companies to acquire 100 percent ownership in all sectors of Iraq's economy with the exception of natural resource sectors, banks and insurance companies. Under this legislation, foreign companies are treated identically to Iraqi companies and foreign investors can acquire (renewable) 40-year leases on real estate. This law also permits unrestricted and untaxed profit remittance by foreign entities.<sup>76</sup> CPA Orders No. 37<sup>77</sup> and 49<sup>78</sup> reduced tax rates from 45 to 15 percent, making Iraq's tax rate one of the lowest in the world. Finally, CPA Order No. 54<sup>79</sup> removed all duties from imports to Iraq apart from a five percent reconstruction levy. Critics have argued that that these measures will not allow for the regeneration of the domestic industry and agriculture and therefore limit Iraq's potential to diversify its sources of income, which depends heavily on oil exports.<sup>80</sup>

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[sment.pdf](#).

<sup>71</sup> See also the section on 'Infrastructure and reconstruction'.

<sup>72</sup> UN Security Council, *Resolution 1483 (2003)*, 22 May 2003, <http://daccessdds.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement>.

<sup>73</sup> See also the section on 'Food'.

<sup>74</sup> CIA, *The World Factbook, Iraq*, updated 14 June 2005, <http://www.cia.gov/cia/publications/factbook/geos/iz.html>.

<sup>75</sup> According to the UN/World Bank, there are 192 state-owned enterprises; see UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 41, [http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>76</sup> CPA, Order No. 39 (amended by Order No. 46), *Foreign Investment*, 19 September 2003, [http://www.iraqcoalition.org/regulations/20031220\\_CPAORD\\_39\\_Foreign\\_Investment\\_.pdf](http://www.iraqcoalition.org/regulations/20031220_CPAORD_39_Foreign_Investment_.pdf).

<sup>77</sup> CPA, Order No. 37, *Tax Strategy for 2003*, 19 September 2003, [http://www.iraqcoalition.org/regulations/20030919\\_CPAORD\\_37\\_Tax\\_Strategy\\_for\\_2003.pdf](http://www.iraqcoalition.org/regulations/20030919_CPAORD_37_Tax_Strategy_for_2003.pdf).

<sup>78</sup> CPA, Order No. 49, *Tax Strategy of 2004 with Annex A and Explanatory Notes (Amended per Order 84 Sec 3)*, 20 February 2004, [http://www.iraqcoalition.org/regulations/20040220\\_CPAORD\\_49\\_Tax\\_Strategy\\_of\\_2004\\_with\\_Annex\\_and\\_Ex\\_Note.pdf](http://www.iraqcoalition.org/regulations/20040220_CPAORD_49_Tax_Strategy_of_2004_with_Annex_and_Ex_Note.pdf).

<sup>79</sup> CPA, Order No. 54, *Trade Liberalization Policy 2004 with Annex A (Amended per Order 70)*, 4 April 2004, [http://www.iraqcoalition.org/regulations/20040404\\_CPAORD54\\_Trade\\_Liberlization\\_Policy\\_2004\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20040404_CPAORD54_Trade_Liberlization_Policy_2004_with_Annex_A.pdf).

<sup>80</sup> BBC, *US legal legacy for Iraqi economy*, 7 April 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4417759.stm](http://news.bbc.co.uk/2/hi/middle_east/4417759.stm).

In early February 2004, Iraq was granted observer status at the World Trade Organization (WTO)<sup>81</sup> and on 30 September 2004, Iraq submitted a formal request for membership in the organization.<sup>82</sup> An accession working group to examine Iraq's membership application was established on 13 December 2004.<sup>83</sup>

Iraq's economy is heavily dominated by the oil sector. According to the Oil and Gas Journal, Iraq has the third largest proven oil reserves in the world behind Saudi Arabia and Canada, with a total of 115 billion barrels concentrated mainly in Southern Iraq. It is estimated that only 10 percent of the country's reserves have been discovered. Iraq also has significant proven natural gas reserves but virtually all are undeveloped.<sup>84</sup> According to the ITG, oil exports have traditionally provided 95 percent of Iraq's national income.<sup>85</sup> In 2004, Iraq had total revenues of around US \$20 billion. In July 2005, Iraq was producing approximately 2.06 million barrels of oil a day. This is still below production levels reached before the 2003 conflict of 2.5 million barrels a day.<sup>86</sup> Peak production was reached in 1979 with the extraction of 3.7 million barrels a day. Iraq's infrastructure allows for the export of up to 6 million barrels per day (via the Gulf, Saudi Arabia and Turkey); however, due to multiple acts of sabotage, export capacity does not exceed 2.5 million barrel per day<sup>87</sup> and actual exports reached only 1.48 million barrels per day in July 2005.<sup>88</sup> Efforts to boost oil exports have been held back by persistent and increasingly organized acts of sabotage against oil and power infrastructure as well as a lack of investment in the development of new oil fields. Iraq Pipeline Watch recorded more than 140 attacks on pipelines, oil installations and oil personnel in 2004 and 59 of such attacks between 1 January and 24 June 2005.<sup>89</sup> These acts of sabotage have left Iraq dependent on fuel imports costing more than US \$2 billion a year.<sup>90</sup> The ITG recently announced that Iraq needs to diversify its sources of income in order to reduce its dependency on oil.<sup>91</sup>

Corruption remains a major obstacle to reconstruction and economic recovery. In March 2005, Transparency International warned that reconstruction of post-war Iraq is in danger of becoming 'the biggest corruption scandal in history'. It also criticized the US for mismanaging Iraq's oil

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<sup>81</sup> BBC, *Iraq granted WTO observer status*, 11 February 2004, <http://news.bbc.co.uk/1/hi/business/3479065.stm>.

<sup>82</sup> WTO, *Accessions: Iraq*, [http://www.wto.org/english/thewto\\_e/acc\\_e/a1\\_iraq\\_e.htm](http://www.wto.org/english/thewto_e/acc_e/a1_iraq_e.htm).

<sup>83</sup> WTO News, *Accession working parties established for Afghanistan, Iraq*, 13 December 2004, [http://www.wto.org/english/news\\_e/news04\\_e/gc\\_afghanistan\\_iraq\\_13dec04\\_e.htm](http://www.wto.org/english/news_e/news04_e/gc_afghanistan_iraq_13dec04_e.htm).

<sup>84</sup> US Department of Energy, Energy Information Administration, *Country Analysis Briefs, Iraq*, June 2005, <http://www.eia.doe.gov/emeu/cabs/iraq.html>.

<sup>85</sup> Reuters, *Iraq too dependent on oil, must diversify – govt*, 5 June 2005, [http://www.thepeninsulaqatar.com/Display\\_news.asp?section=Business\\_News&subsection=market+news&month=June2005&file=Business\\_News200506061211.xml](http://www.thepeninsulaqatar.com/Display_news.asp?section=Business_News&subsection=market+news&month=June2005&file=Business_News200506061211.xml).

<sup>86</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 23, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>87</sup> US Department of Energy, Energy Information Administration, *Country Analysis Briefs, Iraq*, June 2005, <http://www.eia.doe.gov/emeu/cabs/iraq.html>.

<sup>88</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 23, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>89</sup> For an overview of the various incidents, please see Institute for the Analysis of Global Security, *Iraq Pipeline Watch*, <http://www.iags.org/iraqpipelinewatch.htm>.

<sup>90</sup> According to former Oil Minister Issam Chalabi, Iraq is importing approximately 200,000 barrels per day of refined products at a cost of US \$200-250 million per month. In addition, the Government subsidizes gasoline for consumers and it is estimated that all direct and indirect oil subsidies cost Iraq US \$8 billion per year. Low gasoline prices also encourage the smuggling of oil out of Iraq, thereby further exacerbating shortages in the country; see US Department of Energy, Energy Information Administration, *Country Analysis Briefs, Iraq*, June 2005, <http://www.eia.doe.gov/emeu/cabs/iraq.html>; According to the State Oil Marketing Organization, 10 percent of Iraq's oil products are lost to smuggling; see The Christian Science Monitor, *Why a black market for gasoline vexes Iraq*, 20 April 2005, <http://www.csmonitor.com/2005/0420/p06s01-woiq.html>.

<sup>91</sup> Reuters, *Iraq too dependent on oil, must diversify – govt*, 5 June 2005, [http://www.thepeninsulaqatar.com/Display\\_news.asp?section=Business\\_News&subsection=market+news&month=June2005&file=Business\\_News200506061211.xml](http://www.thepeninsulaqatar.com/Display_news.asp?section=Business_News&subsection=market+news&month=June2005&file=Business_News200506061211.xml).



revenues and for using faulty procedures when awarding reconstruction contracts.<sup>92</sup> An audit found that the CPA was unable to properly account for US \$8.8 billion of revenues from the Oil for Food Programme, oil sales and seized assets which it had transferred to the IIG.<sup>93</sup> There are reports of officials asking for bribes for the performance of any service (such as processing a job application or issuing a passport).<sup>94</sup> Contractors have been delivering overpriced and shoddy work<sup>95</sup> and high-level corruption has resulted in ministers and senior officials of awarding contracts to their relatives without competition. The International Advisory and Monitoring Board which monitors Iraq's oil revenues said that Iraqi leaders mishandled about US \$100 million in oil money meant for development in the six months after the transfer of sovereignty.<sup>96</sup> By CPA Order No. 55, authority was given to the IGC to establish the Commission on Public Integrity which was tasked with rooting out corruption in the country.<sup>97</sup> On 31 January 2004, the IGC announced the creation of this Commission, which, *inter alia*, is authorized to receive anonymous complaints from individual citizens, to investigate allegations of corruption and to refer violations of corruption laws to the Central Criminal Court of Iraq (CCCI).<sup>98</sup> The Commission's spokesman, Ali Al-Shabot, says that the problem of corruption became worse in the power vacuum created by the fall of the former regime. According to Mr. Al-Shabot, most ministries suffer from massive corruption and nepotism. Hussain Al-Shahristani, Deputy Speaker of the TNA, said that corruption had reached 'disastrous proportions' since 2003 and that some countries are unwilling to send financial aid to Iraq as a result.<sup>99</sup> By the end of May 2005, the commission had looked into more than 800 cases of potential wrongdoing and had opened investigations in 399 cases.<sup>100</sup> It issued arrest warrants for Layla Abdul Lateef, former Minister of Labour, and Louay Hatem Al-Eris, former Minister of Transport, as well as 42 other government employees accused of mismanagement, waste of public funds and the use of their positions for personal gain. The Head of the Commission on Public Integrity, Radhi Hamza Al-Radhi, also alleged that serious signs of corruption had been uncovered in the former Ministry of Reconstruction and Housing.<sup>101</sup> Iraq's newspapers are full of corruption scandals, provoking anger and undermining the Government's credibility with ordinary Iraqis who still suffer from shortages of electricity, gasoline and water. There also are concerns that corruption investigations will be politicized and used to settle scores.<sup>102</sup> Accusations of corruption and

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<sup>92</sup> Transparency International, Press Release, *A world built on bribes? Corruption in construction bankrupts countries and costs lives, says TI report*, 16 March 2005, [http://www.transparency.org/pressreleases\\_archive/2005/2005.03.16.gcr\\_relaunch.html](http://www.transparency.org/pressreleases_archive/2005/2005.03.16.gcr_relaunch.html).

<sup>93</sup> CNN, *Audit: U.S. lost track of \$9 billion in Iraq funds*, 31 January 2005, <http://edition.cnn.com/2005/WORLD/meast/01/30/iraq.audit/>.

<sup>94</sup> Bribery to process a job application with the Iraqi police/army, see The Washington Post, *Tackling Another Major Challenge in Iraq: Unemployment*, 20 June 2005, [http://www.washingtonpost.com/wp-dyn/content/article/2005/06/19/AR2005061900729\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/06/19/AR2005061900729_pf.html); paying of bribes to obtain a passport, see Radio Free Europe/Radio Liberty, *Corruption running rampant in new state institutions*, 15 October 2004, <http://www.rferl.org/reports/iraq-report/2004/10/38-151004.asp>.

<sup>95</sup> For example school repair projects; see United Press International, *Iraq school repairs plagued by corruption*, 29 March 2005, <http://www.washtimes.com/upi-breaking/20050329-070212-9001r.htm>.

<sup>96</sup> The Associated Press, *Audit criticizes Iraq's handling of oil sales after power transfer*, 23 May 2005, [http://www.usatoday.com/news/world/iraq/2005-05-23-iraq-oil-audit\\_x.htm?POE=NEWSVA](http://www.usatoday.com/news/world/iraq/2005-05-23-iraq-oil-audit_x.htm?POE=NEWSVA).

<sup>97</sup> CPA, Order No. 55, *Delegation of Authority Regarding the Iraq Commission on Public Integrity*, 28 January 2004, [http://www.iraqcoalition.org/regulations/20040204\\_CPAORD55.pdf](http://www.iraqcoalition.org/regulations/20040204_CPAORD55.pdf).

<sup>98</sup> Iraqi Governing Council, Press Release, *Commission on Public Integrity to Combat Government Corruption*, 31 January 2004, [http://www.iraqcoalition.org/pressreleases/20040131\\_IGC\\_integrity\\_PR.html](http://www.iraqcoalition.org/pressreleases/20040131_IGC_integrity_PR.html).

<sup>99</sup> Reuters, *Iraq confronts "disastrous" corruption*, 21 June 2005, <http://www.epic-usa.org/Default.aspx?tabid=1183>.

<sup>100</sup> The New York Times, *Iraqis Tallying Range of Graft in Rebuilding*, 24 June 2005, <http://www.nytimes.com/2005/06/24/international/middleeast/24corrupt.html>.

<sup>101</sup> Agence France-Presse, *Iraqi economic recovery unlikely in short term*, 10 June 2005, [http://dailystar.com.lb/article.asp?edition\\_id=10&categ\\_id=3&article\\_id=15789](http://dailystar.com.lb/article.asp?edition_id=10&categ_id=3&article_id=15789).

<sup>102</sup> The New York Times, *Iraq officials detail extensive corruption*, 25 June 2005, <http://www.iht.com/articles/2005/06/24/news/corrupt.php>.

mismanagement have also been raised against the Kurdish authorities, which are dominated by the KDP and PUK.<sup>103</sup>

Iraq inherited a heavy debt burden from the former regime, amounting to approximately US \$120 billion according to the International Monetary Fund (IMF).<sup>104</sup> Iraq owes US \$38.9 billion in debt and interest repayments to the Paris Club of creditor nations, which includes the US, Russia, Japan and European countries. Under an agreement concluded on 21 November 2004, 80 percent of these debts may be written off in three stages, reducing the debts to the Paris Club to US \$7.8 billion. By this plan, 30 percent of the debt is to be written off immediately, another 30 percent in 2005 and a final 20 percent in 2008, depending on Iraq's successful completion of an IMF economic programme. This is seen as a step towards removing the financial obstacles to rebuilding the country's economy.<sup>105</sup> The US forgave all the approximately US \$4 billion it was owed<sup>106</sup> and Russia agreed to write off 90 percent of Iraq's US \$10.5 billion debt by the end of 2005, going further than what was agreed by the Paris Club.<sup>107</sup> In addition, Iraq owes some US \$30 billion to Saudi Arabia and US \$16 billion to Kuwait, borrowed largely during the 1980-88 Iraq-Iran war.<sup>108</sup>

In addition, Iraq is faced with reparations payment claims stemming from its invasion of Kuwait in 1990 and the subsequent occupation. Under the Oil for Food Programme, Iraq was paying for the reparation;<sup>109</sup> after the Programme's termination in 2003, the UN Security Council decided that five percent of Iraqi oil revenues would be used to finance the reparation payments.<sup>110</sup> The UN Compensation Commission, which is mandated to process claims and pay compensation, has so far received US \$354 billion in claims from individuals, corporations and governments and has approved US \$52.1 billion in claims since beginning its work in 1991.<sup>111</sup>

While the Iraqi average national income has increased considerably since 2003, unemployment and under-employment remains high. According to the Iraq Living Conditions Survey (ILCS),<sup>112</sup> 33.4 percent of youth are unemployed and 37.2 percent of high school and university graduates are jobless. A total of 33 percent of Iraqis are underemployed.<sup>113</sup> Although prices have risen since the invasion, wages (in particular in the public sector) have also increased considerably.<sup>114</sup> In addition, the ILCS revealed that only 20 percent of the households surveyed had savings of

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<sup>103</sup> Radio Free Europe/Radio Liberty, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2EEBC0BB507E.html>.

<sup>104</sup> IMF, *Iraq Debt Treatment*, 21 November 2004, [http://www.clubdeparis.org/en/countries/countries.php?IDENTIFIANT=397&POSITION=0&PAY\\_ISO\\_ID=IQ&CONTINENT\\_ID=&TYPE\\_TRT=&ANNEE=&INDICE\\_DET=](http://www.clubdeparis.org/en/countries/countries.php?IDENTIFIANT=397&POSITION=0&PAY_ISO_ID=IQ&CONTINENT_ID=&TYPE_TRT=&ANNEE=&INDICE_DET=).

<sup>105</sup> BBC, *Iraq debt write-off wins approval*, 21 November 2004, <http://news.bbc.co.uk/1/hi/business/4029905.stm>.

<sup>106</sup> The Associated Press, *Rice Predicts No Breakthrough on Iraq Debt*, 22 June 2005, <http://www.lasvegassun.com/sunbin/stories/w-me/2005/jun/21/062106817.html>.

<sup>107</sup> The Associated Press, *Russia, Iraq Working on Debt Agreement*, 1 April 2005, <http://iraqieconomy.org/home/bilecon/russia/200505>.

<sup>108</sup> Saudi Arabia signalled its willingness to forgive part of its Iraq debt; see Agence France-Presse, *Saudis signal openness on Iraqi debt: US official*, 22 June 2005, <http://iraqieconomy.org/home/bilecon/saudi/20050622>.

<sup>109</sup> See in particular UN Security Council Resolutions 687 (1991), 692 (1991), 706 (1991), 986 (1995) and Resolution 1330 (2000).

<sup>110</sup> UN Security Council, *Resolution 1483 (2003)*, 22 May 2003, <http://daccessdds.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement>.

<sup>111</sup> On 28 June 2005, the Iraqi government called for an end to the Programme that diverts five percent of its oil earnings to pay compensation and suggested that Iraq negotiates directly with the concerned governments; see Reuters, *Iraq wants to end to U.N. war compensation scheme*, 28 June 2005, <http://english.epochtimes.com/news/5-6-28/29901.html>.

<sup>112</sup> On the ILCS, see also the section on 'Material safety'.

<sup>113</sup> See also the section on 'Employment'.

<sup>114</sup> For an overview of monthly wages and costs of basic goods, see BBC, *Live in Post-Saddam Iraq, Cost of Living*, figures as of May 2005, [http://news.bbc.co.uk/1/shared/spl/hi/in\\_depth/post\\_saddam\\_iraq/html/6.stm](http://news.bbc.co.uk/1/shared/spl/hi/in_depth/post_saddam_iraq/html/6.stm).

some sort.<sup>115</sup>

#### **IV. Infrastructure and reconstruction**

Iraq's infrastructure has suffered severe damage after years of wars, sanctions and general neglect, including a lack of investment in maintenance. At the end of the conflict in April 2003, the country's electric system was not capable of delivering electricity to its 24 million inhabitants, the already deteriorated water and sanitation system had collapsed and critical infrastructure such as airports, roads, bridges and key buildings and facilities (government buildings, schools and primary health care clinics) needed major rehabilitation or reconstruction. Today, reconstruction remains a major task in Iraq. In 2003, the World Bank estimated that US \$36 billion will be needed to rebuild Iraq's infrastructure over the next three years in 14 key areas, including telecommunications, electricity and water supply. The CPA separately estimated that an additional US \$19 billion is needed for other sectors, such as security and oil.<sup>116</sup> This was presented at an International Donors' Conference in Madrid on 23-24 October 2003 and resulted in pledges of US \$33 billion for the International Reconstruction Facility Fund for Iraq (IRFFI). By the end of July 2005, over US \$1 billion had been committed by 25 donors to the two trust funds of the IRFF (World Bank Iraq Trust Fund and the UN Development Group Iraq Trust Fund).<sup>117</sup>

Reconstruction and rehabilitation projects are taking place in many parts of the Iraq. In his report to the UN Security Council, the Secretary-General reported that the following activities had been undertaken by the UN in Iraq between 8 March and 7 June 2005:

*Rehabilitation of 73 schools and of water and sanitation facilities in 800 schools; 24 teacher training facilities and community learning centres; the rehabilitation of water treatment plants and solid waste treatment plants; the rehabilitation of 22 power plants and upgrading of transmission systems; the receipt of housing materials for 1,713 units in northern Iraq; technical and material food support of the Ministry of Trade's public distribution system and the national wheat/flour fortification project; the provision of protection and material assistance for over 5,000 families of internally displaced persons; and returnee monitoring of 890 families in central Iraq and 400 villages in southern Iraq. The delivery of 25 mobile salt iodization machines, bringing the total to 64, will enable Iraq to achieve universal salt iodization by the end of 2005. A total of 78,297 malnourished children received 46,386 kilograms of therapeutic milk in April alone, while street children received special attention through the services and support provided by drop-in centres in Basrah and Nassiriyah governorates and Khadimiyah area in Baghdad.*<sup>118</sup>

Despite these efforts, reconstruction is severely hampered by the insecurity prevailing in the country. Acts of sabotage, the looting of infrastructure, the kidnapping of foreign and Iraqi contractors (resulting in a dramatic increase of security costs), the withdrawal of private companies and NGOs and the discouragement of private investors are all symptoms of this

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<sup>115</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 143, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>116</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, pp. 54/55, [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assessment.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assessment.pdf).

<sup>117</sup> Of the \$1 billion committed to the IRFFI, about \$400 million is for the World Bank-administered Trust Fund and over \$678 million for the UNDG-administered trust fund as of 31 July 2005; see World Bank Iraq Trust Fund, *Monthly Status Report*, as of 31 July 2005, [http://siteresources.worldbank.org/IRFFI/64168382-1092419012421/20613156/ITF%20Progress%20Report%20-%20July%202005%20\(Final\).pdf](http://siteresources.worldbank.org/IRFFI/64168382-1092419012421/20613156/ITF%20Progress%20Report%20-%20July%202005%20(Final).pdf); UNDG Iraq Trust Fund, *Total Commitments and Deposits*, as of 31 July 2005, <http://siteresources.worldbank.org/IRFFI/497779-1106167721668/20611359/UNDG%20Deposits%20as%20of%2031%20July%202005.pdf>.

<sup>118</sup> UN Security Council, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, 7 June 2005, pp. 10/11, <http://daccessdds.un.org/doc/UNDOC/GEN/N05/368/84/PDF/N0536884.pdf?OpenElement>.

problem. According to William Taylor, Director of the US Iraq Reconstruction Management Office, as much as 16 percent of the US \$21 billion reconstruction budget will be spent on providing security for its projects and workers, roughly double the original estimate. He further said that insurgent attacks have substantially delayed reconstruction efforts.<sup>119</sup>

As a consequence, Iraqis suffer from the serious state of infrastructure, which if it exists, is often not working. According to the ILCS:

- Approximately 3.2 million families suffer from unstable electricity supplies;
- Only 54 percent of families in Iraq have access to drinking water;
- Only 37 percent of homes are connected to a sewage network.<sup>120</sup>

The Iraqi Minister of Planning, Barham Saleh, commented on the ILCS noting that ‘if you compare this to the situation in the 1980s, you will see a major deterioration’.<sup>121 122</sup>

## **V. Displacement issues**

### **1. Introduction**

The events of the last four decades have had a serious negative impact on the overall situation in Iraq, and have led to the displacement of large parts of its population. By the end of 2004, there were more than 1.2 million IDPs in Iraq, more than 93,000 Iraqi refugees (and 1,223,000 Iraqis who are not refugees but who reside outside Iraq) in the region and some 349,204 Iraqi refugees/persons under complementary protection further afield. As a significant number of refugees and IDPs have returned since the fall of the former regime, Iraq now also has to deal with their sustainable reintegration, be it in their places of origin or in the locations they decide to settle. In addition, there are 46,053 refugees (Iranian Kurds and Arabs, Turks, Syrians, Palestinians and refugees of other nationalities) and more than 1,700 asylum-seekers (Iranian, Turkish and Syrian)<sup>123</sup> registered with UNHCR and an estimated 350,000 stateless persons in Iraq. Finally, tensions among ethnic and religious communities and armed conflict between MNF/ISF and insurgents have led to renewed and ongoing displacement.

While the Iraqi population in general suffers from a lack of security and public services, displaced persons or those returning from displacement are often even more affected by these factors due to their particular vulnerability and lack of social networks. Although there are national laws and regulations guaranteeing the rights of Iraqi citizens, refugees and foreigners, the provisions of these statutes are often not compatible with international law standards and principles or are applied in a discriminatory manner. To enhance the overall protection regime it is vital that Iraq accede to the 1951 *Convention relating to the Status of Refugees* and the 1967 *Protocol relating to the Status of Refugees*, the two Statelessness Conventions<sup>124</sup> and other relevant human rights treaties. The Ministry of Displacement and Migration (MoDM), UNHCR’s main counterpart in the new Iraqi Government, was created in August 2003 and requires time to become an efficient and effective Ministry able to protect and assist different

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<sup>119</sup> The Washington Post, *Head of Iraq Reconstruction Says Unexpected Security Costs Eating Into Budget*, 22 May 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/05/21/AR2005052100570.html>.

<sup>120</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 15-40, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>121</sup> Aljazeera, *Iraq president: US to stay two years*, 12 May 2005, <http://english.aljazeera.net/NR/exeres/A79CEDEC-2B17-4559-950E-23763F696BBD.htm>.

<sup>122</sup> For further information on the availability of services, please see the section on ‘Material safety’.

<sup>123</sup> As of July 2005.

<sup>124</sup> The 1954 *Convention relating to the Status of Stateless Persons* and the 1969 *Convention on the Reduction of Statelessness*.



populations of concern.

## **2. Overview of populations**

### **a) Refugees and asylum-seekers in Iraq**

#### Palestinian refugees

Palestinian refugees came to Iraq in three main waves: in 1948, in 1967 and in 1991. They were provided protection and assistance by the former regime and enjoyed a relatively high standard of treatment (provision of ID and travel documents, right to work, access to subsidized housing, education, etc.). Since the fall of the former regime in April 2003 however, the Palestinian refugees have no longer enjoyed this protection. Because segments of the Iraqi population feel that Palestinians received favourable treatment from the former regime, they have faced serious repercussions such as evictions, threats and harassment. UNHCR undertook a registration campaign in 2003 and accounted for over 22,000 Palestinian refugees in Baghdad; due to security reasons however, registration could not be undertaken in other parts of Iraq where large numbers of Palestinian refugees are believed to be present. UNHCR estimates this group's total population in Iraq at close to 34,000 persons. These refugees reside mainly in urban settings in Baghdad and often have a good level of education; however, the difficult economic situation and loss of the privileges they previously enjoyed has seriously affected their ability to provide for themselves. They are now also subject to arbitrary arrest, detention and house raids by MNF/ISF, who suspect them of being involved in terrorist activities. After a bombing incident in Baghdad Al-Jadida on 12 May 2005, for which Palestinians were widely blamed in the media, their security situation has significantly deteriorated, particularly for those residing in the Haifa area.

#### Syrian refugees

Most of the Syrian refugees in Iraq arrived in 1968, 1970 or 1981, largely out of fear of persecution due to anti-government political opinions or activities. The Iraqi former regime granted them refugee status and provided them with protection and assistance (e.g. food, shelter, health, education and other social welfare benefits). They had access to employment, were provided with food ration cards and were granted monthly allowances. Many resided in apartments in Haifa Street that they had bought from the former regime. The majority are well educated and originate from urban areas in Syria. In general, the Syrian refugees have easily integrated into Iraqi society given the common linguistic and cultural backgrounds the two countries share. However, after the fall of the former regime, Syrian refugees faced repercussions at the hands of segments of the Iraqi population that perceived them as having received special privileges from the former regime. Similar to the Palestinian refugees, they suffer from frequent harassment and arbitrary arrests by the MNF/ISF as they are suspected of being involved in terrorist activities. They are also facing problems obtaining new residency permits. Currently, 489 Syrian refugees are registered with UNHCR.

#### Iranian Kurdish refugees

The Iranian Kurds sought refuge in Iraq in the aftermath of the Islamic Revolution of 1979 and the Iran-Iraq War that began in 1980. Arrivals before September 1997 were recognized on a *prima facie* basis by UNHCR, whereas later arrivals were recognized based on individual Refugee Status Determination (RSD). At this stage, the information available suggests that there are 7,000 Iranian Kurdish refugees in Iraq.

The Iranian Kurds reside either in the Al-Tash Camp near Ramadi in Central Iraq or in urban settings in Northern Iraq. The Iranian Kurds in the Al-Tash Camp in the Governorate of Al-Anbar (originally 12,000 persons) were seriously affected by the insecurity prevailing in the

area during and after the 2003 conflict. Large numbers decided to leave the camp and headed to the North (primarily to the Governorate of Sulaymaniyah) or to the West, where they were hosted in a camp in the 'no man's land' on the Jordanian side. Others are reported to have returned to Iran. Recently, the 650 Iranian Kurdish refugees in the No Man's Land camp were moved to the Ruweished Camp inside Jordan.

Those refugees who have remained in the Al-Tash Camp have become increasingly vulnerable to deteriorating living conditions and are faced with a chronic lack of electricity, water supplies, medical care and educational activities. In addition, the local population is increasingly growing hostile towards the refugees and insurgent groups may be seeking to recruit dissatisfied and desperate camp inhabitants. UNHCR is aware of the arrest of 18 Iranian Kurds from Al-Tash by the MNF since November 2004. The chronic insecurity in this part of Iraq has also meant that UNHCR, its partners and the government authorities have been limited in their ability to respond to the refugees' needs. On 23 May 2005, the Iraqi Prime Minister's office approved a plan to close the Al-Tash Camp and to relocate the remaining 3,100 Iranian refugees (520 families) in the camp to safer locations (e.g. in the Governorates of Sulaymaniyah, Erbil and Dohuk). The refugees are expected to be able to become self-reliant in these new locations after the provision of short- and long-term assistance from UNHCR and the local authorities in the form of housing and income-generation projects.<sup>125</sup>

#### Iranian Arab refugees

It is estimated that there are some 2,500 Iranian refugees of Arab ethnicity (Ahwazis) in Iraq. Most Ahwazis came to Iraq in 1980 when the Iraq-Iran war broke out and in the early 1990s. They are predominantly of rural background, and live in local settlements in Southern Iraq near the Dujailah area 45 kilometres west of Al-Kut. Prior to the 2003 conflict, the former Iraqi regime provided them with assistance such as land, houses and farms because of their political opposition to Iran. However, this preferential treatment led to local Iraqis perceiving Ahwazis as collaborators with the former regime and now has resulted in much harassment. Because of this treatment some 80 Ahwazi families relocated to a UNHCR transit centre in the outskirts of Basrah. They were later evacuated by the Iraqi authorities and ever since have been scattered throughout the Southern Governorates. Many attempted to return to Iran, but came back to Iraq due to alleged harassment by the Iranian authorities and difficulties reintegrating following years in exile. UNHCR is aware that the Ahwazis now face problems obtaining new residency permits, which has been an obstacle to obtaining public services such as education. UNHCR is in the process of conducting an in-depth survey to register them and acquire necessary data. Many Ahwazi refugees face severe problems as regards adequate housing and access to public services such as education and health. The 104 Ahwazi refugees in the Baghdad area face similar problems to those faced by Syrian and Palestinian refugees.

#### Turkish refugees

Most Turkish refugees in Iraq are of rural background and originate from the mountainous areas of Southern Turkey (mainly Sharnakh and Hakkari), however a sizeable percentage come from Van and urban areas in the Governorate of Diyarbakir. These refugees were mostly supporters or sympathizers of the Kurdistan Workers' Party (PKK) and the majority arrived in 1994 following the escalation of armed conflict in South-Eastern Turkey between the PKK and the Turkish Government. The basis for their recognition as refugees by UNHCR was a well-founded fear of persecution on cumulative grounds (i.e. their ethnic background and political opinions). More than 9,600 are hosted in the Makhmour Camp; another 4,500 live in rural or semi-urban settlements in the Governorates of Dohuk and Erbil. While the refugees' basic needs

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<sup>125</sup> UNHCR, *Iraq: No Man's Land refugees transferred to Ruweished, Al Tash population to safer location*, 16 June 2005, <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=429c3a1516>.

are being met in the Makhmour camp, there are some concerns about the maintenance of the civilian character of asylum of the camp. Targeted assistance programmes aim at addressing poor family planning (which is responsible for high birth rates), child labour, illiteracy (mainly among women) and poor community participation. In addition, reports have been received by UNHCR about the poor health status of the 4,000 refugees in Dohuk Governorate. An agreement between UNHCR, the Government of Turkey and the Iraqi authorities that would allow for the voluntary return of these refugees to Turkey has not yet been finalized.

#### Asylum-seekers (Syrians, Iranians and Turks)

Some 666 Syrian Kurdish asylum-seekers are hosted in Moquble Camp in Dohuk District and another 11 in the Governorate of Erbil. In mid-March 2004, a football game between a Syrian Kurdish team and one traditionally supported by the Syrian Ba'athists erupted into inter-ethnic violence leading to numerous arrests of Kurds in and around the Syrian town of Qamishly. According to Amnesty International, torture and ill-treatment was common following this incident and led to the death of several persons.<sup>126</sup> Following this incident, Kurds began fleeing from Syria to Northern Iraq seeking protection, with more arrivals in the months following the incident. In addition, there are some 878 Iranian Kurdish asylum-seekers registered with UNHCR in Erbil and some 218 Turkish asylum-seekers registered with UNHCR in Dohuk. UNHCR has been supplying non-food items to camp residents and has liaised with the local authorities to include them in the monthly food distribution. As soon as the security situation allows for the return of international staff, UNHCR will conduct RSD to assess the claims of asylum-seekers and look into possible durable solutions for those recognized as refugees.

<b>Asylum-seekers (pending refugee status determination), July 2005</b>		
<b>Country of origin</b>	<b>Persons</b>	<b>Residing mainly in</b>
Iran	878	Erbil, Sulaymaniyah
Syria	666	Dohuk, Erbil
Turkey	218	Dohuk, Erbil
<b>Total</b>	<b>1,762</b>	

#### **b) Iraqi refugees and others of concern**

There are no exact figures on the number of Iraqis living abroad, but it has been estimated that more than 1.5 million Iraqi refugees, asylum-seekers and others live abroad and benefit from refugee status or some type of complementary or temporary protection or tolerance status. The majority of these Iraqis lives in neighbouring countries – mainly Syria (est. 700,000 persons), Jordan (est. 500,000 persons) and Iran (est. 90,000 persons) – and remain vulnerable in terms of their legal status, lack of access to public services and employment. Relatively low numbers from among this group have been registered with UNHCR.

#### **c) Internally displaced persons**

It is estimated that there are more than 1,234,000 individuals (205,663 families) who are internally displaced within Iraq (see table below for geographic distribution). Over the last four decades, human rights abuses and various periods of internal and international conflict have resulted in many cases of protracted displacement in Iraq. The expulsion of people from their homes along ethnic lines was for long time a state policy (e.g. 'Arabization' campaign). Those attempting to return to places they were ejected from during the *Arabization* campaign, such as Kurds who have returned to Kirkuk and the Centre after the fall of the former regime, have directly or indirectly caused further displacement among the Arabs who were settled in these

<sup>126</sup> Amnesty International, Press release, *Syria: End human rights violations against the Syrian Kurds*, 10 March 2005, <http://web.amnesty.org/library/Index/ENGMDE240092005?open&of=ENG-SYR>.

areas.<sup>127</sup> In addition, many returnees from abroad ended up in internal displacement, largely because of the lack of absorption capacities, ongoing conflicts and property disputes. Furthermore, the 2003 conflict that resulted in the fall of the former regime and the subsequent periodic fighting that ensued in places such as Fallujah, Najaf, Tal Afar, Ramadi, Mosul, Al-Qaim and Karabilah, created and continues to create significant population movements in the country.

IDPs in Iraq now reside in rented flats, collective towns, makeshift camps and public buildings or tents. Many thousands occupy public buildings which have not been designed for residential usage and lack basic services such as running water and sanitation facilities. Furthermore, IDPs in public buildings are at risk of eviction if and when such buildings are needed for public use.<sup>128</sup>

By June 2005, 47 percent of the total number of IDPs in Iraq were concentrated in the three Northern Governorates, with a further 36 percent in Southern Iraq and 17 percent in Central Iraq. It is important to note that the IDP population displaced in the North is composed mainly of persons displaced from those same three Northern Governorates.

The following table provides an overview on the number of displaced families in the three areas of Iraq (at an average of six persons per family) as of June 2005:<sup>129</sup>

Northern Governorates	Post 1991	Pre 1991	Sub-total IDPs
Dohuk	1,174	19,226	20,400
Erbil	4,945	28,785	33,730
Sulaymaniyah	1,473	41,094	42,567
<b>Sub-total 1</b>	<b>7,592</b>	<b>89,105</b>	<b>96,697</b>
Centre Governorates <sup>130</sup>	Post Conflict 2003	Pre Conflict 2003	Sub-total IDPs
Ninewa	3,034	2,655	5,689
Salah Al-Din	3,103	236	3,339
Tameem	1,206	247	1,453
Diyala	6,916	4,029	10,945
Anbar	7,955	606	8,561
Baghdad	1,882	2,128	4,010
<b>Sub-total 2</b>	<b>24,096</b>	<b>9,901</b>	<b>33,997</b>
Southern Governorates	Post Conflict 2003	Pre Conflict 2003	Sub-total IDPs
Babylon	401	1,062	1,463
Kerbala	432	17,306	17,738
Najaf	380	4,555	4,935
Wassit	1,027	70	1,097
Qadisiya	776	675	1,451
Missan	413	15,997	16,410

<sup>127</sup> This is being disputed by some Kurdish officials, e.g. Kirkuk's Governor says that Arabs who have left have done so upon their own decision; see Reuters, *No Arabs displaced, says Kirkuk's Kurdish governor*, 23 June 2005, <http://www.ekurd.net/mismas/articles/misc2005/6/kirkukkurdistan56.htm>.

<sup>128</sup> See also the section on 'Shelter / housing'.

<sup>129</sup> UN Cluster F (Refugees, IDPs and Durable Solutions, formerly Cluster 8) and United Nations Country Team (UNCT), Draft *Strategic Plan on Assistance and Durable Solutions for IDPs in Iraq*, June 2005. The data was collected by IOM and UNOPS (UNHCR's partner in the North) as part of the IDP Monitoring.

<sup>130</sup> Please note that the Strategic Plan on Assistance and Durable Solutions for IDPs in Iraq considers the Governorates of Kirkuk (Tameem) and Mosul (Ninewa) as part of the 'Centre' while this paper considers them as part of the 'North'.

<b>Muthanna</b>	437	424	861
<b>Basrah</b>	451	28,098	28,549
<b>Thi-Qar</b>	220	2,245	2,465
<b>Sub-total 3</b>	<b>4,537</b>	<b>70,432</b>	<b>74,969</b>
<b>Grand Total</b>	<b>36,225</b>	<b>169,438</b>	<b>205,663</b>

#### **d) Returnees (returning refugees and IDPs)**

##### Returning refugees and other persons of concern

As UNHCR does not consider present conditions in Iraq to be conducive to returns in safety and dignity, it is not currently promoting the return to Iraq. It will not, however, stand in the way of voluntary returns and assists returnees with the process of return and reintegration. By 31 July 2005, UNHCR had facilitated the return of 21,851 Iraqis, mainly from Iran but also from Saudi Arabia, Lebanon, Jordan and countries further afield. Most of the returnees returned to the South – in particular Basrah, Thi-Qar, Missan and Najaf Governorates – and to the Northern Governorates of Sulaymaniyah and Erbil, with almost no returns to Baghdad, the Upper South or the Governorates of Mosul and Kirkuk. UNHCR ensures that persons willing to return are well-informed about the conditions in Iraq and UNHCR's limited assistance and monitoring capacities and enjoy the free choice of either returning or remain in their country of asylum. By the end of 2004, some 230,000 Iraqis had spontaneously returned to Iraq, exceeding UNHCR-facilitated returns by tenfold.

UNHCR returnee monitoring confirmed that many refugees end up in internal displacement upon their return to Iraq because of a lack of housing, livelihood or infrastructure, property disputes, the presence of mines and UXO in their return areas and other reasons. Those who are able to return have faced severe problems successfully reintegrating; contributing factors include, *inter alia*, a lack of employment possibilities, difficulties obtaining documentation and accessing education due to the non-recognition of school certificates earned abroad, a lack of adequate language skills in Arabic or Kurdish, inadequate health care facilities and the high cost of essential medicines.<sup>131</sup>

##### Returning IDPs

With the fall of the former regime in April 2003, Kurds and Turkmen who were displaced in the Northern Governorates of Erbil and Sulaymaniyah started to return spontaneously to their places of origin in the Governorates of Kirkuk, Diyala, Salah Al-Din and Ninewa. A large number of returnees reside in the main cities in their Governorate or district of origin and have not returned to their villages of origin for a lack of shelter and services. The returnees, who in general did not own land or property prior to their displacement, now live in public buildings, most notably schools and police stations, with little or no basic facilities. Those with land have pitched tents and many are believed to be moving between their original villages and their previous places of displacement. While many of the returns are voluntary, some have been influenced by political actors. The uncoordinated return of IDPs from the North to areas below the former 'green line' has led to the 'secondary displacement' of Arab families that had been resettled by the former regime in traditionally Kurdish areas in the Governorates of Kirkuk, Mosul, Diyala and Salah Al-Din. Many Arab families have fled these areas out of fear of harassment or actual harassment by returning Kurds and Turkmen.

It is estimated that by April 2005 more than 470,000 IDPs had returned to their places of origin, habitual places of residence or places of choice in the Centre and South as well as the

<sup>131</sup> For further details, see the section on 'Material safety'.

Governorates of Kirkuk and Mosul.<sup>132</sup>

#### e) Stateless persons

Exact figures on the number of stateless persons in the region, including Iraq, do not exist. It is estimated that there are some 350,000 stateless or *de facto* stateless persons inside Iraq, whereas the scope of the problem in the region (Iraq and neighbouring countries) is estimated to number at up to 2 million persons. Certain cases of statelessness do have a regional dimension that can only be successfully addressed by joint efforts of the states concerned (e.g. Iraq, Kuwait and Saudi Arabia).

In Iraq, there are three groups of stateless or *de facto* stateless persons whose status and specific needs require attention: the Faili Kurds, the Bidouns and children of mixed marriages. Their statelessness is a result of:

1. The application of discriminatory policies: This affects mainly Faili Kurds and Shiite Arabs who were stripped of their nationality on the basis of Decision No. 666 (1980). In addition, some persons were deprived of their nationality on an individual basis, e.g. as a result of having committed a certain crime;
2. Territorial changes or lack of proper documentation: This affects mainly the Bidouns, whose statelessness is a result of territorial changes after the Second World War and their lack of the documentation needed to prove or acquire nationality. Some were stateless before they joined relatives/tribes in Iraq following the Iraqi invasion in Kuwait;
3. Conflict of nationality laws: This occurs due to the acquisition of another citizenship after marriage with a person holding another nationality or for children of mixed marriages.

In the past, the majority of these persons found refuge in neighbouring countries, particularly Iran. Given the *de jure* reacquisition of Iraqi nationality of those who were subject to Decision No. 666 under the TAL, an unknown number has returned since the fall of the former regime. However, they are facing multiple problems linked to their status as previously stateless persons (e.g. proof of documentation of being an Iraqi national, access to PDS, right to vote). For those who were deprived of Iraqi nationality for other reasons and for whom the TAL stipulates the possibility of reacquiring Iraqi nationality, no reacquisition procedures have yet been put in place.<sup>133</sup>

### 3. The Ministry of Displacement and Migration

The MoDM was set up by CPA Order No. 50 in August 2003<sup>134</sup> with the following broad mandate:

- setting country strategy and policy/standards on refugees, IDPs and returnees;
- addressing the needs of refugees, IDPs and returnees (the latter in terms of repatriation, relocation, resettlement, and reintegration); and
- coordinating with UNHCR, IOM and other organizations and Ministries in relation to IDPs and refugees.

Since its establishment, the MoDM has embarked on an extensive review of its mandate and

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<sup>132</sup> UN Cluster F/UNCT, Draft *Strategic Plan on Assistance and Durable Solutions for IDPs in Iraq*, June 2005, p. 17. No figures are available for the three Northern Governorates of Dohuk, Erbil and Sulaymaniyah. Please note that this number is based on information made available to IOM's monitoring partners and does not necessarily reflect the accurate total number of IDP returnees.

<sup>133</sup> For further details, see the section on '(Re)acquisition of nationality'.

<sup>134</sup> CPA, Order No. 50, *Creation of Ministry of Displacement and Migration*, 11 January 2004, [http://www.iraqcoalition.org/regulations/20040112\\_CPAORD50\\_MODM.pdf](http://www.iraqcoalition.org/regulations/20040112_CPAORD50_MODM.pdf).



role and with the support of UNHCR and IOM has drafted the *Law on the Ministry of Migration and Refugee Affairs*. The draft law was presented to the State Advisory Council, and it is hoped that it will be approved by the TNA as a matter of priority. IOM and UNHCR continue to provide support to MoDM to enable the Ministry to build its institutional and organizational capacities.

Given the high number of IDPs and the need to create a common understanding as to how to best achieve durable solutions for this group, MoDM together with other national and local counterparts aims to develop and implement a 'National Policy on Displacement Challenges and Durable Solutions'. UNHCR, IOM and other members of the UN Cluster F are closely supporting the Iraqi authorities and the MoDM in particular towards the end of gradually taking over the responsibility of providing protection and assistance for refugees, IDPs and returnees and seeking and implementing durable solutions for them.

## **VI. Situation of women and children**

### **1. Women**

#### **a) Overview**

It was in the early years of secular Ba'athist socialism and of the former regime that the status and rights of women were formally enshrined in legislation and treaties. The 1970 Constitution nominally made Iraqi women and men equal under the law. Under the former regime, women's literacy and education improved and restrictions on women's movement outside the home were lifted. Women were given the right to vote and run for political office, to drive, to work outside the home and to hold jobs traditionally held by men. Before 1991, female literacy rates in Iraq were the highest in the region (only 8 percent illiteracy in 1985), Iraq had achieved nearly universal primary education for girls as well as boys and Iraqi women were widely considered to be among the most educated and professional women in the Arab world.<sup>135</sup>

Iraq was the first Arab country to sign the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1986, though with some important reservations, mainly regarding the prevalence of Islamic Sharia law. However, years of authoritarian ruling, wars and economic sanctions have resulted in a severe decline in living conditions in Iraq and have had a serious impact on the life of women. Iraq's ranking in the UN Human Development Index, which includes some gender-desegregated indicators, dropped from 76 in 1991 to 127 in 2001.<sup>136</sup> The impact of this decline on women included, *inter alia*, increased mortality rates,<sup>137</sup> increased rates of divorce, polygamy and domestic violence, a significant increase in malnutrition among women and children and an added burden of responsibility as women had to care for children traumatized by war, disease and malnutrition with neither professional support nor sufficient access to knowledge and skills.

The former regime often persecuted women on account of their or their family members' political opinions or religious beliefs.<sup>138</sup> Rape and sexual assaults of female family members were used to extract information and force confessions from detainees, to intimidate opposition members or to blackmail men into cooperating with the government. Furthermore it is believed that as part of the *Anfal* campaign – a campaign of mass displacement and disappearance conducted by the former regime in the late 1980s – as many as 100,000 Kurdish women lost

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<sup>135</sup> UNICEF, *The situation of Children in Iraq*, March 2003.

<sup>136</sup> UNDP, *UN Human Development Index*, accessed July 2005, <http://www.iq.undp.org/economy.html>.

<sup>137</sup> See also the section on 'Health services'.

<sup>138</sup> US Department of State, *Iraqi Women Under Saddam's Regime: A Population Silenced*, 20 March 2003, <http://www.state.gov/g/wi/rls/18877.htm>.

their husbands.<sup>139</sup> In addition, a number of female Kurdish victims of the *Anfal* campaign were sold to other countries such as Egypt and forced into prostitution.<sup>140</sup>

After the 1991 Gulf War, women's rights were eroded by the former regime's attempts to win legitimacy in the face of Iraq's economic crisis by appeasing religious fundamentalists and conservatives and strengthening tribal support for the regime. Women accused of prostitution were beheaded without legal process.<sup>141</sup> Legal restrictions were also placed on women's freedom of movement during this time: women under the age of 45 were forbidden to travel outside Iraq without being accompanied by a non-marriageable male relative (*muhram*) such as a father or brother.<sup>142</sup>

The Committee on the Elimination of Discrimination against Women examined the combined second and third periodic reports of Iraq in June 2000. In its concluding observations, the Committee noted with concern that 'while the current situation in the State party is not favourable to the advancement of women in some respects, the State party (failed) to adopt specific policies and take all possible measures to implement the Convention', noting in particular the failure of the State party to revoke legislative provisions that discriminated against women.<sup>143</sup>

## **b) Legal status and protection of women's rights**

The TAL sets out a number of rights and in principle calls for equality for women,<sup>144</sup> however, it does not offer adequate protection against discrimination in marriage (unequal rights to marry, within marriage and to request a divorce), inheritance and ability to pass the nationality to children. In addition, the TAL (and likely the future Permanent Constitution) name Islam as a 'source of legislation', though it is not yet known if and how this may affect women's rights in practice.<sup>145</sup> The TAL stipulates that at least 25 percent of the seats in the TNA be held by women.<sup>146</sup> In the TNA elections of 30 January 2005, women won 85 seats (approximately 33 percent of the total) and now lead the Ministries of Displacement and Migration, Telecommunication, Municipalities and Public Works, Environment, Science and Technology as well as Women's Affairs. Another encouraging sign is the establishment of NGOs focussing on the advancement of women's rights. Women's groups are calling for the endorsement of a constitutional stipulation that 40 percent of the seats in the National Assembly be reserved for

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<sup>139</sup> IRIN, *IRAQ: Focus on plight of widows in north*, 3 March 2004,

[http://www.irinnews.org/report.asp?ReportID=39797&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=39797&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>140</sup> IWPR, Iraqi Crisis Report No. 69, *Kurds Still Seeking Lost Women*, 21 June 2004,

[http://www.iwpr.net/index.pl?archive/irq/irq\\_69\\_3\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_69_3_eng.txt); KurdishMedia.com, *Top secret Iraqi document reveals Kurdish girls sent to harems and nightclubs in Egypt*, 2 July 2003, <http://www.kurdmedia.com/news.asp?id=4057>.

<sup>141</sup> US Department of State, Fact Sheet, *Iraqi Women Under Saddam's Regime: A Population Silenced*, 20 March 2003, <http://www.state.gov/g/wi/rls/18877.htm>; Amnesty International, *Annual Report 2002 - Iraq*, 2002, <http://web.amnesty.org/web/ar2002.nsf/mde/iraq?Open>.

<sup>142</sup> Human Rights Watch, *Background on Women's Status in Iraq Prior to the Fall of the Saddam Hussein Government*, 21 November 2003, p. 5, <http://hrw.org/backgrounder/wrd/iraq-women.pdf>.

<sup>143</sup> CEDAW, 23<sup>rd</sup> Session, *Consideration of reports of States Parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women Iraq*, 14 June 2000, <http://www.un.org/womenwatch/daw/cedaw/cedaw23/Iraq%20as%20adopted.html>.

<sup>144</sup> Article 12 TAL reads: *All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited. (...) All are equal before the courts*; Article 20(B) TAL reads: *No Iraqi may be discriminated against for purposes of voting in elections on the basis of gender, religion, sect, race, belief, ethnic origin, language, wealth, or literacy.*

<sup>145</sup> Article 7(A) TAL.

<sup>146</sup> The relevant part of Article 30(C) TAL reads: *The electoral law shall aim to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly (...).*



women.<sup>147</sup>

Unfortunately, Iraq's laws do not yet adequately protect all the rights provided for in the TAL and the CEDAW. In particular the Iraqi *Personal Status Law* (Law No. 188 of 1959) and the Iraqi *Penal Code* (Law No. 111 of 1969) provide for a number of discriminatory provisions which are still applicable today. One positive development was the CPA's introduction of a number of amendments to the *Penal Code* in response to the increased abduction and rape of women in the months after the US-led invasion.<sup>148</sup> The amendments increased the penalties for kidnapping, rape and sexual assault and suspended provisions allowing perpetrators to escape punishment if they married the woman concerned.<sup>149</sup> Still, a number of provisions disadvantaging women, usually based on Sharia law, remain in force. For example, the *Personal Status Law* allows men to practise polygamy under certain conditions,<sup>150</sup> awards female heirs only half of the entitlement of their male counterparts<sup>151</sup> and favours men in divorce.<sup>152</sup> Furthermore, the *Penal Code* contains provisions that allow lenient punishments for 'honour killings' on the grounds of provocation or if the accused had 'honourable motives'. The punishment will be between 6-12 months imprisonment.<sup>153</sup> Article 409 further provides that if a person surprises his wife or a female relative committing adultery and kills/injures one or both immediately, the punishment will not exceed three years.<sup>154</sup> The law does not provide any guidance as to what 'honourable' motives are and therefore leaves the door open for wide interpretation and abuse.

Though the Kurdish authorities suspended these provisions in 2000 (PUK-controlled areas) and 2002 (KDP-controlled areas) respectively,<sup>155</sup> 'honour killings' are still prevalent throughout the North.<sup>156</sup> The *Penal Code* further stipulates that a husband who beats his wife can, under certain conditions, be exempted from criminal liability for doing so.<sup>157</sup> This provision was reportedly annulled in areas controlled by the KDP in 2001.<sup>158</sup>

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<sup>147</sup> Reuters, *Iraqi women call for 40% quota in new constitution*, 29 June 2005,

[http://www.tharwaproject.com/index.php?option=com\\_keywords&task=view&id=2414&Itemid=0](http://www.tharwaproject.com/index.php?option=com_keywords&task=view&id=2414&Itemid=0).

<sup>148</sup> Human Rights Watch, *Climate of Fear: Sexual Violence and abduction of Women and girls in Baghdad*, July 2003, <http://hrw.org/reports/2003/iraq0703/>.

<sup>149</sup> CPA, Order No. 31, *Modifications Of Penal Code and Criminal Proceedings Law*, 10 September 2003, [http://www.iraqcoalition.org/regulations/20030921\\_CPAORD31.pdf](http://www.iraqcoalition.org/regulations/20030921_CPAORD31.pdf).

<sup>150</sup> Article 3(4) of the *Personal Status Law*.

<sup>151</sup> Articles 86-94 of the *Personal Status Law*.

<sup>152</sup> Articles 34-39 of the *Personal Status Law*.

<sup>153</sup> Article 128 (1) of the *Penal Code* reads: *Legal excuse either discharges a person from a penalty or reduces that penalty. Excuse only exists under conditions that are specified by law. Notwithstanding these conditions, the commission of an offence with honorable motives or in response to the unjustified and serious provocation of a victim of an offence is considered a mitigating excuse.* Article 130 of the *Penal Code* reads: *If there exists a mitigating excuse for a felony for which the penalty is death, the penalty shall be reduced to life imprisonment or imprisonment for a term of years or detention for a period of not less than 1 year. If the penalty is life imprisonment or imprisonment for a term of years; the penalty shall be reduced to a period of detention of not less than 6 months unless otherwise stipulated by law.*

<sup>154</sup> Article 409 of the *Penal Code* reads: *Any person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.*

<sup>155</sup> See Agence France-Presse, *Iraqi Kurds amend law to reduce "honor crimes"*, 14 August 2002, <http://www.cogsci.ed.ac.uk/~siamakr/Kurdish/KURDICA/2002/3/honour.html>.

<sup>156</sup> See below.

<sup>157</sup> Article 41(1) of the *Penal Code* reads: *There is no crime if the act is committed while exercising a legal right. The following are considered to be in exercise of a legal right:*

*(1) The punishment of a wife by her husband, the disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom.*

<sup>158</sup> Amnesty International, *Iraq - Decades of Suffering*, February 2005, p. 25,

On 29 December 2003, the IGC adopted Decision No. 137 to replace the 1959 *Personal Status Law* with Sharia law. The decision declared that in matters of personal status such as marriage, divorce, inheritance and child custody, each religious community would be governed by its own religious laws. Iraqi women criticized the decision extensively and CPA Civil Administrator Paul Bremer did not endorse the decision. The IGC finally repealed Decision 137 by a vote of 15 to 10. In this regard it is important to note that prior to the introduction of the 1959 *Personal Status Law*, Sunnis and Shiites had separate religious courts that issued decisions according to their interpretation of Islamic law. The role of Islam and Sharia law vis-à-vis the more secular 1959 *Personal Status Law* is also one of the contentious issues in the ongoing negotiations about the Permanent Constitution.<sup>159</sup>

### c) Current situation of women

Continuing violence and high criminality, slow reconstruction, low living standards and the increasing tendency to apply strict Islamic behavioural and dress codes have taken a toll on women in Iraq. Indiscriminate attacks by insurgents have resulted in the death and injury of scores of civilians, many of them women.<sup>160</sup> Women of all religions risk being targeted if they do not comply with strict Islamic dress codes (e.g. not covering their hair or wearing Western-style fashions).<sup>161</sup> According to police officials, dozens of women have been attacked with acid by religious conservatives in Baghdad<sup>162</sup> and many others have been killed outright.<sup>163</sup> Furthermore, the IWCP reports that unveiled women are frequently denied governmental jobs.<sup>164</sup> Among the Shiite community, the practice of *muta'a*, or temporary marriage, which was considered adultery by the former regime and punishable with fines or imprisonment, appears to be on the rise. The manner in which *muta'a* is practised in Iraq, which is meant to provide an income and protection for widowed or divorced women, strongly favours men as only they can decide to end a *muta'a* marriage (unless it was agreed at the outset that the women can end it as well). Furthermore, women cannot inherit from their *muta'a* husbands.<sup>165</sup>

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[http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>159</sup> IRIN, *IRAQ: Fears grow for women's rights as deadline looms for constitution draft*, 28 July 2005, [http://www.irinnews.org/report.asp?ReportID=48334&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=48334&SelectRegion=Middle_East&SelectCountry=IRAQ); Carnegie Endowment, *Constitution of Iraq – Draft Bill of Rights*, 27 July 2005, p. 5,

<http://www.carnegieendowment.org/files/BillofRights.pdf>; Voice of America News, *Iraqi Women Differ on Greater Role for Islam in Constitution*, 25 July 2005, <http://www.voanews.com/english/2005-07-25-voa13.cfm>; BBC, *Iraqi women fear for their rights*, 25 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4715051.stm](http://news.bbc.co.uk/2/hi/middle_east/4715051.stm).

<sup>160</sup> See also the section on 'Insurgency' for estimates of civilian casualties in Iraq since April 2003.

<sup>161</sup> See for example, Guardian Unlimited, *Female students in fear as Shias push for headscarves*, 29 March 2005, <http://www.commondreams.org/headlines05/0329-05.htm>; Guardian Unlimited, *Without veil*, 24 January 2005, <http://www.guardian.co.uk/g2/story/0,,1396922,00.html>; on the situation in Mosul, see IWPR, *Iraqi Crisis Report No. 131, Insurgents Impose Curbs on Women*, 5 July 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_131\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_131_1_eng.txt); on the situation in Basra, see Los Angeles Times, *Islamic Law Controls the Streets of Basra*, 27 June 2005,

[http://www.occupationwatch.org/headlines/archives/2005/06/islamic\\_law\\_con.html](http://www.occupationwatch.org/headlines/archives/2005/06/islamic_law_con.html) and Guardian Unlimited, *Liberal Basra pushed to the right*, 13 June 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1505112,00.html>.

<sup>162</sup> IRIN, *IRAQ: Acid attacks on "immodest" women on the rise*, 4 July 2005, [http://www.irinnews.org/report.asp?ReportID=47939&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47939&SelectRegion=Middle_East&SelectCountry=IRAQ); Acid spraying was also reported to take place in Kirkuk, see IRIN, *IRAQ: Focus on threats against progressive women*, 21 March 2005, <http://www.irinnews.org/print.asp?ReportID=46206>.

<sup>163</sup> According to local authorities, Islamic militants have killed 20 women in Mosul and a dozen more in Baghdad, among them gynaecologists, two pharmacists and students, since the beginning of this year. In Latifiyah, local police says that eleven women have been killed in the area since Sunni Islamists have publicly prohibited women from leaving their homes without the traditional 'abaya' and banned them from using make-up, see IRIN, *IRAQ: Focus on threats against progressive women*, 21 March 2005, <http://www.irinnews.org/print.asp?ReportID=46206>.

<sup>164</sup> Iraqi Workers' Communist Party, *Iraqi Women fight against compulsory veil*, 2004, <http://www.wpiraq.net/english/2004/veil010304.htm>.

<sup>165</sup> USA Today, *'Pleasure marriages' regain popularity in Iraq*, 4 May 2005, [http://www.usatoday.com/news/world/iraq/2005-05-04-pleasure-marriage\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-05-04-pleasure-marriage_x.htm).

Lack of both security and proper law enforcement has led to high rates of crime against women, in particular in the months after the 2003 conflict. A survey undertaken by the 'Organisation of Women's Freedom in Iraq' recorded that 400 women that were raped in Baghdad between April and August 2003.<sup>166</sup> Human Rights Watch has documented reports from Iraqi police officers that 'the number of (rape) cases reported [now is] substantially higher than before the war'.<sup>167</sup> Fear of harassment, abduction and rape prevents women from moving freely, thereby restricting their personal freedom, access to schools and universities,<sup>168</sup> opportunity to work<sup>169</sup> and access to health services.<sup>170</sup>

The ILCS revealed that 40 percent of surveyed women identified criminals as a direct threat to their safety, while 12 percent say that the MNF represents the main threat. There are significant differences in safety for women among the different Governorates. More than 85 percent of the women in the Governorates of Sulaymaniyah, Erbil, Dohuk and Muthanna report no direct threats, but 91 percent of women in Missan, 73 percent of women in Thi-Qar, 65 percent of women in Baghdad and over 40 percent of women in Wasit and Kerbala identify criminals as a threat. The MNF are defined as the most important threat by more than half of the women in the Governorates of Al-Anbar and Salah Al-Din. While 49 percent of all Iraqi women (92 percent of women in Al-Anbar and more than 70 percent of women in Thi-Qar and Missan) think that the security in their area has worsened compared to one year ago, 20 percent (70 percent in Sulaymaniyah and more than 90 percent of women in Erbil and Dohuk) think security has improved or is the same compared to one year ago.<sup>171</sup>

There have been reports of abuse, including sexual abuse, of Iraqi women detained by the MNF in Abu Ghraib and other detention facilities.<sup>172</sup> The Taguba Report, issued in 2004, confirmed that a male military police guard was 'having sex with a female detainee' and that guards videotaped and photographed naked female detainees.<sup>173</sup> Another incident involving the sexual abuse of a 17-year old girl was recorded by the US Department of Defence.<sup>174</sup> US-led forces have confirmed that they illegally detained Iraqi women in order to obtain information about male relatives who are senior Ba'ath Party officials or suspected insurgents.<sup>175</sup> In addition, they are accused of holding women as 'bargaining chips' in the attempt to convince male relatives to surrender or admit involvement in armed activities.<sup>176</sup> With rumours of (sexual) abuse running

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<sup>166</sup> Guardian Unlimited, *An empty sort of freedom*, 8 March 2004,

<http://www.globalpolicy.org/security/issues/iraq/occupation/2004/0308emptyfreedom.htm>.

<sup>167</sup> Human Rights Watch, *Climate of fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003, p. 3, <http://hrw.org/reports/2003/iraq0703/iraq0703.pdf>.

<sup>168</sup> The Washington Times, *Women fleeing college under Islamist threats*, 17 October 2004,

<http://www.washtimes.com/world/20041017-013506-9889r.htm>.

<sup>169</sup> See for example, The New Statesman, *World view - Lindsey Hilsum explains Iraqi's sense of honour*, 4 October 2004, <http://www.newstatesman.com/200410040016.htm>.

<sup>170</sup> See for example, IRIN, *IRAQ: Women afraid to seek healthcare in south*, 5 April 2004,

[http://www.irinnews.org/report.asp?ReportID=40427&SelectRegion=Iraq\\_Crisis&SelectCountry=IRAQ%20](http://www.irinnews.org/report.asp?ReportID=40427&SelectRegion=Iraq_Crisis&SelectCountry=IRAQ%20).

<sup>171</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, pp. April 2005, 115-116,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>172</sup> See for example Guardian Unlimited, *The other prisoners*, 20 May 2004,

<http://www.guardian.co.uk/g2/story/0,3604,1220509,00.html>.

<sup>173</sup> 'Taguba Report', *Hearing article 15-6 Investigation of the 800th Military Police Brigade*, 4 April, 2004,

<http://www.globalsecurity.org/intell/library/reports/2004/800-mp-bde.htm>.

<sup>174</sup> US Department of Defense, *Sworn Statement of [UNREADABLE]; Annex to Fay/Jones/Kern Report*, Section 9/DOD 000719 - 000725, date unknown, published by American Civil Liberties Union at

<http://www.aclu.org/torturefoia/released/030905/>.

<sup>175</sup> Guardian Unlimited, *The other prisoners*, 20 May 2004,

<http://www.guardian.co.uk/g2/story/0,3604,1220509,00.html>; *ibid.*, *Focus shifts to jail abuse of women*, 12 May 2004, <http://www.guardian.co.uk/Iraq/Story/0,2763,1214698,00.html>.

<sup>176</sup> Guardian Unlimited, *US accused of seizing Iraqi women to force fugitive relatives to give up*, 11 April 2005,

high, female detainees may be subject to violence at the hands of their families or even ‘honour killings’ after their release, as they are considered to have brought shame on the family.<sup>177</sup> In a January 2005 report,<sup>178</sup> Human Rights Watch recorded serious and widespread human rights violations by the ISF, including torture and ill-treatment of detainees.<sup>179</sup> The organization did not have the opportunity to examine the specific situation of female detainees however.

The social stigma attached to rape and domestic violence in Iraq, the insensitivity of the Iraqi police to such crimes (combined with the lack of female police officers), the lack of support services for victims of sexual violence (such as counseling, forensic testing, health and medical services, legal and financial services) and fears of retaliatory violence by male family members are all factors which may prevent women from reporting such incidents or seeking legal redress.<sup>180</sup>

Politically active women have increasingly become the targets of insurgents. Akila Al-Hashimi, a member of the IGC,<sup>181</sup> and Sheikha Lameah Khaddouri Al-Sakri, a member of the TNA,<sup>182</sup> are but two of the prominent women killed since the fall of the former regime. Many others have received death threats, including Son Kul Chapuk, a member of the National Assembly and President of the Women’s NGO Association,<sup>183</sup> Salamah Al-Khafaji, a member of the National Assembly, that has survived three assassination attempts,<sup>184</sup> and Nisreen Berwari, the former Minister of Public Works, who survived an attack on 28 March 2004.<sup>185</sup> There have also been killings of professors,<sup>186</sup> women’s rights activists<sup>187</sup> and humanitarian workers.<sup>188</sup>

Domestic violence (including ‘honour killings’) continues to take place in Iraq, and some observers believe it has increased since the fall of the former regime, given the corresponding rise in conservative attitudes.<sup>189</sup> ‘Honour killing’ is a term used to describe a murder committed by a family member to protect the family’s honour. Many women and girls are at risk of death if they are accused of behaviour believed to have brought shame on the family, such as a loss of

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<http://www.guardian.co.uk/Iraq/Story/0,2763,1456773,00.html>.

<sup>177</sup> Los Angeles Times, *A Double Ordeal for Iraqi Female Prisoners*, 12 May 2004,

<http://www.theiraqmonitor.org/article/view/25728.html>; The Christian Science Monitor, *For Iraqi women, Abu Ghraib's taint*, 28 May 2004, <http://www.csmonitor.com/2004/0528/p01s02-woiq.htm>.

<sup>178</sup> Human Rights Watch, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, January 2005, <http://hrw.org/reports/2005/iraq0105/iraq0105.pdf>.

<sup>179</sup> See also the section on ‘Torture and ill-treatment by ISF’.

<sup>180</sup> Amnesty International, *Iraq - Decades of Suffering*, February 2005, pp. 10, 21, 28, 30,

[http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf); The Nation, *Women under Siege*, 29 December 2003 issue, <http://www.thenation.com/doc/20031229/sandler>; Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003, <http://www.hrw.org/reports/2003/iraq0703/iraq0703.pdf>.

<sup>181</sup> BBC, *Shot Iraq council member dies*, 25 September 2003, [http://news.bbc.co.uk/2/hi/middle\\_east/3131424.stm](http://news.bbc.co.uk/2/hi/middle_east/3131424.stm).

<sup>182</sup> BBC, *Iraqi woman MP killed in Baghdad*, 27 April 2005,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/4489857.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4489857.stm).

<sup>183</sup> IRIN, *IRAQ: Focus on threats against progressive women*, 21 March 2005,

<http://www.irinnews.org/print.asp?ReportID=46206>.

<sup>184</sup> The Associated Press, *Deadly Car Bomb Explodes Near Iraq School*, 24 May 2005,

<http://hosted.ap.org/dynamic/stories/I/IRAQ?SITE=DCTMS&SECTION=HOME>.

<sup>185</sup> The Associated Press, *Iraqi minister escapes attack*, 29 March 2004,

<http://washingtontimes.com/world/20040328-104943-6974r.htm>.

<sup>186</sup> See UNHCR, *Guidelines relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 57-58 and Annex IV ‘Academics’.

<sup>187</sup> IRIN, *IRAQ: Women's groups under threat in the new Iraq*, 24 March 2004,

[http://www.irinnews.org/report.asp?ReportID=40230&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=40230&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>188</sup> IRIN, *IRAQ: Focus on threats against progressive women*, 21 March 2005,

<http://www.irinnews.org/print.asp?ReportID=46206>.

<sup>189</sup> IWPR, *Iraqi Crisis Report*, No, 125, *Killing for Honour*, 17 May 2005,

[http://www.iwpr.net/index.pl?archive/irq/irq\\_125\\_2\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_125_2_eng.txt).



‘virginity’ (even by rape), infidelity, a demand for divorce or a refusal of marriage. Many women are killed based on suspicions of a family member and are not given the chance to defend themselves.

As described above, the Iraqi *Penal Code* provides for lenient punishment of perpetrators of ‘honour killings’. While it is encouraging that the Kurdish authorities have cancelled the relevant provisions in recent years and qualify the killing of a family member for honour reasons as straightforward murder, there is still a need to change people’s way of thinking and to make ‘honour killings’ socially and morally unacceptable.

No exact figures on the extent of the practice are available and many cases undoubtedly go unreported. ‘Honour killings’ occur mainly in conservative Muslim families (both Shiite and Sunni, of both Arab and Kurdish backgrounds), in all areas of Iraq. ‘Honour killings’ cannot be justified by Islam or Sharia law, but are a ‘tribal custom stemming from the patriarchal and patrilineal society’s interest in keeping strict control over familial power structures’.<sup>190</sup> Tradition often serves as an excuse for violent acts ‘against women daring to choose how to lead their lives’.<sup>191</sup> It cannot be excluded that ‘honour killings’ also take place among other religious groups as it has been observed in other countries.<sup>192</sup> ‘Honour killings’ have also been reported among Iraqis abroad.<sup>193</sup>

A study done by Rewan Women’s Information and Cultural Centre (RWICC), based in Sulaymaniyah, recorded 3,979 cases of women killed as the result of domestic violence in the North in the 1980s.<sup>194</sup> According to Kurdish Women’s Action Against Honour Killings (KWAHK),<sup>195</sup> – a network of Kurdish and non-Kurdish activists, lawyers and academic researchers – between 1991 and 2000 more than 4,000 women were killed in the North in the name of honour, with the authorities failing to punish the perpetrators.<sup>196</sup> Despite the suspension of the relevant articles of the Iraqi *Penal Code* by the Kurdish authorities in 2000 and 2002 respectively, ‘honour killings’ continue to take place in Northern Iraq. The RWICC claims that either the bodies of victims of ‘honour killings’ are hidden or mutilated to make identification impossible, or their deaths are claimed to have been the result of an accident. One reported case involved the payment of compensation to a victim’s family, of which the local authorities were aware and about which no criminal investigation took place.<sup>197</sup>

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<sup>190</sup> The Muslim Council of Britain, *Honour Killing: A Crime against Islam*, p. 2, [http://www.mcb.org.uk/honour\\_killings.pdf](http://www.mcb.org.uk/honour_killings.pdf).

<sup>191</sup> Amnesty International, *Iraq - Decades of Suffering*, February 2005, p. 15, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>192</sup> For example Christian Palestinians; see Guardian Unlimited, *Murdered in name of family honour*, 23 June 2005, <http://www.guardian.co.uk/israel/Story/0,2763,1512394,00.html>; also see Amnesty International, *Killing for Honor’: Legalized Murder*, 2005, <http://www.amnestyusa.org/magazine/legalizedmurder.html>.

<sup>193</sup> See for example, Expatica, *Man suspected of honour killing of sister*, 15 April 2005, [http://www.expatica.com/source/site\\_article.asp?subchannel\\_id=1&story\\_id=19160&name=Man%20suspected%20of%20honour%20killing%20of%20sister](http://www.expatica.com/source/site_article.asp?subchannel_id=1&story_id=19160&name=Man%20suspected%20of%20honour%20killing%20of%20sister); BBC, *UK Muslims condemn honour killings*, 30 September 2003, [http://news.bbc.co.uk/2/hi/uk\\_news/england/london/3150142.stm](http://news.bbc.co.uk/2/hi/uk_news/england/london/3150142.stm); Reuters, *Sweden Arrests Kurd in Immigrant "Honor Killing"*, 24 July 2002, <http://home.cogeco.ca/~kurdistanobserver/24-7-02-man-arrested-sweden-honor-killing.html>; Kurdish Women Action Against Honour Killing, *In Memory of Fadime Şahindal - Thoughts on the Struggle Against "Honour Killing"*, 2002, [http://www.kurdmedia.com/kwahk/fadime\\_hassanpur.htm](http://www.kurdmedia.com/kwahk/fadime_hassanpur.htm).

<sup>194</sup> IRIN, *IRAQ: Focus on honour killings*, 17 February 2004, [http://www.irinnews.org/report.asp?ReportID=39526&SelectRegion=Iraq\\_Crisis](http://www.irinnews.org/report.asp?ReportID=39526&SelectRegion=Iraq_Crisis).

<sup>195</sup> See Kurdish Women Action Against Honour Killings (KWAHK), <http://www.kwahk.org/>.

<sup>196</sup> KWAHK, *Resolution*, 14 October 2000, <http://www.kwahk.org/index.asp?id=56>.

<sup>197</sup> Reported by Amnesty International, *Iraq - Decades of Suffering*, February 2005, p. 18, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

There are no figures available for the Centre and the South, however NGOs believe that the situation there may be even worse as cultural values and traditions remain very strong. According to the German NGO Wadi, which has conducted assessments on domestic violence in some areas of the South, 'the situation is much worse in the South; it has been completely neglected, and the fact that there is no data on this issue shows that there is no assistance for women suffering there'.<sup>198</sup> Amnesty International's report 'Iraq - Decades of Suffering' includes some references to 'honour killings' in Central and Southern Iraq, however the full extent of the practice is unknown.<sup>199</sup> A study conducted by the Ministry of Women's Affairs found that more than 400 women have been raped since the fall of the former regime and more than half of this group were later killed for honour-related reasons.<sup>200</sup>

Some women try and commit suicide, particularly through self-immolation, in order to 'cleanse' the honour of the family or to escape killing or other forms of violence. In the Governorate of Sulaymaniyah, 119 cases of self-immolation were recorded by RWICC in 2002.<sup>201</sup> The practices of hymen reconstruction on girls that have lost their virginity<sup>202</sup> and backstreet abortions<sup>203</sup> both pose a serious health risk but appear for some girls to be the only way to escape killing.

Women's shelters were established in Sulaymaniyah in January 1999 (*Nawa Centre*) and Erbil in April 2002 (*Khanzad Centre*). A third centre, opened by the German NGO Wadi in Mosul at the end of January 2004, was forced to stop working due to the continuous violence and threats by Islamists.<sup>204</sup> The centres provide food and accommodation, psychological treatment, social assistance, legal aid as well as a mediation programme. *Asuda*, the first protection centre for women endangered by 'honour killings', was opened in a hidden place in Sulaymaniyah in 2000.<sup>205</sup> Since women seeking protection often have to stay for long periods of time, *Asuda* offers a 'home' which includes education, leisure and daily activities. Mediation between the women and their families aims at enabling the women's return, but this may not always be possible and there have been cases of fathers assuring their daughters that they have forgiven them, only to murder them once they are back in the family home. Sometimes, *Asuda* sends women to far away villages and places in other regions of Northern Iraq, where they are not known and can find protection. However, in some cases there are no alternatives other than remaining in the protection centre or finding solutions outside Iraq.

A safe house for victims of domestic abuse was established within Baghdad's International Zone,<sup>206</sup> but was reportedly closed down in early 2005 on the order of former Interim President Ghazi Al-Yawer for 'security reasons'.<sup>207</sup> UNHCR has been informed that the shelter will be re-

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<sup>198</sup> IRIN, *IRAQ: Focus on increasing domestic violence*, 14 October 2003, [http://www.irinnews.org/report.asp?ReportID=37204&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=37204&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>199</sup> Amnesty International, *Iraq - Decades of Suffering*, February 2005, pp. 18/19, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>200</sup> IWPR, Iraqi Crisis Report, No. 125, *Killing for Honour*, 17 May 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_125\\_2\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_125_2_eng.txt).

<sup>201</sup> IRIN, *Focus on increasing domestic violence*, 14 October 2003, [http://www.irinnews.org/report.asp?ReportID=37204&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=37204&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>202</sup> IWPR, Iraqi Crisis Report No. 124, *Brides-to-be risk their health*, 10 May 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_124\\_5\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_124_5_eng.txt).

<sup>203</sup> According to Articles 417 and 418 of the Penal Code, abortions are prohibited. See also The Telegraph, *Home abortions soar in Iraq as unwanted pregnancies rise*, 26 October 2003, <http://www.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2003%2F10%2F26%2Fwirq26.xml>.

<sup>204</sup> Wadi, *Violence against Women in Iraqi-Kurdistan*, <http://www.wadinet.de/projekte/frauen/violence/violence.htm>.

<sup>205</sup> More information on these centres can be found at Wadi, *Assistance for women in distress in Iraq and Iraqi-Kurdistan*, <http://www.wadinet.de/projekte/newiraq/women/shelters.htm>.

<sup>206</sup> United States House of Representatives, Armed Services Committee, *Opening Safe Doors for Iraqi Women*, 30 August 2004, <http://www.house.gov/hasc/GoodNews/safehouses.html>.

<sup>207</sup> Tennessean, *Iraqis commandeer women's shelter co-founded by Nashville attorney*, 9 February 2005,

opened late in 2005 and will be operated by the Department of Social Welfare (Ministry of Labour and Social Affairs, MoLSA). Iraqi law provides that NGOs need to obtain MoLSA's authorization to open a social institution such as a women's shelter or an orphanage.<sup>208</sup>

During the summer of 2004, the Iraqi NGO 'Organization of Women's Freedom in Iraq' (OWFI) opened two shelters – one in Baghdad and one in Kirkuk – both of which are in secret locations and have the capacity to host up to 20 women at a time. The Chairwomen of OWFI reported that they face 'extreme difficulties' of reaching out to women, who are often unable to even leave their homes. While the organization was able to find solutions for a number of women to return to their families, other women are at such serious risk of being killed by their families that they cannot leave the shelter.<sup>209</sup>

Despite these efforts by Iraqi authorities and NGOs, many women do not have access to shelters or legal, social and psychological counselling.<sup>210</sup>

Women and girls in Iraq may be exposed to harmful traditional practices such as forced and/or early marriage (including exchanging of women between families for marriage purposes and marriages between young women and much older men,<sup>211</sup> female genital mutilation (though limited to a few areas in Northern Iraq),<sup>212</sup> trafficking and prostitution.<sup>213</sup>

Women suffer most from economic and social deprivation. According to the ILCS, illiteracy rates<sup>214</sup> and maternal mortality rates<sup>215</sup> are extremely high. Girls have a significantly lower

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[http://tennessean.com/local/archives/05/01/65416021.shtml?Element\\_ID=65416021](http://tennessean.com/local/archives/05/01/65416021.shtml?Element_ID=65416021).

<sup>208</sup> Information received from the Iraqi Ministry of Labour and Social Affairs, July 2005.

<sup>209</sup> Information received from OWFI, July 2005.

<sup>210</sup> Amnesty International, *Iraq - Decades of Suffering*, February 2005, p. 15,

[http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>211</sup> See also the section on the 'Right to marry'.

<sup>212</sup> A survey undertaken by WADI in the Germian district in the Governorate of Sulaymaniyah revealed that between 60 and 70 percent of the 1,500 women interviewed in 40 villages have been genitally mutilated. Some local women organizations have been campaigning against the practice for many years. Since 2001, they have received important support from clerics issuing 'fatwas' (religious orders) against the practice and local TV stations have covered the issue; see Radio Free Europe/Radio Liberty, *Iraq: Study Says Female Genital Mutilation Widespread In North*, 21 January 2005, <http://www.rferl.org/featuresarticle/2005/01/5c740d58-641a-4f32-b375-5c731a811634.html>; Nicholas Birch, in Women's E-News, *Genital Mutilation is Traditional in Iraq's Kurdistan*, 1 August 2004, <http://www.wadinet.de/projekte/frauen/fgm/attach4.htm>; IWPR, *Iraqi Crisis Report No. 120, Female circumcision wrecking lives*, 13 April 2005, <http://www.kwahk.org/articles.asp?id=68>; according to Amnesty International, there are indications that the practice is decreasing, see Amnesty International, *Iraq - Decades of Suffering*, February 2005, p. 20,

[http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>213</sup> The US State Department's 'Trafficking in Persons Report' states that: *Iraq is a country of origin for women and girls trafficked to Yemen, Syria, Jordan and Gulf countries for the purposes of sexual and labour exploitation. Some Iraqi women and underage girls are reportedly trafficked from rural areas to cities within Iraq itself. According to diplomatic and international organization sources in Syria and Yemen, there are thousands of Iraqi women working in prostitution in the two countries under conditions that constitute severe forms of trafficking in persons. In Damascus, many women and girls are exploited in commercial sexual situations in nightclubs and other establishments in Iraqi-populated areas, with some living and working under coercive conditions. Due to the special circumstances in Iraq, it is difficult to appropriately gauge the human trafficking situation in the country.* It further acknowledges that some cases involving trafficking had been investigated in 2004, but the Iraqi government needs to 'develop and integrate mechanisms for combating trafficking' and recommends training for competent officials to identify and assist victims of trafficking, see US Department of State, *Trafficking in Persons Report*, June 2005, pp. 232-233, <http://www.state.gov/documents/organization/47255.pdf>; on Iraqi minors working as prostitutes in Damascus, Syria, see Joshua E. S. Phillips, *Unveiling Iraq's Teenage Prostitutes in Syria*, 24 June 2005, [http://www.salon.com/news/feature/2005/06/24/prostitutes/index\\_np.html](http://www.salon.com/news/feature/2005/06/24/prostitutes/index_np.html).

<sup>214</sup> See also the section on 'Literacy and level of education'.

<sup>215</sup> See also the section on 'Health services'.

enrolment rate in primary schools than boys,<sup>216</sup> in particular in rural areas, and women's participation in the labour market is very low when compared with the wider region.<sup>217</sup> Many women who lost their husbands in one of Iraq's wars or in governmental campaigns against the civil population bear the full responsibility of providing and caring for their families.<sup>218</sup>

## 2. Children and adolescents

Almost half of the Iraqi population is under the age of 18. Children are particularly affected by the dire security situation and lack of basic services and infrastructure. Years of war and economic sanctions have led to deterioration of the education and health systems and have left them vulnerable to disease and malnutrition. Since the fall of the former regime, the slow pace of reconstruction and the continuing violence have contributed to malnutrition and mortality rates remaining high. Despite monthly food rations provided under the PDS, 4.4 percent of children under the age of five suffer from acute malnutrition, 11.5 percent are underweight and one in four children are chronically malnourished or stunted. Of particular concern are 13 districts with rates of acute malnutrition as high as 13-14 percent.<sup>219</sup> The ILCS revealed that currently 32 babies out of every 1,000 born alive die before they reach their first birthday.<sup>220</sup> One of the main childhood killers is diarrhoea, which in most cases could be prevented with adequate hygiene and access to clean drinking water.<sup>221</sup>

For the most part, children are paying the ultimate price for the ongoing violence in Iraq, which is why UNICEF Executive Director Carol Bellamy has called Iraq one of the most dangerous places in the world for children.<sup>222</sup> The ILCS estimates that of those killed in warfare since the fall of the former regime, 12 percent (or 2,100 - 3,500) were children below 18 years of age.<sup>223</sup> In addition, many children suffer from the psychological effects of insecurity, violence and the loss of family members. The ILCS showed that 13 percent of the surveyed Iraqis of 15-19 years of age had lost their fathers (while in neighbouring Jordan only 8 percent of the same age group had lost their fathers).<sup>224</sup>

There are reports of forced recruitment of children by insurgent groups or militias. Though there are no estimates as to the size of the problem of child recruitment in Iraq, there is evidence that orphans and children of insurgents may be involved in the fight against the MNF/ISF. The roles they play include acting as informers or messengers, distracting soldiers before an attack is launched against them or carrying weapons and being involved in active combat/attacks.<sup>225</sup>

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<sup>216</sup> See also the section on 'Education'.

<sup>217</sup> See also the section on 'Employment'.

<sup>218</sup> According to the ILCS, around 11 percent of Iraq's households are lead by women, of which 73 percent are led by widows; see MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 112-113, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>219</sup> WFP, *Baseline Food Security Analysis in Iraq*, 2004, p. 6, [http://www.wfp.org/country\\_brief/middle\\_east/iraq/assessments/0409\\_foodsecurity.pdf](http://www.wfp.org/country_brief/middle_east/iraq/assessments/0409_foodsecurity.pdf).

<sup>220</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 50, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>221</sup> *Ibid.*, p. 65.

<sup>222</sup> UNICEF, *UNICEF says killing of Iraqi children an "unconscionable slaughter of innocents"*, 30 September 2004, [http://www.unicef.org/media/media\\_23510.html](http://www.unicef.org/media/media_23510.html).

<sup>223</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 54, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>224</sup> *Ibid.*

<sup>225</sup> IRIN, *IRAQ: Evidence of insurgents using child soldiers*, 15 March 2005, [http://www.irinnews.org/report.asp?ReportID=46117&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46117&SelectRegion=Middle_East&SelectCountry=IRAQ); The Telegraph, *Child soldiers square up to US tanks*, 23 August 2004, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2004/08/23/wirq23.xml&sSheet=/portal/2004/08/23/ixportal.html>.



Children are frequently arrested and detained by the MNF. Before the transfer of sovereignty from the CPA to the IIG in June 2004, the ICRC had registered 107 detainees under the age of 18 in six different detention facilities under the authority of the MNF. According to Human Rights Watch, this number has risen since the transfer of sovereignty.<sup>226</sup> Lt. Col. Barry Johnson, the spokesperson for the army detainee operation, said that some 90 Iraqis under the age of 18 are being held in the Abu Ghraib prison outside Baghdad.<sup>227</sup> No figures are available about other detention facilities.

Human rights groups have repeatedly expressed concern about the welfare of juvenile detainees, particularly following the release of photos in late April 2004 showing US military personnel abusing prisoners in Abu Ghraib. UNICEF and Amnesty International have been repeatedly denied full access to children in detention.<sup>228</sup> UNICEF raised concern about this, stating that 'UNICEF is profoundly disturbed by news reports alleging that children may have been among those abused in detention centres and prisons in Iraq. Although the news reports have not been independently substantiated, they are alarming nonetheless'.<sup>229</sup> According to Brig. Gen. Janis Karpinski, who was formerly in charge of Abu Ghraib Prison, children as young as 11 years old were being held.<sup>230</sup> The Pentagon admitted that some juveniles were among the detainees, but claimed that no child was subject to abuse.<sup>231</sup> However, substantive evidence has been collected indicating that children have been subjected to abuse, including releasing an un-muzzled dog into their cells and allowing it to 'go nuts on the kids, barking and scaring them'.<sup>232</sup>

Recently the focus of attention has shifted to the treatment of persons in custody of the ISF. Human Rights Watch has reported the systematic use of arbitrary arrest, prolonged pre-trial detention without judicial review, torture, ill-treatment of detainees and denial of access to detainees (including children and minors) by their families and lawyers.<sup>233</sup> In several cases, it has been reported that children were being held in the same cells as adult detainees, a practice that violates both domestic and international law.<sup>234</sup> Furthermore, juveniles held with adults are

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<sup>226</sup> The New York Times, *Arrested Development*, 29 June 2005,

[http://www.occupationwatch.org/analysis/archives/2005/06/arrested\\_develo.html](http://www.occupationwatch.org/analysis/archives/2005/06/arrested_develo.html).

<sup>227</sup> IRIN, *IRAQ: Evidence of insurgents using child soldiers*, 15 March 2005,

[http://www.irinnews.org/report.asp?ReportID=46117&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46117&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>228</sup> Sunday Herald, *Iraq's Child Prisoners*, 1 August 2004, <http://www.sundayherald.com/43796>.

<sup>229</sup> UNICEF, *UNICEF Statement on Iraq*, 11 May 2004, [http://www.unicef.org/media/media\\_20927.html](http://www.unicef.org/media/media_20927.html).

<sup>230</sup> US Department of Defence, *Transcript of deposition of Brig. Gen. Janis L. Karpinski (Appendix to Fay, Jones, Kern report)*, Section 1/DOD 000089 - 000325, 18 July 2004, p. 92, published by ACLU at [http://www.aclu.org/torturefoia/released/030905/DOD208\\_325.pdf](http://www.aclu.org/torturefoia/released/030905/DOD208_325.pdf).

<sup>231</sup> Times Online/The Associated Press, *US detained 11-year-old at Abu Ghraib*, 11 March 2005, <http://www.timesonline.co.uk/article/0,,7374-1521116,00.html>.

<sup>232</sup> US Department of Defence, *Sworn Statement of SPC/E4, B Co., 66th MI Group, 202nd MI BN; Annex to Fay/Jones/Kern Report*, Section 10/DOD 000745 - 000746, 24 May 2004, published by ACLU at <http://www.aclu.org/torturefoia/released/030905/>; other incidents were reported by Amnesty International, Press Release, *USA/ Iraq: Abuses without accountability a year after Abu Ghraib*, 28 April 2005, <http://web.amnesty.org/library/Index/ENGAMR510642005?open&of=ENG-IRQ>.

<sup>233</sup> See also the sections on 'Torture and ill-treatment by ISF' and 'Persons in detention under control of the Iraqi security forces'.

<sup>234</sup> Article 37(c) of the Convention on the Rights of the Child provides that '(...), every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so (...)'. In addition, Article 52(2) of Iraq's *Juveniles Welfare Law* (Law No. 76 of 1983, as amended) stipulates that where separate detention facilities are not available, measures must be taken to prevent juveniles from mixing with adult detainees. Also CPA Memorandum No. 2 provides that '*prisoners under 18 years of age shall be kept separate from adults*' (Section 4[d]) and '*Young untried prisoners shall be kept separate from adults and shall where possible be detained in separate institutions*' (Section 30[5]), see CPA, Memorandum No. 2, *Management of Detention and Prison Facilities*, 8 June 2003, [http://www.iraqcoalition.org/regulations/20030608\\_CPAMEMO\\_2\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.iraqcoalition.org/regulations/20030608_CPAMEMO_2_Management_of_Detention_and_Prison_Facilities.pdf). The Directorate of Juvenile Prisons was transferred from the Ministry of Labour and Social Affairs to the Ministry of Justice; see CPA, Order No. 10, *Management of Detention and Prison Facilities*, Section 1, 5 June

subjected to the same treatments the adults are, including torture. Human Rights Watch recorded a case of a juvenile who was beaten with cables and underwent *falaqa* (beating on the sole of the foot) while being held in the custody of the Criminal Intelligence.<sup>235</sup>

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2003,  
[http://www.iraqcoalition.org/regulations/20030605\\_CPAORD10\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.iraqcoalition.org/regulations/20030605_CPAORD10_Management_of_Detention_and_Prison_Facilities.pdf).

<sup>235</sup> Human Rights Watch, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, Chapter VIII, January 2005, [http://hrw.org/reports/2005/iraq0105/9.htm#\\_Toc93454305](http://hrw.org/reports/2005/iraq0105/9.htm#_Toc93454305).

## C. Physical, material and legal safety

### I. Introduction

The situation in today's Iraq is determined by various factors. To provide a structured overview, the various issues and sectors have been divided into physical, material and legal safety.

- *Physical safety* includes an end to violence and insecurity and the establishment of operational law enforcement institutions. Freedom of movement, protection from harassment and attacks, areas free of mines, booby traps and UXO and, if not mine-free, then at least demarcated, are indicators as to the availability of physical safety.
- *Material safety* implies access to means of survival and basic services (e.g. potable water, food, shelter, health services and education). In the return context, it also includes adequate measures to underpin sustainable reintegration.
- *Legal safety* implies, *inter alia*, non-discriminatory access and exercise of civil, economic, social, political and cultural rights; recognition of legal status and changes thereto; recognition before the law; no exclusion from legal identity (effective nationality); the grant of immunity from prosecution for having left or remained outside the country of origin (amnesty); restitution of property rights or fair and adequate compensation; access to documentation; as well as recognition/nostrification of academic and vocational skills certificates, diplomas or degrees acquired abroad.

This Chapter provides an overview as to what extent physical, material and legal safety are being met in Iraq and how the lack thereof may result in new or continued displacement. Furthermore, from UNHCR's perspective the core of voluntary repatriation is return in and to conditions of physical, legal and material safety, with full restoration of national protection the end product.<sup>236</sup> The information gathered in this chapter would therefore also serve as a means to assess the conditions of return to the different areas of Iraq.

### II. Physical safety

#### 1. Overall situation

Safety considerations are the most immediate concern in today's Iraq. The breakdown of law and order after the fall of the former regime, the dissolution of large parts of the old security apparatus, combined with a well-organized insurgency fighting both the presence of the international troops as well as the emerging political process, are the main factors for the lack of security in many parts of the country. This chapter presents the following actors involved in providing security in today's Iraq:

- The MNF and private security companies, specifically the legal framework that governs their presence in Iraq and the role they play in providing security;
- The emerging ISF, specifically the set-up of the new ISF and their state of readiness and effectiveness;
- Party militias, specifically the role that forces such as the Badr Organization and the Mehdi Army are playing in filling the prevailing security vacuum.

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<sup>236</sup> See UNHCR, Global Consultations on International Protection, 4<sup>th</sup> Meeting, *Voluntary Repatriation*, 25 April 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=PROTECTION&id=3ccfe52c4>.

Given the quasi-autonomous status of the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk with their own law enforcement structures, the chapter will look at the situation in these three Governorates separately.

This chapter further deals with the various insurgency groups in Iraq, their goals and major areas of activity. Finally, it provides a description of the security situation in the different parts of Iraq, taking into consideration the level of insurgency activity and criminality as well as the potential for political, ethnic or religious tensions and conflict.

## 2. Re-establishment of enforcement agencies

### a) Multinational Forces and private security companies

#### The Multinational Forces

The US-led Coalition invaded Iraq in March 2003. UN Security Council Resolution 1511 authorized ‘a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq’.<sup>237</sup> The occupation nominally ended on 28 June 2004 and UN Security Council Resolution 1546<sup>238</sup> reaffirmed, *inter alia*, the presence of the MNF in Iraq until a constitutionally recognized government could take office. This resolution also determined the force’s relationship with the Iraqi Government while welcoming the ongoing efforts to rebuild ISF ‘which will progressively play a greater role and ultimately assume full responsibility for the maintenance of security and stability in Iraq’. Finally, it authorized the MNF ‘to take all necessary measures to contribute to the maintenance of security and stability in Iraq’ and ‘emphasized the importance of developing effective Iraqi police, border enforcement, and the Facilities Protection Service, under the control of the Interior Ministry of Iraq, and, in the case of the Facilities Protection Service, other Iraqi ministries, for the maintenance of law, order, and security’, for which the Resolution requested governments and international organizations to assist. The letters annexed to Resolution 1546 provide for cooperation, coordination and partnership between the Iraqi authorities and the MNF.

Resolution 1546 stipulates that the mandate of the MNF is to be reviewed at the request of the Iraqi Government or at 12 months from the date of the resolution. On 1 June 2005, the UN Security Council, at the request of the ITG, unanimously extended the mandate of the MNF in Iraq beyond the end of 2005.<sup>239</sup> The ITG has repeatedly stated that it wants the MNF to remain in Iraq until the ISF is fully established and can guarantee security in the country.<sup>240</sup> However, it appears that large parts of the Iraqi population want the MNF to immediately withdraw, or at least provide a clear timetable for withdrawal. Shiite cleric Muqtada Al-Sadr has repeatedly called for all foreign forces to leave Iraq immediately.<sup>241</sup> The US Government so far dismissed calls for setting a date for withdrawal from Iraq,<sup>242</sup> however it has predicted that its troops might be reduced by 4-5 brigades from the 17 currently in Iraq provided that the elections set for

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<sup>237</sup> UN Security Council, *Resolution 1511 (2003)*, 16 October 2003,

<http://daccessdds.un.org/doc/UNDOC/GEN/N03/563/91/PDF/N0356391.pdf?OpenElement>.

<sup>238</sup> *Ibid.*, *Resolution 1546 (2004)*, 8 June 2004,

<http://daccessdds.un.org/doc/UNDOC/GEN/N04/381/16/PDF/N0438116.pdf?OpenElement>.

<sup>239</sup> UN, Press Release, SC/8403 IK/495, *Press Statement on Security Council Iraq Consultations*, 31 May 2005, <http://www0.un.org/News/Press/docs/2005/sc8403.doc.htm>.

<sup>240</sup> BBC, *Iraqi FM concerned over US troops*, 1 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4598761.stm](http://news.bbc.co.uk/2/hi/middle_east/4598761.stm).

<sup>241</sup> Radio Free Europe/Radio Liberty, *Iraq: New Iraqi President Urges US To Stay Amid Protests*, 11 April 2005, <http://www.rferl.org/featuresarticle/2005/04/607f1d71-692f-4dff-8929-6df2e6f87855.html>.

<sup>242</sup> The Washington Post, *Bush Says He Will Not Set Timetable for Iraq Withdrawal*, 24 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/24/AR2005062400817.html>.

December 2005 are successful and the ISF continues to grow in ability and size.<sup>243</sup> In July 2005 a total of 158,000 foreign troops were stationed in Iraq, out of which the largest number – 135,000 – were US forces, followed in size by contingents from the UK, South Korea, Italy, Poland, the Ukraine and others.<sup>244</sup>

### Private security companies

Tens of thousands of private security personnel supplement the military forces and provide military functions such as protecting government officials and diplomats, guarding oil pipelines and reconstruction projects, training the ISF, and working on consultancy and technical support.<sup>245</sup> These contractors differ from regular troops as they are not under any military command structure and judicial military code but in principle fall under international human rights law and could still be prosecuted under the laws of their home countries. CPA Order No. 17<sup>246</sup> exempts private security contractors from Iraqi laws and regulations in matters relating to the terms and conditions of their contracts and provides that they ‘be immune from the Iraqi legal process with respect to acts performed by them pursuant to the terms and conditions of a Contract or any sub-contract thereto’.<sup>247</sup> It further allows them to ‘possess and carry arms’.<sup>248</sup> CPA Order No. 91<sup>249</sup> stipulated that private security companies are subject to ‘all applicable criminal, administrative, commercial and civil laws and regulations unless exempted by CPA Order Number 17’. In short, private security contractors have little or no legal accountability, making them especially feared and unpopular with the Iraqi population. Private security contractors were allegedly involved in the Abu Ghraib prison scandal, where they were involved in interrogating prisoners,<sup>250</sup> although to date no criminal charges have been brought against the contractors. Some contractors have also been accused of using excessive force against Iraqi civilians: the shooting of a civilian while riding his car in the city of Erbil by a Personal Security Detail (PSD) has led to the suspension of all PSD operations in the Governorate of Erbil pending the outcome of the investigations.<sup>251</sup> Officials of the Ministry of Interior said that least 12 Iraqi civilians are killed by contractors every week in Baghdad. Others were accused of opening fire on US forces and the Iraqi authorities are considering introducing legal boundaries on the impunity enjoyed by private security contractors.<sup>252</sup> Estimates of the number of foreign private security personnel operating in Iraq range from 15,000 - 20,000 making them the second

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<sup>243</sup> Ibid., *Little Change in Troop Levels Expected Soon*, 22 June 2005, [http://www.washingtonpost.com/wp-dyn/content/article/2005/06/21/AR2005062101510\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/06/21/AR2005062101510_pf.html).

<sup>244</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, pp. 16-17, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>245</sup> For an overview of security firms in Iraq, see US Department of State, Bureau of Consular Affairs, *Security Companies Doing Business in Iraq*, [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1763.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1763.html).

<sup>246</sup> CPA, Order No. 17 (Revised), *Status of the Coalition Provisional Authority, MNF - Iraq, Certain Missions and Personnel in Iraq*, 27 June 2004, [http://www.iraqcoalition.org/regulations/20040627\\_CPAORD\\_17\\_Status\\_of\\_Coalition\\_Rev\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20040627_CPAORD_17_Status_of_Coalition_Rev_with_Annex_A.pdf)

<sup>247</sup> Ibid., Section 4, Articles 2, 3.

<sup>248</sup> Ibid., Section 14.

<sup>249</sup> CPA, Order No. 91, *Regulations of Armed Forces and Militias within Iraq*, 7 June 2004, [http://www.iraqcoalition.org/regulations/20040607\\_CPAORD91\\_Regulation\\_of\\_Armed\\_Forces\\_and\\_Militias\\_within\\_Iraq.pdf](http://www.iraqcoalition.org/regulations/20040607_CPAORD91_Regulation_of_Armed_Forces_and_Militias_within_Iraq.pdf).

<sup>250</sup> Guardian Unlimited, *US military in torture scandal*, 30 April 2004, <http://www.guardian.co.uk/Iraq/Story/0,2763,1206725,00.html>.

<sup>251</sup> US Department of State/Diplomatic Security, Consular Affairs Bulletins Report Middle East/N. Africa - Iraq, *Warden Message: US Government Temporary Suspension of Personal Security Detail Operations in Erbil, Iraq*, 20 July 2005, <http://baghdad.ds-osac.org/Reports/report.cfm?contentID=32762>.

<sup>252</sup> The Telegraph, *Shootings may lead to security guard curf*, 11 June 2005, [http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/06/11/wirq11.xml&sSheet=/news/2005/06/11/ixnew\\_stop.html](http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/06/11/wirq11.xml&sSheet=/news/2005/06/11/ixnew_stop.html); also see David Phinney, *On the Wrong Side of 'Friendly Fire'*, 9 June 2005, <http://www.alternet.org/waroniraq/22183/?comments=view&cID=9470&pID=9378>.



largest foreign force in Iraq.<sup>253</sup>

CPA Order No. 91 requires private security contractors to register with the Iraqi Ministries of Interior and Trade and to carry licenses for their weapons.<sup>254</sup> Memorandum No. 17,<sup>255</sup> which expands on CPA Order No. 91, provides guidance for private security companies operating in Iraq, rules for the use of force and a code of conduct. It allows for the use of force, including deadly force, in cases of 'self-defense', 'defense of persons as specified in [a] contract' and 'to prevent life threatening offenses against civilians'.<sup>256</sup> It further allows private security companies to 'stop, detain, search, and disarm civilian persons if required for safety or if specified in [a] contract'.<sup>257</sup> Human rights organizations have repeatedly raised concerns about the widespread use of private security contractors which results in the blurring of lines between 'military' and 'civilian' personnel and activities. The ITG has not yet issued new regulations on the status of private security contractors.

Given their vague status, private security contractors are often found on the front lines. A considerable number of private security contractors have been kidnapped and killed by insurgents,<sup>258</sup> who consider them on par with foreign troops. There have also been reports of private security contractors being killed, arrested and tortured by the MNF.<sup>259</sup> Private security contractors have also been drawn into active combat, e.g. in Najaf in April 2004, when commandos from the company Blackwater reportedly repulsed an attack by Muqtada Al-Sadr's Mehdi Army against the CPA Headquarters, using Blackwater's helicopter to fly in ammunition and evacuate the wounded without any US military support.<sup>260</sup>

## b) Iraqi Security Forces

One of the major challenges in the reconstruction of Iraq is to ensure security in the country. With high crime, armed militias taking over security functions, insurgent attacks hampering reconstruction efforts and the heavy toll the insurgency is taking on the population and the ISF, the Iraqi authorities are struggling to rebuild and train their security forces to address these challenges.

Domestic security responsibilities are shared between the Ministry of Interior and the Ministry of Defence.<sup>261</sup> A great deal of effort has been made by the MNF to revise and revamp the structure, methods and composition of the ISF so it can eventually take over security and allow the MNF to leave Iraq. On 12 April 2005, US President George W. Bush announced that the

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<sup>253</sup> See BBC, *Q&A: Private security in Iraq*, 27 May 2005, [http://news.bbc.co.uk/2/hi/uk\\_news/3747421.stm](http://news.bbc.co.uk/2/hi/uk_news/3747421.stm); SA, *Outsourcing death in Iraq*, 11 May 2005, [http://www.news24.com/News24/World/Iraq/0..2-10-1460\\_1703272.00.html](http://www.news24.com/News24/World/Iraq/0..2-10-1460_1703272.00.html); The Observer, *Fury at 'shoot for fun' memo*, 3 April 2005, <http://observer.guardian.co.uk/international/story/0,6903,1451137,00.html>.

<sup>254</sup> CPA, Order No. 91, Section 3(e).

<sup>255</sup> CPA, Memorandum No. 17, *Registration Requirements for Private Security Companies (PSC)*, 26 June 2004, [http://www.iraqcoalition.org/regulations/20040626\\_CPAMEMO\\_17\\_Registration\\_Requirements\\_for\\_Private\\_Security\\_Companies\\_with\\_Annexes.pdf](http://www.iraqcoalition.org/regulations/20040626_CPAMEMO_17_Registration_Requirements_for_Private_Security_Companies_with_Annexes.pdf).

<sup>256</sup> *Ibid.*, Annex A, Article 2.

<sup>257</sup> *Ibid.*, Annex A, Article 5.

<sup>258</sup> By the end of July 2005, at least 254 contractors have been killed (note: this figure also includes contractors that do not provide security services); see Iraq Coalition Casualty Count, *Iraq Coalition Casualties: Contractors - A Partial List*, updated 30 July 2005, <http://icasualties.org/oif/Civ.aspx>.

<sup>259</sup> James Cogan, *Detention of US security contractors highlights "culture of impunity" in Iraq*, 17 June 2005, [http://www.wsws.org/articles/2005/jun2005/merc-j17\\_prn.shtml](http://www.wsws.org/articles/2005/jun2005/merc-j17_prn.shtml).

<sup>260</sup> The Washington Post, *Militia attack repelled by private security firm*, 6 April 2004, [http://seattletimes.nwsourc.com/html/nationworld/2001896454\\_security06.html](http://seattletimes.nwsourc.com/html/nationworld/2001896454_security06.html).

<sup>261</sup> Article 39(B) TAL provides that the Presidency Council carries out the function of commander-in-chief of the Iraqi Armed Forces for ceremonial and protocol purposes, while the command authority lies with the Prime Minister and the Minister of Defence.

150,000 trained members of the ISF now outnumber the 140,000 US soldiers in Iraq and are playing a greater role in fighting insurgents.<sup>262</sup> By the end of July 2005 Iraq has more than 173,900 security forces, including 94,800 forces under the control of the Ministry of Interior (this number includes unauthorized absences personnel) and 79,100 under the control of the Ministry of Defence (this number does not include unauthorized absences personnel).<sup>263</sup> The stated goal is to have 272,566 ISF members.<sup>264</sup>

The Multi-National Security Training Command - Iraq (MNSTC-I), headed by Army Lieutenant General David H. Petraeus, is in charge of training Iraqi security personnel.<sup>265</sup> The troops' state of training and equipment differs widely however. Newly recruited army soldiers receive eight weeks of basic training and Special Forces units and other specialized soldiers receive advanced training of up to 17 weeks. Policemen new to the force receive eight weeks of basic training while policemen from the former police forces take an accelerated three-week course. Finally, specialized police units receive additional specialized training.<sup>266</sup> Critics say that training of Iraqi police and army has often been too short or of little relevance to prepare them for the highly complex security situation in Iraq.<sup>267</sup> In addition, a study undertaken by the Inspector General's offices at the Pentagon and the State Department revealed that many recruits are 'marginally literate'.<sup>268</sup>

Virtually all military equipment used by the former Iraqi Army was either destroyed during the military intervention in March/April 2003 or looted in the aftermath of the fall of the former regime. Items such as armoured vehicles, heavy weapons and communications equipment are in short supply.<sup>269</sup> According to Anthony Cordesman of the Washington-based Center for Strategic and International Studies (CSIS), basic equipment is now available and some units are getting more sophisticated weapons and equipment.<sup>270</sup>

Limited manpower, training and equipment have clearly resulted in the force's limited ability to combat insurgents and provide security. Analysts say that the majority of the ISF is not yet capable of fighting without MNF assistance. According to Anthony H. Cordesman of the CSIS, only a small number of the active Iraqi military, security and police units are able to take over demanding missions, while the vast majority are only ready 'to perform limited security missions'. The troops' readiness is being judged by an evaluation matrix developed by the MNSTC-I and takes into consideration factors such as manpower, equipment, training,

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<sup>262</sup> Reuters, *Bush says trained Iraqi troops now outnumber US*, 12 April 2005, <http://www.alertnet.org/thenews/newsdesk/N12351825.htm>.

<sup>263</sup> US Department of State, *Iraq Weekly Status Report*, 27 July 2005, p. 6, [http://www.export.gov/iraq/pdf/state\\_wklyrpt\\_072705.pdf](http://www.export.gov/iraq/pdf/state_wklyrpt_072705.pdf).

<sup>264</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, pp. 21-22, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>265</sup> For an overview of the training programmes for the various forces, see Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, pp. 26-27, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>266</sup> Jeremy M. Sharp, CRS Report for Congress, *Iraq's New Security Forces: The Challenge of Sectarian and Ethnic Influences*, 25 March 2005, pp. 3-4, <http://fpc.state.gov/documents/organization/46411.pdf>.

<sup>267</sup> The Economist, *What they need is gender sensitivity*, 12 May 2005, [http://www.economist.com/displayStory.cfm?story\\_id=3968529](http://www.economist.com/displayStory.cfm?story_id=3968529).

<sup>268</sup> CNN, *U.S. study: Insurgents infiltrate Iraq police*, 25 July 2005, <http://www.cnn.com/2005/WORLD/meast/07/25/iraq.police/>.

<sup>269</sup> Salon.com, *Down and out with Iraqi forces*, 23 May 2005, <http://www.globalsecurity.org/org/news/2005/050523-iraqi-forces.htm>; Jeremy M. Sharp, CRS Report for Congress, *Iraq's New Security Forces: The Challenge of Sectarian and Ethnic Influences*, 25 March 2005, p. 4, <http://fpc.state.gov/documents/organization/46411.pdf>.

<sup>270</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 14, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).



command and control, leadership and logistics. By mid June 2005, few army units and no special police units were rated 'fully capable', meaning that none were able to competently plan, execute and sustain independent counterinsurgency operations. Furthermore, twenty percent of the army units and 40 percent of the special police units were rated 'capable' and 45 percent of the army units and 40 percent of the special police units were rated 'partially capable', meaning that they need various levels of MNF support. Less than 10 percent of the special police units were rated 'incapable'. 20 percent of the army units were rated 'incapable' as their units are still in formation or they are incapable of conducting counterinsurgency operations.<sup>271</sup>

The ISF's ability to fight the insurgency continues to grow and several areas have come under ISF responsibility such as the Adhamiya neighbourhood and Haifa Street in Baghdad and parts of Mosul. The ISF has also started to initiate independent operations, for example 'Operation Lighting' in late May and early June 2005. However, other units continue to struggle with high rates of desertion, a lack of motivation to fight, corruption, and false activity and manpower reports.<sup>272</sup> Iraq's limited ability to fight the insurgency on its own was reflected in a letter that Iraq's Foreign Minister Hoshyar Zebari submitted to the UN on 25 May 2005, stating that 'despite continuing efforts to build up our security forces, these forces cannot as yet assume full responsibility for maintaining our national security and defending our borders'.<sup>273</sup> US President Bush seemed to acknowledge the ISF's vulnerability when he said 'we've made progress, but we have a lot more work to do', noting that while some Iraqi forces 'are capable of taking on the terrorists and insurgents by themselves', many others need help or are 'not yet ready'.<sup>274</sup>

Another stumbling block to rebuilding the ISF is intimidation by insurgents who have chosen the ISF as their principal target and have already caused high numbers of casualties.<sup>275</sup> Accordingly, the ISF suffer from high rates of absenteeism and desertion. US Deputy Defence Secretary Paul Wolfowitz told Congress on 3 February 2005 that Iraqi units, on average, have absentee rates of about 40 percent.<sup>276</sup> In several instances, ISF members fled their units, e.g. in Fallujah or Mosul in November 2004, making it necessary to rebuild forces from scratch.<sup>277</sup> Absentee and desertion rates remain at a high level,<sup>278</sup> though they are significantly lower (below 10 percent) among the Special Police Commandos.<sup>279</sup>

Despite an intimidation campaign driven by insurgents to stop Iraqis from joining the ISF, recruitment has not been a problem and recruits continue to approach recruitment centres in large numbers. While recruits are driven by various motivations, the need for employment appears to be a major factor driving Iraqis to join the ISF, in particular because salaries for the police and army are considerably higher than the average wage.<sup>280</sup>

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<sup>271</sup> Ibid., pp. 43-46.

<sup>272</sup> Ibid., pp. 41-43.

<sup>273</sup> US Department of State, *Iraq's envoy to U.N. cites continuing armed insurgency as reason*, 25 May 2005, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/VBOL-6CRHQC?OpenDocument&rc=3&cc=irq>.

<sup>274</sup> The White House, *President Addresses Nation, Discusses Iraq, War on Terror*, 28 June 2005, <http://www.whitehouse.gov/news/releases/2005/06/20050628-7.html>.

<sup>275</sup> See Annex II 'Attacks on Iraqi Security Forces'.

<sup>276</sup> BBC, *Iraq army 'intimidated by rebels'*, 5 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4238335.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4238335.stm).

<sup>277</sup> Salon.com, *Down and out with Iraqi forces*, 23 May 2005,

<http://www.globalsecurity.org/org/news/2005/050523-iraqi-forces.htm>.

<sup>278</sup> United Press International, *Britain postpones Iraq handover*, 11 June 2005, <http://washingtontimes.com/upi-breaking/20050611-123806-8023r.htm>.

<sup>279</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 22, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>280</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 45, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

Another obstacle to creating a unified, inclusive Iraqi security force is the prevailing sectarian and ethnic divisions in the country. With a mainly Sunni insurgency, the ISF today is dominated by Shiites and Kurds with many members recruited from party militias<sup>281</sup> deeply hostile to Sunni Arabs and who enjoy little trust from the Sunni population. At the same time, there are concerns that Kurdish and Shiite members of the ISF remain primarily loyal to their political parties and militias. An important step was the statement issued by the AMS on 1 April 2005 calling on Iraq's Sunni population to enlist in the country's fledgling security forces. The statement was not a full-fledged endorsement however, as it also instructed potential recruits to refrain from helping foreign troops against their own countrymen.

So far, efforts to integrate Sunnis into the ISF have met with limited success and Sunni desertion rates are particularly high.<sup>282</sup> It is also reported that insurgents have infiltrated the ISF, in particular in the 'Sunni triangle'. According to a study by the Inspector General's offices of the Pentagon and the State Department, there is also 'sufficient evidence' that insurgents have infiltrated the Iraqi Police. Furthermore, the police have accepted recruits with criminal records.<sup>283</sup> Only systematic vetting mechanisms could prevent this; however, the need for a large force to fight the insurgency has led to the recruitment of persons whose background was insufficiently checked.<sup>284</sup> In addition, members of the ISF often feel more loyal to their closely-knit families and tribes than to the Iraqi Government. This is a major cause of the leaks of sensitive information that can seriously undermine any counter-insurgency offensive.<sup>285</sup> The prevalence of militias linked to political parties shows the weakness of the state and its law enforcement organs and seriously undermine the state's ability to provide security. According to Anthony H. Cordesman of the CSIS however, progress is being made on creating 'truly national forces' as more Sunnis have been recruited, some of whom have taken up leadership functions. That notwithstanding, announced purges of Sunni members in the ISF by the Shia-dominated ITG remain a concern.<sup>286</sup>

Finally, the ISF have been involved in human rights violations including arbitrary arrest and detention, unlawful killings as well as torture and ill-treatment.<sup>287</sup>

In the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk, the provision of security – including law enforcement and basic police functions – is the responsibility of the local police and the Peshmerga (the militia of the Kurdish parties) as the TAL provides for the KRG to 'retain regional control over police forces and internal security'.<sup>288</sup> The Kurdish leaders have repeatedly excluded the possibility of deployment of Iraqi police or army in the Kurdish region.<sup>289</sup>

### **c) Iraqi Police, Border Enforcement, Facilities Protection Service and Special Services**

The Iraqi Police, Border Enforcement, Facilities Protection Service and Special Services all fall under the authority of the Ministry of Interior. The CPA's decision to ban senior Ba'ath Party

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<sup>281</sup> See also the section on 'Militias'.

<sup>282</sup> Jeremy M. Sharp, CRS Report for Congress, *Iraq's New Security Forces: The Challenge of Sectarian and Ethnic Influences*, 25 March 2005, p. 5, <http://fpc.state.gov/documents/organization/46411.pdf>.

<sup>283</sup> CNN, *U.S. study: Insurgents infiltrate Iraq police*, 25 July 2005, <http://www.cnn.com/2005/WORLD/meast/07/25/iraq.police/>.

<sup>284</sup> Council on Foreign Relations, *IRAQ: Infiltration of Iraqi Forces*, updated 28 February 2005, <http://www.cfr.org/publication.php?id=7828>.

<sup>285</sup> Reuters, *Leaks plague battle against Iraqi insurgents*, 12 May 2005.

<sup>286</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, pp. 13, 40, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>287</sup> See also the section on 'Torture and ill-treatment by ISF'.

<sup>288</sup> Article 54(A) TAL.

<sup>289</sup> See also the section on 'Militias'.

members from public-sector employment<sup>290</sup> meant that large numbers of senior officers in the Interior Ministry, police and other security services were released from duty despite the fact that numbers of them had joined the Ba'ath Party not out of political conviction but as a pre-condition for employment and a career.

The Iraqi Police were the only security institution to remain intact after the fall of the former regime. However, widespread looting seriously affected police infrastructure with police stations destroyed and police vehicles, weapons and equipment stolen. As the police vanished when the US Army arrived in Baghdad, the US military authorities made a public appeal for the Iraqi police to return to duty.<sup>291</sup> The regular Iraqi Police are tasked with law enforcement duties and provides basic police services. However, they were also being used to fight the insurgency from the early beginning, a task the police were often not adequately trained and equipped for.<sup>292</sup> The police have been particularly hard hit by insurgent attacks<sup>293</sup> which in many instances led to high numbers of policemen deserting their posts, for example after insurgents overran police stations in Mosul in November 2004. It was only in March 2004 that special units were created to perform counterinsurgency operations.<sup>294</sup>

As the Iraqi police were never been dissolved, they still largely consist of personnel that served under the former regime and are thought to be corrupt.<sup>295</sup> Given the deteriorating security situation, new police officers were quickly trained and deployed, meaning that new recruits were hired without proper background checks and vetting procedures were not implemented. Many recruits were later found to be unsuitable for the job and several thousands had to be disciplined or dismissed for corruption, human rights violations or criminal offences.<sup>296</sup> Efforts are underway to reduce favouritism and corruption.

By late June 2005, the regular police force has some 62,000 trained members on duty.<sup>297</sup> The force is slated to be at full strength of 135,000 by November 2006.<sup>298</sup>

The police force is complimented by the Iraqi Highway Patrol, which is in charge of providing law enforcement and security along the highways and major roadways. This is a challenging task as Iraqi highways are the scene of frequent roadside bombs, highway robbery and carjacking involving military convoys, trucks and normal cars. By July 2005, the Iraqi Highway Patrol had about 1,400 members trained and on duty.<sup>299</sup> By July 2006, it should reach its total strength of 6,300 personnel.<sup>300</sup>

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<sup>290</sup> CPA, Order No. 1, *De-Ba'athification of Iraqi Society*, 16 May 2003,

[http://www.iraqcoalition.org/regulations/20030516\\_CPAORD\\_1\\_De-Ba\\_athification\\_of\\_Iraqi\\_Society\\_.pdf](http://www.iraqcoalition.org/regulations/20030516_CPAORD_1_De-Ba_athification_of_Iraqi_Society_.pdf).

<sup>291</sup> Robert M. Perito, United States Institute for Peace, *The Coalition Provisional Authority's Experience with Public Security in Iraq*, Special Report 137, April 2005, pp. 3-5, <http://www.usip.org/pubs/specialreports/sr137.pdf>.

<sup>292</sup> *Ibid.*, pp. 11-12.

<sup>293</sup> See also the section on 'Target for insurgents' as well as Annex II 'Attacks on Iraqi Security Forces'.

<sup>294</sup> *Ibid.*

<sup>295</sup> Salon.com, *Down and out with Iraqi forces*, 23 May 2005,

<http://www.globalsecurity.org/org/news/2005/050523-iraqi-forces.htm>.

<sup>296</sup> Robert M. Perito, United States Institute for Peace, *The Coalition Provisional Authority's Experience with Public Security in Iraq*, Special Report 137, April 2005, p. 10, <http://www.usip.org/pubs/specialreports/sr137.pdf>.

<sup>297</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 20, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>298</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 12, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>299</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 21, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>300</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 12, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

The Department for Border Enforcement was established by CPA Order No. 26 and is tasked to ‘monitor and control the movement of persons and goods to, from, and across the borders of Iraq’. It is authorized to assume the following functions: border police, customs police, customs inspections, immigration inspections, border port of entry facilities protection, detention and deportation, coastal patrol, airport immigrations and customs processing, passport issuance and inspections and other nationality and civil affairs functions.<sup>301</sup> Since the former ministry staff and border guards had fled or had been removed under the CPA’s *De-Ba’athification* Order, new personnel needed to be recruited and trained.<sup>302</sup> By July 2005, more than 15,500 members had been trained.<sup>303</sup> The Department for Border Enforcement is expected to reach its full strength by August 2006 with a total of 28,360 members.<sup>304</sup> Border control remains weak and Iraq suffers a high level of infiltration by insurgent groups from neighbouring countries. In April 2005, the Chicago Tribune reported that some border forts had lost some 80 percent of their personnel and lacked weapons, furniture and even uniforms, as they had either been looted or destroyed by insurgents. Of the 32 border forts originally planned for the Governorate of Al-Anbar, many have not been completed, are abandoned or are badly understaffed. Reportedly, crossing the border is possible on payment of a small bribe.<sup>305</sup> According to the US Department of Defense, the effectiveness of the Border Police cadre officers and the chain of command is generally moderate to low.<sup>306</sup>

The Facilities Protection Service was formed by the CPA and is charged with guarding government buildings and infrastructure, including hospitals, ports and power plants. Members of the Facilities Protection Service may also be recruited from private security companies.<sup>307</sup> It consists of some 74,000 members.<sup>308</sup>

The Dignitary Protection Service employs 500 members and reached its full strength in May 2005.<sup>309</sup> It is designed to provide protection to top government officials.

The Ministry of Interior’s Special Police Forces include the Public Order Battalions, the Mechanized Police Brigade (a paramilitary counterinsurgency police unit that deploys to high risk areas using light armoured personnel carriers), the Special Police Commando Battalions (see below) and the Emergency Response Unit (a specialized paramilitary police unit responsible for high-risk search, arrest, hostage-rescue and crisis response operations). By mid June 2005, 21 battalions were operational, out of which ten were rated ‘partially capable’ or ‘fully capable’.<sup>310</sup>

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<sup>301</sup> CPA, Order No. 26, *Creation of the Department of Border Enforcement*, 24 August 2003, [http://www.iraqcoalition.org/regulations/20030824\\_CPAORD\\_26\\_Creation\\_of\\_the\\_Dept\\_of\\_Border\\_Enforcement.pdf](http://www.iraqcoalition.org/regulations/20030824_CPAORD_26_Creation_of_the_Dept_of_Border_Enforcement.pdf).

<sup>302</sup> Robert M. Perito, United States Institute for Peace, *The Coalition Provisional Authority’s Experience with Public Security in Iraq*, Special Report 137, April 2005, p. 9, <http://www.usip.org/pubs/specialreports/sr137.pdf>.

<sup>303</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 22, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>304</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 12, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>305</sup> Chicago Tribune, *Too much border, Not enough patrol*, 19 April 2005, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>306</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 23, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>307</sup> CPA, Order No. 27, *Establishment of the Facilities Protection Service*, 4 September 2003, [http://www.iraqcoalition.org/regulations/20030904\\_CPAORD\\_27\\_Establishment\\_of\\_the\\_Facilities\\_Protection\\_Svc.pdf](http://www.iraqcoalition.org/regulations/20030904_CPAORD_27_Establishment_of_the_Facilities_Protection_Svc.pdf).

<sup>308</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 49, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>309</sup> *Ibid.*, p. 12.

<sup>310</sup> *Ibid.*, p. 44.



The Special Police Commando Battalions were set-up by the Ministry of Interior in August 2004 and consist of highly-vetted officers and rank-and-file servicemen that can be quickly deployed in counter-operations. While the commandos have gained 'high praise for their aggressiveness, effectiveness, and discipline' for their operations in hotspots such as Mosul, Ramadi, Baghdad and Samarra, the force remains controversial after the emergence of allegations of excessive use of force, torture and summary executions have emerged.<sup>311</sup> Following events such as repeatedly engaging in looting and igniting a home in Samarra, the responsible battalion had to be replaced by another one. The Special Police Commando Battalions are made up mainly of members of the former regime's Special Forces, the Security Directorate and the Republican Guards and are led by Major General Adnan Thabet, a former Sunni intelligence officer from Samarra who was expelled from the army in 1984 and jailed at Abu Ghraib in 1996 for conspiracy against Saddam Hussein.<sup>312</sup> By July 2005, the Special Police Commando had reached over 8,000 members.<sup>313</sup> It will ultimately be comprised of six full battalions.<sup>314</sup> One of the best known units is the so-called Wolf Brigade that gained notoriety after launching a series of counter-insurgency operations in Mosul in the end of 2004. It is led by former three-star Shiite general and SCIRI member Major General Mohammed Qureishi, better known as Abu Walid, and is made up of roughly 2,000 fighters, mostly young men from Shiite Sadr City. Despite the fact that the Wolf Brigade is under the control of the Iraqi Ministry of Interior and fights alongside with MNF/ISF, it operates very autonomously. Sunni leaders accuse them of killing Sunnis, including clerics, and their aggressive methods and treatment of detainees are highly controversial.<sup>315</sup> The brigade has gained notoriety through its popular television programme called 'Terrorism in the Hands of Justice', on which General Qureishi is shown grilling insurgents about their activities.<sup>316</sup> The programme has been criticized for violating detainees' rights by publicly humiliating suspects before they are proven guilty.<sup>317</sup> The US Council on Foreign Relations called the Wolf Brigade 'the most feared and effective commando unit in Iraq'.<sup>318</sup>

#### **d) Iraq's detention and prison system**

Iraq's prison system is twofold. On the one hand, detainees are held by the Iraqi authorities (including the Kurdish authorities); on the other hand the MNF is authorized by UN Security Council Resolution 1546<sup>319</sup> to carry out activities 'necessary to counter ongoing security threats posed by forces seeking to influence Iraq's political future through violence', including the 'internment' of members of these forces 'where it is necessary for imperative reasons of security'. Persons arrested by the MNF should therefore, as a rule, be transferred to the Iraqi prison system. On an exceptional basis, provided there are 'imperative reasons for security', a person could also remain detained by the MNF. Depending on the grounds of the arrest,

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<sup>311</sup> See also the sections on 'Extra-judicial killings, disappearances' and 'Torture and ill-treatment by ISF'.

<sup>312</sup> Middle East Online, *Iraqi commando battalion pulled out of Samarra*, 5 May 2005, <http://www.middle-east-online.com/english/?id=13427>.

<sup>313</sup> US Department of Defense, *Report to Congress – Measuring Stability and Security in Iraq*, July 2005, p. 22, <http://www.defenselink.mil/news/Jul2005/d20050721secstab.pdf>.

<sup>314</sup> US Central Command/Multi-National Security Transition Command Iraq, *MNSTC-I Troops Facts Sheet*, [http://www.mnstci.iraq.centcom.mil/facts\\_troops.htm](http://www.mnstci.iraq.centcom.mil/facts_troops.htm).

<sup>315</sup> The Associated Press, *Iraq's Kurdish president backs Shiite militia*, 8 June 2005, [http://www.usatoday.com/news/world/iraq/2005-06-08-iraq-politics\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-06-08-iraq-politics_x.htm); The Financial Times, *Iraq Sunni group attacks 'state terrorism'*, 18 May 2005, <http://news.ft.com/cms/s/a68e6e00-c7b4-11d9-9765-00000e2511c8.html>.

<sup>316</sup> BBC, *Profile: Iraq's Wolf Brigade*, 9 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4083326.stm](http://news.bbc.co.uk/2/hi/middle_east/4083326.stm).

<sup>317</sup> International Herald Tribune, *Iraqi TV has a hit, starring insurgents*, 16 March 2005.

<sup>318</sup> Scotland on Sunday, *Elite Iraqi police leader survives suicide attack*, 12 June 2005, <http://scotlandonsunday.scotsman.com/international.cfm?id=645132005>.

<sup>319</sup> See attached letter from US Secretary of State Colin Powell as annexed to the Resolution, UN Security Council, *Resolution 1546(2004)*, 8 June 2004, <http://daccessdds.un.org/doc/UNDOC/GEN/N04/381/16/PDF/N0438116.pdf?OpenElement>.

detainees are subject to different legal regimes.<sup>320</sup> The ICRC has visited prison and detention facilities both under the control of the Iraqi authorities and the MNF in order to monitor conditions of detention and treatment of detainees and to help prisoners establish contact with their families.<sup>321</sup>

### Prison and detention facilities under Iraqi authority

The CPA ordered that authority over Iraqi prisons and detention facilities rests with the Iraqi Ministry of Justice.<sup>322</sup> While during the period of occupation these facilities were run by the US military – in particular the Military Police – with the transfer of sovereignty on 28 June 2004, control for Iraq's prisons was transferred to the Iraqi authorities.

The Iraqi Correctional Service (ICS), which falls under the authority of the Ministry of Justice, is in charge of providing prison security and ensuring the welfare and security of prisoners and detainees.<sup>323</sup> Basic standards for the operation of the detention and prison facilities, including conditions of detention, medical services, discipline and punishment, complaints by prisoners and inspection of facilities, are set out in CPA Memorandum No. 2.<sup>324</sup>

In addition to the official prisons, the Ministry of Interior (in particular the Major Crimes Directorate, the Criminal Intelligence Directorate, the Directorate of Ministry Security and Welfare and the Internal Affairs Directorate) runs a number of unofficial detention facilities outside the control of the Ministry of Justice.<sup>325</sup> There have been numerous reports on serious human rights violations in these facilities, including the widespread use of torture.<sup>326</sup> The standards outlined in CPA Memorandum No. 2 only apply to the Iraqi prison system under the authority of the Iraqi Ministry of Justice. It is of concern that they do not apply to persons held at unofficial detention facilities of the Ministry of Interior or at detention facilities under the control of the US military.

### Prison and detention facilities in Northern Iraq

In Northern Iraq with its two distinct judicial systems, there are separate prison and detention facilities in the KDP-administered area and the PUK-administered area.

The regular prisons in the Governorates of Erbil and Dohuk are under the oversight of the Ministry of Justice and administered by the Ministry of Interior. The main regular prison is called *Mohata*, located in Erbil, and has separate sections for men and women. In the Governorate of Sulaymaniyah, the prison and detention centres are under the authority of the Ministry of Interior and are run by the police forces. The major prison complex is called

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<sup>320</sup> See also the section on 'Arrest and detention'.

<sup>321</sup> During 2004, ICRC delegates made regular visits in Central and Southern Iraq to four places of detention run by the MNF and one place of detention under the responsibility of the IIG. At the end of 2004, the ICRC was visiting more than 7,300 detainees held by the MNF and nearly 1,800 persons detained by the Iraqi authorities. Over 24,600 Red Cross Messages were exchanged between these detainees and their families. In Northern Iraq, the ICRC visited more than 1,200 detainees held in 26 places of detention under the responsibility of the local Kurdish authorities; see ICRC, *Iraq: ICRC Operations in 2004*, 31 December 2004,

<http://www.icrc.ch/web/eng/siteeng0.nsf/iwpList322/B37C041D17BB25F6C1256F9700568E25>.

<sup>322</sup> CPA, Order No. 10, *Management of Detention and Prison Facilities*, 5 June 2003, [http://www.cpa-iraq.org/regulations/20030605\\_CPAORD10\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.cpa-iraq.org/regulations/20030605_CPAORD10_Management_of_Detention_and_Prison_Facilities.pdf).

<sup>323</sup> Global Security, *Iraqi Correctional Service (ICS)*, updated 26 April 2005, <http://www.globalsecurity.org/intell/world/iraq/ics.htm>.

<sup>324</sup> CPA, Memorandum No. 2, *Management of Detention and Prison Facilities*, 8 June 2003, [http://www.iraqcoalition.org/regulations/20030608\\_CPAMEMO\\_2\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.iraqcoalition.org/regulations/20030608_CPAMEMO_2_Management_of_Detention_and_Prison_Facilities.pdf).

<sup>325</sup> See also the section on 'Persons in detention under control of the Iraqi Security Forces'.

<sup>326</sup> See also the section on 'Torture and ill-treatment by ISF'.

*Ma'askar Salam* and is located west of Sulaymaniyah. In both areas, there are distinct institutions for juvenile offenders.

In addition, the Kurdish security (*Asayish*) and intelligence (KDP: *Parastin*, PUK: *Dazgay Zaniary*) agencies run special detention facilities which are not under the control of the authorities but rather of political parties (the KDP and PUK respectively). These detention facilities (mainly known are the *Akre* Prison, run by the *Asayish* and the Salaheddin Prison run by the *Parastin* in the Governorate of Erbil as well as the *Dazgay Zaniary* Prison in Qalachwalan, with others in secret locations) hold political and security cases (e.g. suspected members of Islamic groups, PKK members and critics of the ruling parties). It is reported that the rules of due process are systematically violated in these unofficial detention facilities.<sup>327</sup> Human rights organizations and the ICRC have access to the *Akre*, the *Mohata* and the *Ma'askar Salam* prisons, while detention facilities run by the *Parastin* and the *Dazgay Zaniary* are apparently off limits to international observers.

#### Prison and detention facilities under US authority

On the basis of UN Security Council Resolution 1546, the MNF are authorized to intern persons on compelling security grounds. However, the US military today holds more than 10,000 'security detainees', many of them for prolonged periods of time and without judicial review of their detention, thereby seriously undermining provisions of due process of law as provided for in applicable international humanitarian and human rights laws as well as Iraqi law.<sup>328</sup>

The detention centres used by the MNF are 'Camp Bucca' in the southern city of Umm Qasr (some 6,300 detainees by June 2005), 'Camp Redemption' at Abu Ghraib Prison (some 3,500 detainees) and 'Camp Cropper' near Baghdad's International Airport, where 125 'high-value' detainees such as Saddam Hussein and other key figures of the former regime are being held. In addition, the US military holds detainees for preliminary interrogations at military compounds before transferring them to one of the main facilities.<sup>329</sup> Currently, Maj. Gen. William H. Brandenburg oversees US military detention operations in Iraq. Due to the increase in arrests, the prison population in Abu Ghraib, Camp Bucca and Camp Cropper has nearly doubled from 5,435 in June 2004 to more than 10,000 in June 2005 (among them some 400 foreigners), making it necessary to expand Iraq's current prison system.<sup>330</sup> The US recently allocated US \$50 million to build a new prison in Sulaymaniyah and expand the Abu Ghraib, Camp Bucca and Camp Cropper prisons, thereby increasing total capacity from 10,000 to 16,000 prisoners by February 2006.<sup>331</sup>

More than three-fourths of the 'security detainees' held by the US military are Sunnis, which, according to US officials, reflects their dominant role in the insurgency. A review board comprised of six Iraqis and three MNF members decides in each case whether an investigation will be opened (in which case the detainee is transferred to the CCCI) or orders the detainee's release. However, the high number of detainees has overcrowded facilities and delayed the reviewing process, seriously undermining detainees' rights of due process. According to William H. Brandenburg, the detainee population has become increasingly 'hard-core' and only 40 percent of the cases are released after their review. Crowded conditions and more difficult

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<sup>327</sup> See also the section on 'Persons in detention under control of the Kurdish authorities'.

<sup>328</sup> See also the section on 'Persons in detention under control of the US military'.

<sup>329</sup> By May 2005, some 1,300 suspected insurgents were being held at military field camps; see The Washington Post, *US to Expand Prison Facilities in Iraq*, 10 May 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/05/09/AR2005050901072.html>.

<sup>330</sup> The Associated Press, *U.S. Military to Expand Prisons in Iraq*, 28 June 2005, [http://www.infowars.com/articles/iraq/us\\_expand\\_prisons\\_in\\_iraq.htm](http://www.infowars.com/articles/iraq/us_expand_prisons_in_iraq.htm).

<sup>331</sup> BBC, *US to boost Iraq prison capacity*, 27 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4628057.stm](http://news.bbc.co.uk/2/hi/middle_east/4628057.stm).



inmates also increase the risk of prison violence.<sup>332</sup> Camp Bucca and Abu Ghraib have experienced several prison riots.<sup>333</sup>

Questions about detainees' treatment and interrogation techniques have been sparked by revelations of serious abuse by US soldiers at Abu Ghraib and other places.<sup>334</sup>

#### e) New Iraqi Army / Iraqi Armed Forces

The Iraqi Army had to be rebuilt from the ground up after the CPA's heavily criticized decision to disband the former Iraqi Army in May 2003.<sup>335</sup> The 'New Iraqi Army' was created on the basis of CPA Order No. 22,<sup>336</sup> while CPA Order No. 23<sup>337</sup> provides the new *Code of Military Discipline*. No person that was a member of the Ba'ath Party's upper ranks was allowed to join the New Iraqi Army, except with permission of the CPA.<sup>338</sup> Initially, the New Iraqi Army was intended to remain small in size and to discharge the following responsibilities: border protection, securing roads and installations and clearing mines and unexploded bombs left from the war. However, the situation on the ground required that the Iraqi Army's strength had to be considerably increased in order to fight the growing insurgency.<sup>339</sup> Accordingly, CPA Order No. 22 was modified and the relevant section now reads as follows:

*The mission of the Iraqi Armed Forces is the military defense of the nation, including defense of the national territory and the military protection of the security of critical installations, facilities, infrastructure, lines of communication and supply, and population. The tasks of the Iraqi Armed Forces include developing a military capability in order to provide the basis for militarily effective, professional, and non-political armed forces for the military defense of the nation. (...)*<sup>340</sup>

The TAL provides that the Iraqi Army is under civilian control<sup>341</sup> and cannot be 'dispatched outside Iraq even for the purpose of defending against foreign aggression except with the approval of the National Assembly and upon the request of the Presidency Council'.<sup>342</sup> It further provides the basis for the Iraqi Armed Forces operating under unified command pursuant to UN Security Council Resolution 1546.<sup>343</sup>

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<sup>332</sup> The Washington Post, *US to Expand Prison Facilities in Iraq*, 10 May 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/05/09/AR2005050901072.html>.

<sup>333</sup> See for example, The Associated Press, *Inmates, Guards Clash at Iraqi Prison*, 5 April 2005,

<http://www.newsmax.com/archives/articles/2005/4/4/220804.shtml>; The Washington Post, *Prisoner Uprising In Iraq Exposes New Risk for US*, 21 February 2005, <http://www.washingtonpost.com/wp-dyn/articles/A40411-2005Feb20.html>;

Guardian Unlimited, *US forces kill two in Iraq jail riot*, 19 August 2004,

<http://www.guardian.co.uk/Iraq/Story/0,2763,1286245,00.html>.

<sup>334</sup> See also the section on 'Torture and ill-treatment by MNF'.

<sup>335</sup> CPA, Order No. 2, *Dissolution of Entities, Annex*, 23 August 2003,

[http://www.iraqcoalition.org/regulations/20030823\\_CPAORD\\_2\\_Dissolution\\_of\\_Entities\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20030823_CPAORD_2_Dissolution_of_Entities_with_Annex_A.pdf).

<sup>336</sup> CPA, Order No. 22, *Creation of a New Iraqi Army*, 18 August 2003,

[http://www.iraqcoalition.org/regulations/20030818\\_CPAORD\\_22\\_Creation\\_of\\_a\\_New\\_Iraqi\\_Army.pdf](http://www.iraqcoalition.org/regulations/20030818_CPAORD_22_Creation_of_a_New_Iraqi_Army.pdf).

<sup>337</sup> CPA, Order No. 23, *Creation of a Code of Military Discipline for the New Iraqi Army with Annex A*, 20 August 2003, [http://www.iraqcoalition.org/regulations/20030820\\_CPAORD\\_23\\_Creation\\_of\\_a\\_Code\\_with\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20030820_CPAORD_23_Creation_of_a_Code_with_Annex.pdf).

<sup>338</sup> CPA, Order No. 22, Section 6(5).

<sup>339</sup> For an overview on the various stages of force planning, see Global Security, *Iraqi Military Reconstruction*, updated 27 June 2005, <http://www.globalsecurity.org/military/world/iraq/iraq-corps3.htm>.

<sup>340</sup> Section 3(2) of CPA Order 22 as amended by CPA Order No. 100, *Transition of Laws, Regulations, Orders, and Directives Issued by the Coalition Provisional Authority*, 28 June 2004, Section 3(10),

[http://www.iraqcoalition.org/regulations/20040628\\_CPAORD\\_100\\_Transition\\_of\\_Laws\\_Regulations\\_Orders\\_and\\_Directives.pdf](http://www.iraqcoalition.org/regulations/20040628_CPAORD_100_Transition_of_Laws_Regulations_Orders_and_Directives.pdf).

<sup>341</sup> Article 5 TAL.

<sup>342</sup> Article 33(E) TAL.

<sup>343</sup> Article 59(B) TAL.

Through Order No. 28,<sup>344</sup> the CPA established the Iraqi Civil Defence Corps as a distinct temporary security and emergency service agency to complement operations conducted by the MNF.

CPA Order No. 67 re-designated the New Iraqi Army as the 'Iraqi Armed Forces', established a new ministry to provide civilian control of them and provided for the eventual transfer of the Iraqi Civil Defence Corps to the Ministry of Defence. By CPA Order No. 73, the Iraqi Civil Defence Corps was transferred to the Ministry of Defence as a component of the Iraqi Armed Forces.<sup>345</sup> The IIG later renamed the Iraqi Civil Defence Corps 'the National Guard'. In January 2005, National Guard units were absorbed into the Iraqi Armed Forces.<sup>346</sup>

Over the past two years, the Iraqi Army has undergone a number of changes in its structure in order to better suit it to conditions on the ground. Currently all forces are assisting in putting down the insurgency in tandem with the MNF or combat advisors. The latter are foreign military advisors that are embedded with Iraqi units and provide them with training and advice in the battlefield. The Iraqi Armed Forces now consist of:

- **The Iraqi Army**, including the former National Guard, the Iraqi Intervention Forces (a specialist counter-insurgency unit) and the Iraqi Special Operations Forces (a highly trained unit, equipped with advanced tools to fight terrorists throughout the country);
- **The Iraqi Air Force**; and
- **The Iraqi Navy**.

By mid June 2005 the Iraqi Armed Forces consisted of 81 battalions, out of which more than 60 army combat battalions were able to perform some role as 'partially capable' forces and more than 20 combat battalions were 'capable'.<sup>347</sup>

#### Target for insurgents

The newly emerging ISF are not only suffering high losses in armed clashes with the insurgents, but it also remains one of the main targets of attacks aiming to undermine both security and the political process in Iraq. Almost daily attacks against checkpoints, police centres, academies, convoys and recruitment centres clearly demonstrate this trend. Given that the ISF increasingly are on the front lines of the fight against the insurgency, they suffer more and more casualties.<sup>348</sup> Furthermore, senior ISF officials have become the target of deliberate assassinations.<sup>349</sup> These attacks illustrate the way in which the insurgents are targeting the most critical function of the Iraqi authorities: its ability to provide security. In addition, they undermine the Iraqi population's confidence in the ISF. The repeated attacks against recruits are clearly an attempt to undermine morale and recruitment and the overall ability of the ISF to combat the insurgency. Senior members of the ISF have reportedly relocated their families outside Iraq (mainly to neighbouring countries) as insurgents also target their houses and family members.<sup>350</sup>

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<sup>344</sup> CPA, Order No. 28, *Establishment of the Iraqi Civil Defense Corps*, 3 September 2003,

[http://www.iraqcoalition.org/regulations/20030903\\_CPAORD\\_28\\_Est\\_of\\_the\\_Iraqi\\_Civil\\_Defense\\_Corps.pdf](http://www.iraqcoalition.org/regulations/20030903_CPAORD_28_Est_of_the_Iraqi_Civil_Defense_Corps.pdf).

<sup>345</sup> CPA, Order No. 73, *Transfer of the Iraqi Civil Defense Corps to the Ministry of Defense*, 25 April 2004,

[http://www.iraqcoalition.org/regulations/20040425\\_CPAORD\\_73\\_Transfer\\_of\\_the\\_Iraqi\\_Civil\\_Defenses\\_Corps\\_to\\_the\\_Ministry\\_of\\_Defence.pdf](http://www.iraqcoalition.org/regulations/20040425_CPAORD_73_Transfer_of_the_Iraqi_Civil_Defenses_Corps_to_the_Ministry_of_Defence.pdf).

<sup>346</sup> BBC, *Iraq to dissolve National Guard*, 29 December 2004,

[http://news.bbc.co.uk/2/low/middle\\_east/4133039.stm](http://news.bbc.co.uk/2/low/middle_east/4133039.stm).

<sup>347</sup> Anthony H. Cordesman, CSIS, *Iraqi Force Development: Can Iraqi Forces Do the Job?*, Working Draft, updated 28 June 2005, p. 44, [http://www.csis.org/features/050628\\_IraqisForces.pdf](http://www.csis.org/features/050628_IraqisForces.pdf).

<sup>348</sup> For an overview of Iraqi military and police killed monthly, see The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 8, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>349</sup> An overview of attacks directed against the ISF can be found in Annex II 'Attacks on Iraqi Security Forces'.

<sup>350</sup> The New York Times, *2 Police Officers Assassinated in Separate Attacks; US and Iraqi Forces Press*

## **f) State security and intelligence agencies**

By Order No. 2, the CPA dissolved all Iraqi intelligence and security services, including the Iraqi Intelligence Service, the National Security Bureau, the Directorate of National Security, the Special Security Organization and the Directorate of Military Intelligence.<sup>351</sup> In the meantime, a number of new agencies have been established by the CPA and the Iraqi authorities in order to tackle the insurgency. In addition, the Kurdish parties have their own security and intelligence agencies.

### Iraqi National Intelligence Service

With the increasingly deteriorating security situation, the need for an intelligence service was acknowledged and by CPA Order No. 69 the IGC was authorized to establish the Iraqi National Intelligence Service (INIS).<sup>352</sup> The annexed *Charter for the Iraqi National Intelligence Service*, which became the Statute of the INIS upon adoption by the IGC, provides that the INIS has no authority to mingle in politics and ‘no power to arrest or detain persons’.<sup>353</sup> This stands in stark contrast to the powers of the former intelligence services that were the regime’s vehicle for pursuing its objectives and quashing political dissent. Nevertheless, Human Rights Watch reports that the INIS ‘has held scores of detainees in its custody without formal charges, having arrested them in the first place without a judicial warrant’. Detainees were held separately from other detainees in the Major Crimes Directorate’s detention facility at Al-Khark in Baghdad and did not have access to family members or legal counsel, nor were they referred to a court.<sup>354 355</sup> The INIS Director General is appointed by the Head of Government, subject to confirmation by the National Assembly. A committee of the National Assembly is tasked with oversight of the INIS.<sup>356</sup> The TAL provides that the INIS ‘shall collect information, assess threats to national security, and advise the Iraqi government. This Service shall be under civilian control, shall be subject to legislative oversight, and shall operate pursuant to law and in accordance with recognized principles of human rights’.<sup>357</sup>

The INIS is headed by Mohammed Abdullah Mohammed Al-Shehwani, who served in the Iraqi military from 1955 until 1984, fled to the UK in 1990 and lost his three sons in a failed *coup d’état* attempt in 1996. The INIS was trained, financed and equipped largely by the CIA with help from the Hashemite Kingdom of Jordan. Despite the fact that an elected Government, the ITG, came into power in April 2005, it is reported that control over the INIS still rests with the CIA, due to fears that classified information related to Iranian influence in Iraq might be passed to Tehran by Iran-friendly members of the ITG.<sup>358</sup>

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*Insurgents*, 7 June 2005, <http://www.nytimes.com/2005/06/07/international/middleeast/07iraq.html>.

<sup>351</sup> CPA, Order No. 2, *Dissolution of Entities, Annex*, 23 August 2003,

[http://www.iraqcoalition.org/regulations/20030823\\_CPAORD\\_2\\_Dissolution\\_of\\_Entities\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20030823_CPAORD_2_Dissolution_of_Entities_with_Annex_A.pdf).

<sup>352</sup> CPA, Order No. 69, *Delegation of Authority to Establish the Iraqi National Intelligence Service*, 1 April 2004,

[http://www.iraqcoalition.org/regulations/20040401\\_CPAORD69\\_Delegation\\_of\\_Authority\\_to\\_Establish\\_the\\_Iraqi\\_National\\_Intelligence\\_Service\\_with\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20040401_CPAORD69_Delegation_of_Authority_to_Establish_the_Iraqi_National_Intelligence_Service_with_Annex.pdf).

<sup>353</sup> Articles 5 and 12, CPA Order No. 69 Annex A, *Charter for the Iraqi National Intelligence Service*, 2 April 2004, [http://www.iraqcoalition.org/regulations/20040402\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20040402_Annex.pdf).

<sup>354</sup> Human Rights Watch, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, pp. 26, 35-39, <http://hrw.org/reports/2005/iraq0105/iraq0105.pdf>.

<sup>355</sup> Also see the section on the ‘Right to life, personal security and physical integrity’.

<sup>356</sup> Articles 14, 24-26, CPA Order No. 69 Annex A, *Charter for the Iraqi National Intelligence Service*, 2 April 2004, [http://www.iraqcoalition.org/regulations/20040402\\_Annex.pdf](http://www.iraqcoalition.org/regulations/20040402_Annex.pdf).

<sup>357</sup> Article 27(D) TAL.

<sup>358</sup> Detroit Free Press, *CIA still controls Iraq security service*, 9 May 2005, [http://www.freep.com/news/nw/iraq9e\\_20050509.htm](http://www.freep.com/news/nw/iraq9e_20050509.htm).

### General Security Directorate

On 15 July 2004, the (then) Iraqi Prime Minister Iyad Allawi announced the establishment of the General Security Directorate (GSD), tasked with domestic intelligence gathering and fighting the insurgency.<sup>359</sup> At the time, Jane's Intelligence Digest reported that the GSD 'will include former members of Saddam Hussein's feared security services, collectively known as the Mukhabarat...these former Ba'athists and Saddam loyalists will be expected to hunt down their colleagues currently organising the insurgency'.<sup>360</sup> Further information about the exact responsibilities and powers of the agency is not available.

### Major Crimes Directorate and Criminal Intelligence Directorate

The Ministry of Interior's Major Crimes Directorate and the Criminal Intelligence Directorate conduct criminal investigations. Their exact responsibilities and division of labour are unclear. The Major Crimes Directorate, which was established in August 2003, includes four units: the Anti-Terrorism Unit, the Organized Crime Unit, the Money Laundering Unit and the Abduction and Murder Unit. Its current headquarters is located in the Karada district in Baghdad and it has branches in Al-Khark and Al-Rusafa, covering only Baghdad and its surroundings. According to Human Rights Watch, the Directorate maintains detention facilities in both Al-Karkh and Al-Rusafa, while it is not clear what facilities exist at the Directorate's Headquarters in Al-Karada.<sup>361</sup>

The Criminal Intelligence Directorate operates nationwide. It holds the prime responsibility for gathering intelligence on certain criminal activities but its exact powers are unknown. It arrests, detains and interrogates persons suspected of criminal activity in the Ministry of Interior compound or in the main Ministry building before handing them over to the CCCI.<sup>362</sup>

### Directorate of Ministry Security and Welfare and the Internal Affairs Directorate

Human Rights Watch further reports the existence of the Directorate of Ministry Security and Welfare and the Internal Affairs Directorate, both of which fall within the Ministry of Interior. The Directorate of Ministry Security and Welfare is said to be responsible for the safety of Ministry premises and staff, but also carries out arrests and detains and interrogates persons suspected of crimes unrelated to its principal role within the Interior Ministry's compound. The Internal Affairs Unit monitors and investigates offences committed by police personnel such as bribery, corruption, mistreatment of detainees and abuse of authority. However, it also seems to be involved in investigations of other criminal activities such as robbery and forgery. It holds and interrogates suspects at the Ministry of Interior, but its principal detention facility is said to be located at the Al-Qanat police station in Sadr City. Human Rights Watch has also reported that other agencies of the Ministry of Interior such as the Important Crimes Directorate are involved in criminal investigations, referring cases to the CCCI.<sup>363</sup>

### Kurdish security and intelligence agencies

In the KDP-administered areas (Governorates of Erbil and Dohuk) the *Asayish* deals with domestic political and security-related matters. The head of the *Asayish* is Ismat Argushee and its headquarters is in Erbil. The *Parastin* is the KDP's intelligence-gathering arm and concerned

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<sup>359</sup> The Washington Post, *Another Car Bomb kills 10*, 16 July 2004, <http://www.washingtonpost.com/wp-dyn/articles/A51022-2004Jul15.html>.

<sup>360</sup> A.K. Gupta, *Unraveling Iraq's Secret Militias*, in: Z-Magazine, May 2005, <http://zmag.org/Images/gupta0505.html>.

<sup>361</sup> Human Rights Watch, *The New Iraq? Torture and ill-treatment of detainees in Iraqi custody*, January 2005, pp. 23-24, <http://hrw.org/reports/2005/iraq0105/iraq0105.pdf>.

<sup>362</sup> *Ibid.*, p. 24.

<sup>363</sup> *Ibid.*, pp. 24-25.

with both internal and external threats to Kurdish security. The *Parastin* is led by Masrour Barzani, son of the KRG President and KDP-leader Massoud Barzani, and is located in Salaheddin. The *Asayish* is under the supervision of the *Parastin* while the latter and is said to stand outside governmental control.

In the Governorate of Sulaymaniyah, the *Asayish* is in charge of domestic security and the *Dazgay Zaniary* is the PUK's intelligence agency.

The Kurdish intelligence apparatus played a significant role in arresting wanted persons from the former regime.<sup>364</sup> All of these agencies deal with political or security-related cases and maintain their own detention centres. There are reports of the use of torture and the violation of rights of due process by the security and intelligence agencies in all areas of Northern Iraq.<sup>365</sup>

## **g) Militias**

### Introduction

Despite a provision in the TAL banning all armed militias<sup>366</sup> and CPA order No. 91 calling for all militias to be disbanded (with the exception of the Kurdish Peshmerga),<sup>367</sup> there are still various ethnic and sectarian militias active in Iraq. The larger and more well-established groups play a major role in providing security, in particular in Baghdad's Shiite neighbourhoods and in the South where Shiite organizations immediately filled the security vacuum created after the fall of the former regime.<sup>368</sup> The chief of police in Basrah, General Hassan Al-Sade, recently stated that he has effectively lost control of his forces because half of them belong to sectarian militias secretly working for political parties (largely the Mehdi Army of Muqtada Al-Sadr and the Badr Organization). Al-Sade reported that the relative tranquillity in Basrah was a result of giving authority to the Islamic parties and their militias. According to him, 'the militias are the real power in Basrah (...)'. The General further claims that the militias are involved in criminal activities, including assassinations of former Ba'athists.<sup>369</sup>

In the North, the Kurdish Peshmerga continues to control the three Northern Governorates of Erbil, Dohuk and Sulaymaniyah; since the fall of the former regime it has also expanded its area of influence south into Kirkuk, Mosul and Diyala Governorates.<sup>370</sup>

The lack of security and law enforcement, coupled with suspicion vis-à-vis the ISF often leads tribes, communities and neighbourhoods to form their own forces to protect themselves and enforce law.<sup>371</sup>

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<sup>364</sup> Sunday Herald, *Revealed: who really found Saddam?*, 21 December 2003, <http://www.sundayherald.com/38816>;

<sup>365</sup> See also the section on 'Torture and ill-treatment by the Kurdish security forces'.

<sup>366</sup> Article 27(B) TAL reads: *Armed forces and militias not under the command structure of the Iraqi Transitional Government are prohibited, except as provided by federal law.*

<sup>367</sup> CPA, Order 91, *Regulation of Armed Forces and Militias within Iraq*, 7 June 2004,

[http://www.iraqcoalition.org/regulations/20040607\\_CPAORD91\\_Regulation\\_of\\_Armed\\_Forces\\_and\\_Militias\\_within\\_Iraq.pdf](http://www.iraqcoalition.org/regulations/20040607_CPAORD91_Regulation_of_Armed_Forces_and_Militias_within_Iraq.pdf).

<sup>368</sup> The following incident speaks for the militias' view as to their role: Badr leader Hadi Al-Amri requested the Australian troops to leave Al-Muthanna Governorate and its capital Samawa where it has 450 troops, saying that the Badr Organization was providing security: 'Simawah is under our control', ABC, *Militia chief wants Australian troops out of Iraq*, 19 April 2005, <http://www.abc.net.au/news/newsitems/200504/s1348115.htm>.

<sup>369</sup> Guardian Unlimited, *Basrah out of control, says chief of police*, 31 May 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1495800,00.html>.

<sup>370</sup> See also the section on 'The Governorates of Mosul (Ninewa) and Kirkuk (Tameem)'.

<sup>371</sup> Reuters, *Frustrated Iraqis ready to take law into own hands*, 18 July 2005, <http://www.epic-usa.org/Default.aspx?tabid=1333>; Knight Ridder Newspapers, *Political instability in Iraq causes some to form militias*, 5 April 2005, <http://www.realcities.com/mlid/krwashington/11318266.htm>.



The major militias are linked to political parties and, with the exception of the Imam Mehdi Army which was established after April 2003, all played a crucial role in armed opposition against the former regime. The strongest militia are the Kurdish Peshmerga ('those who face death') of the KDP and the PUK, numbering some 100,000 fighters. The Kurdish parties vehemently insist that as part of their autonomy they will keep the Peshmerga under their command and will not allow for their dissolution or integration into the Iraqi armed forces.<sup>372</sup> The Badr Organization (previously Badr Brigades or Badr Corps) was set up by former SCIRI leader Mohammed Bakr Al-Hakim during his exile in Iran and is made up of mainly Shiite militiamen. A relatively new group is the Imam Mehdi Army led by Muqtada Al-Sadr, a radical Shiite cleric, who became known for his fierce criticism of the US-led 'occupation' and staged two major military confrontations with the MNF in April/June and August 2004.

So far there has been little effort on the side of the Iraqi authorities to persuade armed groups to either disarm and disband or integrate into the ISF. In a recent announcement, President Jalal Talabani and the ITG openly backed the armed militias and emphasized their crucial role in fighting the insurgency.<sup>373</sup> Jalal Talabani addressed a Badr conference saying 'you and [the Peshmerga] are the heroes of Iraq liberation, and you are the strong hands of your Iraqi people'. Sunni politicians have raised accusations against the Badr Organization – which has restructured itself as a political organization and is represented in the TNA and ITG – of being responsible for the killing of Sunni clerics and the raiding of Sunni mosques. SCIRI and the Badr Organization refute these accusations and US officials say that there is little evidence to indicate that members of the Badr Organization have been implicated in such crimes. The open endorsement of the militias and their role in the fighting against predominantly Sunni insurgency clearly bears the danger of further widening the rift between the Sunni and Shiite religious communities.<sup>374</sup> Shiite political parties such as the Dawa party and Hezbollah are believed to have retained some weaponry, despite their move from the armed opposition during the former regime to now being part of the political process.<sup>375</sup>

The future role of the militias remains a contentious issue, in particular because the Sunni population is highly suspicious of them and accuses them of conducting a targeted campaign against Sunnis. Given the clear backing of the militias by the Shiite and Kurdish majority however, it is highly unlikely that there will be a firm decision to regularize their existence by fully incorporating them into the regular armed forces.

### Kurdish Peshmerga

The Peshmerga fought against Saddam Hussein during the Iran-Iraq war and provided military backup during the US-led intervention in Iraq that deposed the former regime in 2003. The Peshmerga is the largest militia in Iraq with an estimated 100,000 members and serves as the

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<sup>372</sup> The New York Times, *Kurds Vow to Retain Militia as Guardians of Autonomy*, 27 February 2005, <http://www.nytimes.com/2005/02/27/international/middleeast/27militia.html?ex=1118894400&en=e6966593f41fc420&ei=5070>.

<sup>373</sup> The New York Times, *Leaders of Iraq Back Militias, Widening Rift With Sunnis*, 9 June 2005, <http://www.nytimes.com/2005/06/09/international/middleeast/09iraq.html?>

<sup>374</sup> The Washington Post, *Sectarian Divide Widens on Iraq's Constitutional Panel*, 9 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/08/AR2005060801509.html>.

<sup>375</sup> Anthony H. Cordesman, CSIS, *Iraq's Evolving Insurgency*, Working Draft updated as of 23 June 2005, p. 54, [http://www.csis.org/features/050623\\_IraqInsurg.pdf](http://www.csis.org/features/050623_IraqInsurg.pdf); Asia Times, *What's behind the new Iraq*, 8 April 2005, [http://www.atimes.com/atimes/Middle\\_East/GD08Ak04.html](http://www.atimes.com/atimes/Middle_East/GD08Ak04.html); Larry Diamond, Foreign Affairs, *What Went Wrong in Iraq*, September/October 2004, p. 3, [http://iis-db.stanford.edu/pubs/20702/What\\_Went\\_Wrong\\_in\\_Iraq.pdf](http://iis-db.stanford.edu/pubs/20702/What_Went_Wrong_in_Iraq.pdf); *The Associated Press*, *Nine Iraqi Militias to Disband; Not Sadr's*, 7 June 2004, <http://newsmax.com/archives/articles/2004/6/7/85749.shtml>; Radio Free Europe/Radio Liberty, *A Survey of Armed Groups in Iraq*, 2004, <http://www.rferl.org/specials/IraqCrisis/specials-armedgroups.asp>.

primary security force for the KRG in Northern Iraq.<sup>376</sup> Unlike the other militias, the Peshmerga were not prohibited from existing under the TAL. Kurdish officials have repeatedly made it clear that the Peshmerga will not be disbanded or integrated into the ISF, and regular Iraqi security forces are able to operate in the North only with the prior permission of the KRG.<sup>377</sup> In June 2005, the Kurdish parties agreed to assign about 30,000 Peshmerga fighters to the National Government while the rest will come under the control of a planned unified Peshmerga Ministry in the KRG.<sup>378</sup> While the Peshmerga is supporting the MNF in anti-insurgent operations in Northern Iraq and Mosul,<sup>379</sup> it operates independently of the rest of the ISF. One concern is that the use of Peshmerga fighters in areas with mixed Kurdish, Arab and Turkmen populations – in particular in the Kirkuk and Mosul areas – could inflame ethnic tensions.<sup>380</sup>

### Badr Brigade / Badr Organization

The Badr Brigade (or Badr Corps) was formed by Mohammed Bakr Al-Hakim in Iran in the 1980's as the armed wing of the SCIRI to fight the former regime. On the SCIRI website, it is claimed that the Badr Brigade 'consists of thousands of fighters' including infantry, armoured units, artillery, anti-aircraft units and commandos.<sup>381</sup> Since the fall of the former regime, the Badr Brigade has been accused of killing numbers of former Ba'ath party officials and members of the former security and intelligence services, making use of hit lists and benefiting from impunity. It has been reported that since the Shiites won the 30 January 2005 elections, increased attacks against former Ba'athists have taken place. At particular risk seem to be Shiites that live in predominantly Shiite or mixed Sunni-Shiite neighbourhoods. According to Misha'an Al-Jibouri, a Sunni member of the TNA, many former Shiite Ba'ath Party members were forced to seek refuge in Sunni-dominated areas in Central Iraq. Hadi Al-Amri, the leader of the Badr Brigade, denied allegations that his organization was behind attacks against former Ba'athists.<sup>382</sup>

The Badr militia claims that it has transformed itself into a political organization. In fact, it changed its name from the Badr Brigade to the Badr Organization and ran in the TNA elections as part of the UIA list. The new Interior Minister Bayan Jabr is a former high-ranking official in the Badr Brigade. According to Hadi Al-Amri, the Badr Brigade has left its weapons in Iran.<sup>383</sup> Still, the Badr Organization's new political presence has not stopped Badr militiamen from operating openly and playing a role in providing security to Sadr City and Southern cities with provincial councils dominated by SCIRI representatives.<sup>384</sup> SCIRI member Sheikh Humam Hamoodi recently argued that the Badr militia has to play a role in fighting the insurgents, as the latter have infiltrated the ISF.<sup>385</sup> The fact that the Badr Brigade was established in Iran and

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<sup>376</sup> The New York Times, *Kurds Vow to Retain Militia as Guardians of Autonomy*, 27 February 2005, <http://www.nytimes.com/2005/02/27/international/middleeast/27militia.html?ex=1118894400&en=e6966593f41fc420&ei=5070>.

<sup>377</sup> Ibid., *Q&A: Iraq's Militias*, 11 June 2005, [http://www.nytimes.com/cfr/international/slot2\\_060905.html](http://www.nytimes.com/cfr/international/slot2_060905.html).

<sup>378</sup> IWPR, Iraqi Crisis Report, No. 129, *Thousands of Peshmerga drafted into Army*, 22 June 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_129\\_5\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_129_5_eng.txt).

<sup>379</sup> The Boston Globe, *In Mosul, Kurdish militia helps keep order*, 18 November 2004, [http://www.boston.com/news/world/articles/2004/11/18/in\\_mosul\\_kurdish\\_militia\\_helps\\_keep\\_order?mode=PF](http://www.boston.com/news/world/articles/2004/11/18/in_mosul_kurdish_militia_helps_keep_order?mode=PF).

<sup>380</sup> The New York Times, *Kurds Vow to Retain Militia as Guardians of Autonomy*, 27 February 2005, <http://www.nytimes.com/2005/02/27/international/middleeast/27militia.html?ex=1118894400&en=e6966593f41fc420&ei=5070>.

<sup>381</sup> SCIRI, *Badr Corps*, accessed July 2005, [http://www.sciri.btinternet.co.uk/English/About\\_Us/Badr/badr.html](http://www.sciri.btinternet.co.uk/English/About_Us/Badr/badr.html).

<sup>382</sup> Knight Ridder Newspapers, *Revenge killings of members of Saddam's former regime rise*, 25 February 2005, <http://www.realcities.com/mld/kwashington/10994419.htm>.

<sup>383</sup> Reuters, *Leader of Iraq's Badr Brigade says wants peace*, 29 June 2005.

<sup>384</sup> Jane's Intelligence Review, *Battle for Iraq lies in the south*, June 2005, p.11, <https://www.washingtoninstitute.org/opedsPDFs/42a88e53e11f1.pdf>.

<sup>385</sup> IWPR, Iraqi Crisis Report, No. 126, *Shia Militia Takes on the Insurgents*, 24 May 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_126\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_126_1_eng.txt).



received financial and military support from the Iranian authorities has led to accusations that the group may not be independent from Iranian control.<sup>386</sup>

After a number of sectarian killings, tensions between Sunni leaders and the Badr Organization ran high, blaming each other for sponsoring terrorism. After the killing of Sunni Sheikh Hassan Al-Nuaimi, a prominent member of the AMS, in May 2005, AMS leader Harith Al-Dhari publicly stated that 'the parties that are behind the campaign of killings of preachers and worshippers are ... the Badr Brigade'. The leader of the Badr Brigade, Hadi Al-Amri, denied the charges and blamed Harith Al-Dhari for supporting Abu Musab Al-Zarqawi, whose main victims are Iraq's Shiites.<sup>387</sup>

#### Imam Mehdi Army / Muqtada Al-Sadr

The Imam Mehdi Army is the armed wing of the movement of radical Shiite cleric Muqtada Al-Sadr. Al-Sadr draws his popularity largely from his late father, Grand Ayatollah Mohammad Sadiq Al-Sadr, who was assassinated along with two of his sons by presumed agents of the former regime on 19 February 1999. His supporters are largely young, unemployed and often impoverished men from the Shiite urban areas and slums in Baghdad and the southern Shiite cities. The Imam Mehdi Army operates mainly in an area stretching from Basrah to Sadr City in Baghdad. Some activity has also been noted in Baqouba and Kirkuk, where Shia minorities exist among the Turkmen and the Arab populations.<sup>388</sup>

The Imam Mehdi Army has to some degree filled the security vacuum created after the fall of the former regime by providing aid to Iraqis and preventing looters. It is believed that the Imam Mehdi Army consists of several thousands combatants, but exact figures are presently unavailable.<sup>389</sup> Despite a disarmament programme that took place in October 2003, the group is believed to be armed with AK-47 Kalashnikov assault rifles, rocket-propelled grenades (RPG), mortars and other light weapons. Supporters of Muqtada Al-Sadr are driven mostly by nationalist and ultra-conservative religious tendencies and demand the withdrawal of all foreign forces from Iraq. Their stated goal is to establish an Islamic state in Iraq under Islamic law.<sup>390</sup>

Al-Sadr has created rifts in the Shia establishment by raising the question of who truly represents Iraq's Shia community.<sup>391</sup> On one side of the debate there are the followers of the traditional *quietist hawza*,<sup>392</sup> represented previously by Sayyed Abu Al-Qasim Al-Khoei (who died in 1982) and currently by Grand Ayatollah Ali Al-Sistani. On the other hand there is Muqtada Al-Sadr who, like his uncle Grand Ayatollah Mohammad Baqir Al-Sadr and his father

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<sup>386</sup> Ibid.

<sup>387</sup> Knight Ridder Newspapers, *Shiite, Sunni leaders in Iraq trade terrorism charges on TV*, 18 May 2005, <http://www.realcities.com/mld/kwashington/11679173.htm>.

<sup>388</sup> Center for Contemporary Conflict, *The Sadr II Movement: An Organizational Fight for Legitimacy within the Iraqi Shi'a Community*, 5 May 2005, <http://www.ccc.nps.navy.mil/si/2005/May/haughShiiteMay05.asp>; Juan Cole, *Portrait of a Rebellion*, posted at: In These Times, 24 May 2004, [http://www.inthesetimes.com/site/main/article/portrait\\_of\\_a\\_rebellion/](http://www.inthesetimes.com/site/main/article/portrait_of_a_rebellion/); The Washington Times, *Shi'ite cleric calls for end to fighting in Iraq*, 8 April 2004, [http://cshink.com/shiite\\_cleric\\_calls\\_for.htm](http://cshink.com/shiite_cleric_calls_for.htm); The National, *Muqtada al-Sadr*, 5 April 2004, [http://www.cbc.ca/news/background/iraq/al\\_sadr\\_crowe.html](http://www.cbc.ca/news/background/iraq/al_sadr_crowe.html).

<sup>389</sup> Jane's Intelligence Review estimates that there are up to 10,000 fighters 'who can be mobilised at short notice and for extended periods', Jane's Intelligence Review, *Battle for Iraq lies in the south*, June 2005, p. 15, <https://www.washingtoninstitute.org/opedsPDFs/42a88e53e11f1.pdf>.

<sup>390</sup> Global Security, *Muqtada al-Sadr*, updated 22 June 2005, <http://www.globalsecurity.org/military/world/iraq/al-sadr.htm>; The National, *Muqtada al-Sadr*, 5 April 2004, [http://www.cbc.ca/news/background/iraq/al\\_sadr\\_crowe.html](http://www.cbc.ca/news/background/iraq/al_sadr_crowe.html).

<sup>391</sup> Al-Ahram, *Striving for leadership*, Issue No. 691, 20-26 May 2004, <http://weekly.ahram.org.eg/2004/691/re4.htm>.

<sup>392</sup> *Hawza*, or seminary, is the main source of authority for the Iraqi Shia. According to the *quietist* tradition, clerics should provide spiritual leadership but stay away from daily politics.

Grand Ayatollah Mohammad Sadiq Al-Sadr (killed in 1980 and 1999 respectively), follows a more activist and 'speaking' school advocating for the application of religious principles to guide the state. According to the US Government, the assassination of Ayatollah Abdul Majid Al-Khoei (son of Sayyed Abu Al-Qasim Al-Khoei) upon his return to Iraq from exile on 12 April 2003 was ordered by Muqtada Al-Sadr and is part of a campaign to 'displace the Sistani-led quietist hawza'<sup>393</sup>.

In March 2004, the CPA closed down Al-Sadr's daily newspaper Al-Hawza on the grounds that it was inciting anti-American violence,<sup>394</sup> arrested his senior aide Mustafa Al-Yacoubi and issued an arrest warrant against Al-Sadr in connection with Al-Khoei's assassination in April 2004.<sup>395</sup> These acts resulted in thousands turning out to protest and riot and soon escalated into organized armed attacks by the Imam Mehdi Army against the MNF in Najaf, Kufa, Al-Kut, Sadr City, Kerbala, Al-Amarah and Basrah. A fragile truce was agreed to after mediation by Grand Ayatollah Ali Al-Sistani in early June 2004. Fresh clashes again erupted in Najaf in early August 2004, this time focussed on control of the holy Imam Ali shrine. These incidents left hundreds dead, thousands displaced and parts of Najaf's old city destroyed. Three weeks of fighting finally ended in a truce brokered by Grand Ayatollah Ali Al-Sistani, who returned to Iraq from the UK where he had been receiving medical treatment. The Mehdi Army was obliged to disarm and leave Najaf. In turn, US troops had to withdraw from the city, leaving the ISF to take control.<sup>396</sup> The IIG ensured that Al-Sadr's supporters could join the political process and that Al-Sadr himself would not be arrested. The agreement to end the Najaf crisis did not cover other areas in which Sadr militants were holding control and fighting continued in Baghdad's Sadr city suburb. In October 2004, the Mehdi Army agreed to take part in a cash-for-weapons scheme sponsored by the Iraqi Government. Under this programme, they received cash payments for handing in their heavy and medium-sized weaponry, but were allowed to keep their Kalashnikov rifles and small arms. In addition, the Iraqi Government promised to rebuild Sadr city, pledging more than US \$500 million to the task.<sup>397</sup>

Muqtada Al-Sadr remained out of the public eye for a substantial length of time, re-emerging only in recent months and remaining elusive about the role he will play.<sup>398</sup> On one hand, he has been backing street protests and military parades in Baghdad, Najaf and Nassariyah, including fiery condemnations of the US military;<sup>399</sup> on the other hand, he is to some extent involved in the political process, albeit through third parties.<sup>400</sup> It is said that he refuses to enter the political

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<sup>393</sup> Jane's Intelligence Review, *Battle for Iraq lies in the south*, June 2005, p. 14, <https://www.washingtoninstitute.org/opedsPDFs/42a88e53e11f1.pdf>; see also Graham E. Fuller, United States Institute of Peace, *Islamist Politics in Iraq after Saddam Hussein*, Special Report 108, August 2003, p. 4, <http://www.usip.org/pubs/specialreports/sr108.pdf>.

<sup>394</sup> BBC, *Iraqi outcry as US bans newspaper*, 29 March 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3578183.stm](http://news.bbc.co.uk/2/hi/middle_east/3578183.stm).

<sup>395</sup> BBC, *Arrest order for Iraq Shia cleric*, 5 April 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3601887.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3601887.stm).

<sup>396</sup> *Ibid.*, *Clerics agree Najaf peace deal*, 27 August 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3603196.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3603196.stm).

<sup>397</sup> BBC, *Iraqi Shia rebels surrender arms*, 11 October 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3732190.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3732190.stm).

<sup>398</sup> The New York Times, *Rebel Shiite Cleric Hints He'll Shift to Politics, Not War*, 23 May 2005, <http://www.nytimes.com/2005/05/23/international/middleeast/23iraq.html?>

<sup>399</sup> Aljazeera, *Iraq: Al-Sadr group, guards clash*, 20 May 2005, <http://english.aljazeera.net/NR/exeres/7F50D437-EAB9-4E55-AA2B-2CC3A9712770.htm>; BBC, *Iraqis stage huge anti-US protest*, 9 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4429137.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4429137.stm).

<sup>400</sup> In the 30 January 2005 elections, 24 followers of Muqtada Al-Sadr were elected to the TNA (20 independents on the UIA list, three members of NICE and a single member of Iyad Allawi's Iraqi List). Muqtada Al-Sadr's supporters also won the highest number of votes in provincial elections in the Governorates of Thi-Qar, Missan and Nassariyah and 12 of 41 seats in Basrah's Provincial Council; see Jane's Intelligence Review, *Battle for Iraq lies in the south*, June 2005, pp.13/14, <https://www.washingtoninstitute.org/opedsPDFs/42a88e53e11f1.pdf>.

arena before the withdrawal of foreign troops from Iraq, saying that the 30 January TNA elections ‘legitimized the occupation’.<sup>401</sup> He presented himself as a political player when mediating between the Badr Organization and the AMS after each had accused the other of stirring sectarian violence.<sup>402</sup> In an interview with the Al-Arabiya satellite news channel on 21 May 2005, Muqtada Al-Sadr declared that he now wants to solve problems ‘politically, socially and peacefully’.<sup>403</sup> The MNF has refrained from arresting Muqtada Al-Sadr and has not challenged his militia’s *de facto* control over a number of areas in Southern Iraq. It remains to be seen whether Muqtada Al-Sadr will continue to pursue his efforts using solely political means. Muqtada Al-Sadr and the Imam Mehdi Army remain a powerful force and it is feared that they could disrupt Shiite Southern Iraq and Sadr City again.<sup>404</sup> Vice Admiral Lowell E. Jacoby, Director of the Defense Intelligence Agency, explained that ‘following the latest round of fighting last August and September [2004], we believe Sadr’s forces are re-arming, re-organizing and training. Sadr is keeping his options open to either participate in the political process or employ his forces. Shi’a militants will remain a significant threat to the political process and fractures within the Shi’a community are a concern.’<sup>405 406</sup>

## **h) Insurgency**

### Overview

The Iraqi insurgency comprises various groups fighting against the foreign military presence in Iraq and the Iraqi authorities. Due to its clandestine nature, the exact composition of the insurgency is difficult to determine. The insurgency can be subdivided into several main ideological strands, some of which may overlap:

- Sunni Islamists, the indigenous armed followers of the Salafi movement which advocates a return to the pure Islam of the time of the Prophet Mohammed and opposes any foreign non-Muslim influence;
- Former Ba’athists and members of the former intelligence and security apparatus;
- Foreign Islamist fighters, largely driven by the Sunni Wahabi doctrine that see Iraq as the new ‘field of jihad’ against US forces;
- Nationalists, mostly Sunni Muslims who fight against what they consider to be ‘occupation’.

The foreign and Iraqi Islamists and the former Ba’athists have nothing in common ideologically, but tactically they both want to disrupt and destroy the new situation in Iraq and have shown themselves willing to ally for this common goal. However, there have also been indications of divisions, including clashes, between the home-grown Iraqi Sunni fighters and the Sunni Islamic extremists (often including foreigners).<sup>407</sup> It is often difficult to separate the various factions, as many are closely aligned or operate under various names. Since the capture of Saddam Hussein

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<sup>401</sup> Aljazeera, *Al Sadr: Iraq vote legitimised U.S. occupation*, 6 June 2005, [http://www.aljazeera.com/cgi-bin/news\\_service/middle\\_east\\_full\\_story.asp?service\\_id=8567](http://www.aljazeera.com/cgi-bin/news_service/middle_east_full_story.asp?service_id=8567).

<sup>402</sup> See also the section on ‘Western Iraq (Governorate of Al-Anbar)’.

<sup>403</sup> The New York Times, *Rebel Shiite Cleric Hints He’ll Shift to Politics, Not War*, 23 May 2005, <http://www.nytimes.com/2005/05/23/international/middleeast/23iraq.html?>

<sup>404</sup> The Washington Post, *An Old US Foe Rises Again in Iraq*, 8 April 2005, <http://www.washingtonpost.com/wp-dyn/articles/A35586-2005Apr7.html>.

<sup>405</sup> Vice Admiral Lowell E. Jacoby, Director, DIA, Statement for the Record, Senate Select Committee on Intelligence, *Current and Projected National Security Threats to the United States*, 16 February 2005, cited by Anthony H. Cordesman, CSIS, *Iraq’s Evolving Insurgency*, Working Draft updated 23 June 2005, <http://www.reliefweb.int/library/documents/2005/csis-irq-23jun.pdf>.

<sup>406</sup> See also the section on ‘Southern Iraq’.

<sup>407</sup> The Associated Press, *Signs of division in Iraqi insurgency emerging*, 9 April 2005, <http://www.chron.com/cs/CDA/ssistory.mpl/world/3126387>; The Washington Post, *Zarqawi Followers Clash With Local Sunnis*, 29 May 2005, [http://www.washingtonpost.com/wp-dyn/content/article/2005/05/28/AR2005052800967\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/05/28/AR2005052800967_pf.html).

on 19 December 2003, the aim of the former Ba'athists has shifted from restoring Ba'athist power to supporting other groups, be they nationalist or religious.<sup>408</sup> US military intelligence officials say they believe that three interconnected groups are the most powerful actors in the Iraqi insurgency today: Ansar Al-Islam, Ansar Al-Sunna and Al-Qaeda in Iraq, the last of which is headed by Jordanian militant Abu Musab Al-Zarqawi.<sup>409</sup> A loose coalition of insurgent groups (including guerrillas from Jaish Ansar Al-Sunna, Jaish Mohammed and Al-Qaeda in Iraq) are believed to have a controlling presence in the cities of Fallujah, Ramadi, Samarra, Baqouba, Al-Qaim, Tal Afar and Mosul.<sup>410</sup> Although estimates of the total number of Iraqi insurgents vary (and their numbers almost certainly fluctuate) the latest assessments put the number at 15,000-20,000 individuals and fewer than 1,000 foreign fighters.<sup>411</sup> While foreign fighters have been the most visible of those involved in the insurgency due to their often brutal methods, the bulk of the insurgents are thought to be former Ba'athists and members of the Iraqi Sunni community.<sup>412</sup> According to General Richard Myers, Chairman of the Joint Chiefs of Staff, militants are staging between 50 and 60 attacks each day and are as strong now as they were a year ago.<sup>413</sup> US Defence Secretary Donald Rumsfeld confirmed that the insurgency had become increasingly deadly and could last as long as twelve years. He further said that an increase in violence could be expected before the projected late-2005 elections.<sup>414</sup>

The tactics employed by insurgents against the MNF/ISF include Improvised Explosive Devices (IEDs), ambushes of convoys and patrols using AK-47 assault rifles and RPGs, mortar and rocket strikes on military bases and buildings associated with the Iraqi Government, attacks on helicopters, sabotage acts against civilian infrastructure such as oil pipelines and (suicide) car bombs. Assaults combining various weapons and tactics – such as the use of IEDs, RPGs, mortars and car bombs all at once – have increasingly appeared. The most visible attacks are those of suicide bombers; most of this group is believed to come from outside Iraq, although they operate with local support.<sup>415</sup> An Al-Qaeda announcement posted on the Internet says that it has formed a unit of potential suicide attackers who are of exclusively Iraqi origin.<sup>416</sup>

Since August 2003, there have been increased attacks on civilian targets or so-called 'soft targets': the assassination of Iraqis cooperating with the MNF or the Iraqi authorities and suicide bombings targeting the UN, the ICRC, foreign embassies and diplomats, Shia mosques and civilians, the Iraqi police, Kurdish political parties, hotels and Christian churches. Iraqis who support the political process are often viewed as 'collaborators' and insurgent groups have shown little regard for civilian casualties in their attacks, in many cases deliberately targeting civilians. According to estimates of the Iraqi authorities – compiled from records kept by the Ministries of Health, Human Rights, Interior and others –over the past two years insurgents have

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<sup>408</sup> Wikipedia, *Iraqi insurgency*, updated 1 May 2005, [http://en.wikipedia.org/wiki/Iraqi\\_insurgency](http://en.wikipedia.org/wiki/Iraqi_insurgency).

<sup>409</sup> The Washington Post, *Iraq Attacks Blamed On Islamic Extremists*, 19 March 2004, <http://www.globalpolicy.org/security/issues/iraq/resist/2004/0319extremists.htm>.

<sup>410</sup> Wikipedia, *Jaish Ansar al-Sunna*, updated 24 February 2005, [http://en.wikipedia.org/wiki/Jaish\\_Ansar\\_al-Sunna](http://en.wikipedia.org/wiki/Jaish_Ansar_al-Sunna).

<sup>411</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 15, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>412</sup> BBC, *Militants' challenge to new Iraq*, 6 May 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4513215.stm](http://news.bbc.co.uk/2/hi/middle_east/4513215.stm).

<sup>413</sup> *Ibid.*, *Iraqi insurgency 'undiminished'*, 27 April 2005,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/4488099.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4488099.stm); for an overview of daily attacks by insurgents since June 2003, see The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 19, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>414</sup> The New York Times, *Bombing Attacks on Iraqi Forces Kill 38 in North*, 27 June 2005, <http://www.nytimes.com/2005/06/27/international/middleeast/27iraq.html?>

<sup>415</sup> Guardian Unlimited, *One month's toll in Iraq: 67 suicide bombers*, 12 May 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1481952,00.html>.

<sup>416</sup> The Associated Press, *Al-Qaida Announces Iraqi Suicide Squad*, 21 June 2005, <http://www.nytimes.com/aponline/international/AP-Iraq-Suicide-Bombers.html>.



killed 6,000 Iraqi civilians and wounded close to 16,000. It was also found that approximately 5,000 Iraqis have been reported kidnapped since the fall of the regime; the actual number is likely higher as this figure only includes known kidnappings.<sup>417 418</sup>

Since June 2005, reports have emerged that the Iraqi authorities have opened contacts with some insurgent groups and are willing to grant amnesty to those willing to enter the political process and who have no blood on their hands. Al-Qaeda in Iraq consequently released a statement warning those who intended to negotiate with the Iraqi Government, stating 'we will impose God's punishment on anyone who stands by the crusaders or becomes their ally or supports them. The righteous swords are unsheathed and hunger for blood'.<sup>419</sup> US and Iraqi officials confirmed reports that talks were being held with some Iraqi insurgent factions, aiming at splitting the insurgency and drawing parts of it into the political process. They were adamant that no talks are being held with the most violent groups such as Ansar Al-Sunna or Al-Qaeda in Iraq.<sup>420</sup> Abdul Aziz Al-Hakim, leader of SCIRI, has ruled out any dialogue with insurgents saying that they had declared a war on the Shiite community and could only be fought by military means.<sup>421</sup>

### **Overview of some of the most active groups in Iraq that usually claim responsibility for their attacks (not exhaustive):**

#### Ansar Al-Islam / Jaish Ansar Al-Sunna

Ansar Al-Islam was formed in December 2001 as a merger of Jund Al-Islam (led by Abu Abdallah Al-Shafi'i) and a splinter group of the IMK led by Mullah Krekar, who is believed to be the current leader of Ansar Al-Islam.

Jund Al-Islam (and later Ansar Al-Islam) exercised strict control over a number of villages near Halabja in the Governorate of Sulaymaniyah where it ruled in accordance with Sharia law.<sup>422</sup> Human Rights Watch reports that the group has issued decrees ordering women to wear veils and men to grow beards, the sexes to be segregated, music to be banned and women to be barred from education and employment. The group has also said it favours Islamic punishments (amputations, floggings) for offences such as theft, the consumption of alcohol and adultery. Human Rights Watch says the group is responsible for numerous human right violations such as illegal detentions, the killing of combatants after their surrender, and torture.<sup>423</sup> During the 2003 US-led invasion, Ansar Al-Islam's training camps in the Kurdish-controlled areas of Northern Iraq near the Iranian border were attacked by Coalition and Kurdish forces in an attempt to eliminate the organization accused of providing a safe haven to Al-Qaeda and Abu Musab Al-Zarqawi.<sup>424</sup> These attacks disrupted the organization but seems to have regrouped, and at present is held responsible for continuing (suicide) attacks in Northern Iraq, mainly directed against senior PUK/KDP political and military officials. In addition, Ansar Al-Islam seems to have

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<sup>417</sup> Reuters, *Iraq insurgency has killed 6,000 civilians - govt*, 5 April 2005,

<http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/04/05/topnews/iraqinsurgencyhaskilled6000civilians.html>.

<sup>418</sup> An overview of major attacks targeting the civilian population since the handover of sovereignty on 28 June 2004 can be found in Annex III 'Major attacks on civilians'.

<sup>419</sup> Reuters, *Iraq's al Qaeda warns against talks with govt*, 14 June 2005.

<sup>420</sup> The Washington Post, *US Talks With Iraqi Insurgents Confirmed*, 27 June 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/26/AR2005062600096.html>.

<sup>421</sup> Reuters, *Iraq Shi'ite leader wants insurgents wiped out*, 24 June 2005.

<sup>422</sup> Global Security, *Ansar al Islam (Supporters of Islam)*, updated 6 July 2005,

[http://www.globalsecurity.org/military/world/para/ansar\\_al\\_islam.htm](http://www.globalsecurity.org/military/world/para/ansar_al_islam.htm).

<sup>423</sup> Human Rights Watch, *Ansar al-Islam in Iraqi Kurdistan*, 5 February 2003,

<http://www.hrw.org/backgrounder/mena/ansarbk020503.htm>.

<sup>424</sup> BBC, *US targets Islamist group in Iraq*, 22 March 2003,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/2875269.stm](http://news.bbc.co.uk/1/hi/world/middle_east/2875269.stm).

affiliated itself with other extremist groups and expanded its field of operation. It claims to have been involved in major attacks in other parts of Iraq,<sup>425</sup> however it is not clear how large a role they play and even whether Ansar Al-Islam still exists as an organization.<sup>426</sup>

A suspected offshoot of Ansar Al-Islam, the group Jaish Ansar Al-Sunna, is made up of foreign and indigenous militants and has been very active against the MNF. It has claimed responsibility for major attacks against both the MNF/ISF and Iraqi civilians, including the 4 May 2005 attack on a KDP office in Erbil, the 21 December 2004 strike on a US base in Mosul that killed 24 people<sup>427</sup> and the twin suicide bombings at the KDP and PUK offices in Erbil that killed 109 and wounded more than 200 on 1 February 2004.<sup>428</sup> This group has also asserted responsibility for the kidnapping and murder of a number of foreigners, including those from countries with no connection to the Iraq war. The videotaped executions of 12 Nepalese construction workers in Iraq in August 2004,<sup>429</sup> the kidnapping and alleged killing 6 of Sudanese drivers working for the US forces on 28 April 2005<sup>430</sup> and the killing of a Japanese hostage on 28 May 2005<sup>431</sup> are all examples of such acts. Furthermore, Jaish Ansar Al-Sunna kidnapped and killed numbers of Iraqis considered to be collaborators with the occupying forces<sup>432</sup> and warned Iraqis against taking part in the elections.<sup>433</sup>

On 12 July 2005, Jaish Ansar Al-Sunna announced that Al-Miqdad Brigades Group had joined it in order to 'stand in one line against Allah's enemies'.<sup>434</sup>

Ansar Al-Islam was officially designated a Foreign Terrorist Organization by the US Department of State on 22 March 2004.<sup>435</sup> It is also listed for international sanctions by the UN 1267 Sanctions Committee as an entity belonging to or associated with Al-Qaeda.<sup>436</sup>

#### Jama'at Al-Tawhid wal Jihad / Al-Qaeda in Iraq

In October 2004, Jama'at Al-Tawhid wal Jihad (JTT), the Islamist guerrilla network of Jordanian-born Islamist militant Abu Musab Al-Zarqawi, changed its name to Al-Qaeda in

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<sup>425</sup> Council of Foreign Relations, *Ansar al Islam (Iraq, Islamists/Kurdish Separatists)*, 2004,

<http://cfrterrorism.org/groups/ansar.html>.

<sup>426</sup> The Washington Post, *Iraq Attacks Blamed On Islamic Extremists*, 19 March 2004,

<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A5997-2004Mar18&notFound=true>.

<sup>427</sup> BBC, *Attack on US Iraq base kills 24*, 21 December 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/4115145.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4115145.stm)

<sup>428</sup> Aljazeera, *UN assessment team prepares for Iraq*, 5 February 2004,

<http://english.aljazeera.net/NR/exeres/350FB8C0-11C5-41A1-BC13-C493E891050B.htm?GUID={B515BA83-50C5-46C0-988B-A30ED26C86B0}>.

<sup>429</sup> Radio Free Europe/Radio Liberty, *Iraq: Hostage Crisis Intensifies With Executions Of 12 Nepalese*, 1 September 2004, <http://www.rferl.org/featuresarticleprint/2004/09/b5b89071-2204-4b64-a97f-2b68213da9d3.html>.

<sup>430</sup> Agence France-Presse, *Iraq: Six hostages executed*, 29 April 2005,

[http://www.news24.com/News24/World/Iraq/0,,2-10-1460\\_1697317,00.html](http://www.news24.com/News24/World/Iraq/0,,2-10-1460_1697317,00.html).

<sup>431</sup> Reuters, *Iraqi militant group says it killed Japanese hostage*, 28 May 2005,

<http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/05/28/topnews/iraqimilitantgroupsaysitkilledjapanesehostage.html>.

<sup>432</sup> See UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 42-43 and Annex I 'Civilians Working with the MNF, International Organizations, Foreign Companies'.

<sup>433</sup> Agence France-Presse, *The price of voting in Mosul*, 14 January 2005,

<http://www.thestandard.com.hk/stdn/std/Focus/GA14Dh02.html>.

<sup>434</sup> SITE Institute, *Ansar al-Sunnah Announces that al-Miqdad Brigades Has Joined with Their Group*, 12 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications67405&Category=publications&Subcategory=0>.

<sup>435</sup> US Department of State, Press Release, *Foreign Terrorist Organizations: Designation of Ansar al-Islam (Al), Resignation of Three Others*, 22 March 2004, <http://www.state.gov/r/pa/prs/ps/2004/30649.htm>.

<sup>436</sup> UN Committee 1267, *The new Consolidated List of Individuals and Entities Belonging to or Associated with the Taliban and Al-Qaida Organisation*, updated 29 July 2005, p. 30, <http://www.un.org/Docs/sc/committees/1267/pdflist.pdf>.



Iraq.<sup>437</sup> Following the US-led invasion of Iraq, JTJ developed as an insurgent network composed of foreign fighters, remnants of Ansar Al-Islam and indigenous Sunni extremists. The stated goals of JTJ/Al-Qaeda in Iraq are to end the 'occupation', force a withdrawal of foreign forces from Iraq, topple the Iraqi Government, assassinate collaborators with the 'occupation', create sectarian war between the Sunni and the Shi'ite Muslim populations and establish a pure Islamic state.

JTJ/Al-Qaeda in Iraq is responsible for a number of attacks, often undertaken by suicide bombers, targeting a wide variety of groups and individuals. Those considered part of the 'foreign occupation' – such as the MNF, foreign civilians<sup>438</sup> and humanitarian organizations – have been targeted by JTJ/Al-Qaeda in Iraq in the past, but their focus has now shifted to Iraqis aiming to pacify and rebuilding the country, such as the emerging ISF<sup>439</sup> and those involved in the political process. Examples of such attacks include a failed assassination attempt on the (then) Prime Minister Iyad Allawi on 21 April 2005<sup>440</sup> and the assassination of IGC President Izzedine Salem on 17 May 2004.<sup>441</sup> Furthermore, JTJ/Al-Qaeda in Iraq often targets Shi'ite religious figures or places and Kurdish officials in a bid to foment sectarian and ethnic unrest in the country. It has warned Sunnis against joining the ITG, saying that if they do so they will be considered 'infidels'.<sup>442</sup> Most recently, the group has claimed responsibility for the killing of several high-ranking foreign diplomats in a move to undermine the ITG's efforts to improve its ties with other governments.<sup>443</sup>

On 15 October 2004, the US State Department added Zarqawi and the JTJ to its list of Foreign Terrorist Organizations and ordered a freeze on any assets that the group might have in the US.<sup>444</sup> Furthermore, Abu Musab Al-Zarqawi and JTJ have been designated and listed for international sanctions by the UN 1267 Committee for their ties to Al-Qaeda.<sup>445</sup>

#### Jaish Mohammed (Mohammed's Army) / Armed Vanguard of Mohammed's 2<sup>nd</sup> Army

This organization is made up mostly of Sunni Muslims whose main aim is to liberate Iraq from foreign occupation.<sup>446</sup> US Government sources report that former members of Saddam Hussein's security forces are incorporated into the organization's leadership, although it is reported to

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<sup>437</sup> Global Security, *Jamaat al-Tawhid wa'l-Jihad / Unity and Jihad Group, Tanzim Qa'idat Al-Jihad in Bilad al-Rafidayn (Organization of Jihad's Base in the Country of the Two Rivers)*, updated 15 November 2004, <http://www.globalsecurity.org/military/world/para/zarqawi.htm>.

<sup>438</sup> Via Internet websites containing video broadcasts, the organization has admitted responsibility for the brutal abductions and videotaped executions of several foreign civilians, among them Americans Nicholas Berg, Eugene Armstrong, and Jack Hensley; Briton Kenneth Bigley; South Korean Kim Sun-II; Bulgarian Georgi Lazov; and Turk Murat Yuce.

<sup>439</sup> See Annex II 'Attacks on Iraqi Security Forces'.

<sup>440</sup> Agence France-Presse, *Al-Qaeda Says it Attempted to Kill Outgoing Iraq PM*, 21 April 2005, <http://www.commondreams.org/headlines05/0421-10.htm>.

<sup>441</sup> Guardian Unlimited, *Iraqi governing council leader 'was killed by al-Qaida group'*, 20 May 2004, <http://www.guardian.co.uk/alqaida/story/0,12469,1220734,00.html>.

<sup>442</sup> Reuters, *Iraqi Qaeda vows to kill Sunnis joining govt*, 24 April 2005, [http://www.defenddemocracy.org/publications/publications\\_show.htm?doc\\_id=274933](http://www.defenddemocracy.org/publications/publications_show.htm?doc_id=274933).

<sup>443</sup> BBC, *Algerian envoys killed by captors*, 27 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4721719.stm](http://news.bbc.co.uk/2/hi/middle_east/4721719.stm); Reuters, *Iraq's Qaeda claims attack on Bahraini envoy*, 11 July 2005; The Associated Press, *Iraqi insurgents target Islamic diplomats*, 5 July 2005, [http://www.usatoday.com/news/world/2005-07-05-bahrain-diplomat\\_x.htm](http://www.usatoday.com/news/world/2005-07-05-bahrain-diplomat_x.htm).

<sup>444</sup> US Department of State, Press Statement, *Foreign Terrorist Organization: Designation of Jama'at al-Tawhid wa'al-Jihad and Aliases*, 15 October 2004, <http://www.state.gov/r/pa/prs/ps/2004/37130.htm>.

<sup>445</sup> UN Committee 1267, *The new Consolidated List of Individuals and Entities belonging to or associated with the Taliban and Al-Qaida Organisation*, updated 29 July 2005, pp. 14, 33, <http://www.un.org/Docs/sc/committees/1267/pdflist.pdf>.

<sup>446</sup> Le Monde, *Ever More Organized Iraqi Resistance to the Occupation*, 6 December 2003, <http://www.globalpolicy.org/security/issues/iraq/occupation/2003/1206organized.htm>.

operate under the guise of an Islamist organization.<sup>447</sup> In November 2004, the (then) Prime Minister Iyad Allawi announced the capture of this group's leader (Mu'ayyed Ahmed Yassin, also known as Abu Ahmad) and other members of Mohammed's Army in Fallujah.<sup>448</sup> The group was reportedly responsible for some beheadings and was known to have cooperated with Al-Qaeda in Iraq.<sup>449</sup> However, in an interview with IWPR, an alleged spokesperson of the group denied any connection with Al-Qaeda and denounced killings of Muslims by Muslims. It also rejected the idea that a significant number of foreign fighters are among its ranks and stated that most members are Iraqi farmers.<sup>450</sup>

In early 2005 Raad Al-Doury, the new leader of Jaish Mohammed, was arrested just days after he took over from the previous chief who had been detained two months earlier in Fallujah.<sup>451</sup> Members of Mohammed's Army and a possibly related organization, the Armed Vanguard of Mohammed's 2<sup>nd</sup> Army, have taken responsibility for videotaped attacks that aired on Arabic television networks. The latter group also claims responsibility for the bombing of the UN Headquarters on 19 August 2003.<sup>452</sup> Jaish Mohammed warned Iraqis against aiding the MNF, saying that such persons would be attacked with the same fury that is directed against the US military.<sup>453</sup> Jaish Mohammed is said to have participated in talks with US officials in June 2005.<sup>454</sup>

#### Jama'at Jund Al-Sahaba (Army Squad of the Companions of the Prophet Muhammad)

Jama'at Jund Al-Sahaba has only recently emerged as insurgency group. In its first communiqué issued on 14 March 2005, it explained that its mission is 'to defend and protect our religion and stop the rising storm coming from the Shiites and invading the land of the Muslims'. The group's leader is Sheikh Abu Abbas Al-Omari,<sup>455</sup> and it has claimed responsibility for a number of attacks against Iraq's Shiite Muslims, including the 10 March 2005 suicide bombing that killed 51 Shiite mourners in Mosul and injured 77,<sup>456</sup> the 6 May 2005 suicide car bombing that killed at least 31 people in Suwayra<sup>457</sup> and the 19 May 2005 car bombing that killed at least two and injured five near a Shiite Muslim mosque in Baghdad.<sup>458</sup> In an unauthenticated statement

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<sup>447</sup> The Telegraph, *Saddam may escape noose in deal to halt insurgency*, 11 April 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/04/11/wirql1.xml&sSheet=/news/2005/04/11/ixnewstop.html>.

<sup>448</sup> CNN, *War-wracked Fallujans seek aid*, 15 November 2004, <http://www.cnn.com/2004/WORLD/meast/11/15/iraq.main/>.

<sup>449</sup> The Associated Press/Reuters, *Iraq Fighting Spreads Beyond Fallujah*, 15 November 2004, <http://www.ifapray.org/NFOW/NFOW2004/July%20-%20December%202004/Iraq%20Fighting%20Spreads%20Beyond%20Fallujah%20-%20November%2015,%202004.html>.

<sup>450</sup> IWPR, Iraqi Crisis Report No. 63, *Islamists Pledge Continued War on Coalition*, 14 May 2004, [http://www.iwpr.net/index.pl?archive/irq/irq\\_63\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_63_1_eng.txt).

<sup>451</sup> BBC, *Baghdad police deputy shot dead*, 10 January 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4160479.stm](http://news.bbc.co.uk/2/hi/middle_east/4160479.stm).

<sup>452</sup> The New York Times, *Pentagon Sees Terrorism in Iraq as Greatest Challenge*, 21 August 2003, <http://www.nytimes.com/2003/08/21/international/worldspecial/21CND-MILI.html?ex=1115784000&en=3520b62ae047adbd&ei=5070>.

<sup>453</sup> The Associated Press, *Iraqis and US forces targeted in stepped-up rebel campaign*, 7 December 2004, <http://www.smh.com.au/news/After-Saddam/Iraqis-and-US-forces-targeted-in-rebel-campaign/2004/12/06/1102182230561.html>.

<sup>454</sup> The Sunday Times, *US 'in talks with Iraq with Iraq rebels'*, 26 June 2005, <http://www.timesonline.co.uk/article/0,,2089-1669601,00.html>.

<sup>455</sup> SITE Institute, *First Communiqué from Jama'at Jund Al-Sahaba, a Newly Formed Insurgency Group in Iraq, Claiming Responsibility for Mosul Attack*, 14 March 2005, <http://www.siteinstitute.org/bin/articles.cgi?ID=publications25905&Category=publications&Subcategory=0>.

<sup>456</sup> UNAMI Iraqi Media Monitoring, *Unknown group claims Mosul funeral bombing*, 14 March 2005, <http://www.globalsecurity.org/wmd/library/news/iraq/2005/03/imm-050314-unami.htm>.

<sup>457</sup> Reuters, *Sunni group says behind Iraq attack in Suwayra*, 7 May 2005.

<sup>458</sup> Ibid., *Iraq group says behind Shi'ite mosque blast*, 20 May 2005.

this group also claimed responsibility for an assassination attempt against Shiite Jawad Kadhem, the senior correspondent for Al-Arabiya television, for the channel's alleged bias against Sunnis in Iraq. It warned that 'Kadhem's fate will be the fate of every media group that aligns itself with the infidels against Sunnis' (19 June 2005).<sup>459</sup> On 23 June 2005, the group claimed responsibility for an attack on what it calls the 'Shiite police' in Baghdad. The group's communiqué on that event says that the attack came in response to the Shiites intention to 'crush the Sunni people in Iraq'.<sup>460</sup>

#### Munazzamat Al-Alam Al-Aswad (Black Banner Organization of the Islamic Army)

This radical Sunni organization is believed to be composed of mainly non-Iraqi fighters and is led by Iraqi Omar Al-Hadid. Said to have links to Al-Qaeda, this organisation was one of a number of different groups that had control over Fallujah until the US military operation there in October 2004. They are said to have imposed strict Islamic law in Fallujah, including a ban on everything from tobacco to popular music cassettes.<sup>461</sup> The organization has also claimed responsibility for a number of kidnappings, including three Indians, two Kenyans and an Egyptian truck driver working for a Kuwaiti company. The group called for the company to withdraw from Iraq, but the hostages were later released.<sup>462</sup> Together with two other militant groups, the Mujahedeen Army and the Mutassim Bellah Brigade, it also claimed responsibility for the kidnapping of 10 Iraqis working for a US security and reconstruction company in Iraq.<sup>463</sup>

#### Jaish Al-Islami fil Iraq (Islamic Army in Iraq)

This group has been actively organizing and carrying out attacks on foreign military and civilian targets. It has initiated a brutally violent campaign against foreigners in Iraq, specifically anyone believed to be cooperating with the US-led Coalition. It was responsible for the killing of a number of foreign hostages, such as its execution of Italian journalist Enzo Baldoni after Italy did not respond to the demand that they withdraw their 3,000 soldiers from Iraq.<sup>464</sup> It also claimed responsibility for the abduction of French journalists Christian Chesnot and Georges Malbrunot on 20 August 2004. The two journalists were released unharmed four months later when the group stated that 'it has been proved that they are not spying on behalf of the Americans'; their Syrian driver Mohammed Al-Joundi had been released one month earlier.<sup>465</sup> The Islamic Army in Iraq does not limit its attacks to non-Iraqis however; the group has frequently targeted Iraqis who join Iraq's police and military services<sup>466</sup> or who are involved in the political process. Ahead of the elections of 30 January 2005, this group, Ansar Al-Sunna and the Army of the Mujahedeen, threatened to strike at anyone taking part in the elections which

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<sup>459</sup> Ibid., *Iraq group says tried to kill Iraqi journalist-Web*, 20 June 2005,

<http://www.swissinfo.org/sen/swissinfo.html?siteSect=105&sid=5883427>.

<sup>460</sup> SITE Institute, *Jama'at Jund al-Sahaba Claims Responsibility for Car Bombing in Baghdad Targeting Iraqi Police*, 24 June 2005,

<http://siteinstitute.org/bin/articles.cgi?ID=publications60605&Category=publications&Subcategory=0>.

<sup>461</sup> IWPR, *Iraqi Crisis Report No. 83, Patchwork of Insurgent Groups Runs Fallujah*, 17 September 2004,

[http://www.iwpr.net/index.pl?archive/irq/irq\\_83\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_83_1_eng.txt).

<sup>462</sup> United Press International, *Analysis: Iraq's 'changing' war*, 23 July 2004,

<http://www.upi.com/view.cfm?StoryID=20040722-084908-1295r>.

<sup>463</sup> The Associated Press, *10 Iraqis working for US company kidnapped*, 19 December 2004,

<http://www.tribuneindia.com/2004/20041220/world.htm#5>.

<sup>464</sup> Aljazeera, *Group kills Italian journalist in Iraq*, 28 August 2004,

<http://english.aljazeera.net/NR/exeres/BEED6CD4-AE97-400F-8B34-40A225A88B81.htm>.

<sup>465</sup> Guardian Unlimited, *Iraqi captors free French journalists*, 22 December 2004,

<http://www.guardian.co.uk/Iraq/Story/0,2763,1378386,00.html>.

<sup>466</sup> See for example, SITE Institute, *Islamic Army in Iraq Claims Responsibility for a Car Bombing in Baghdad Targeting Soldiers of the Iraqi National Guard*, 16 June 2005,

<http://siteinstitute.org/bin/articles.cgi?ID=publications57605&Category=publications&Subcategory=0>.

they consider 'un-Islamic'.<sup>467</sup> It has also claimed responsibility for an assassination attempt against Iraqi politician and Head of the INC, Ahmed Chalabi, on 1 September 2004.<sup>468</sup>

In early 2005, the Islamic Army in Iraq threatened to carry out attacks inside the US, according to a statement posted on a website on 3 January 2005.<sup>469</sup> More recently, the Islamic Army in Iraq together with the Mujahedeen Army claimed responsibility for shooting down a Bulgarian army helicopter on 21 April 2005, killing all 11 people onboard. In a video purportedly showing the aftermath of the attack, the lone survivor was executed.<sup>470</sup> After reports of possible negotiations between Iraqi/US officials and several insurgent groups including the Islamic Army, the group issued a joint statement with the Army of the Mujahedeen denying their participation in any such talks.<sup>471</sup>

#### Jaish Al-Mujahedeen (Army of the Mujahedeen)

Little is known about this group. It appears to work closely with Ansar Al-Sunna and the Islamic Army as they have jointly claimed a number of attacks<sup>472</sup> and issued statements warning Sunnis against participating in the political process.<sup>473</sup> The Army of the Mujahedeen has also issued a statement denying any contacts with Iraqi/US officials.<sup>474</sup>

#### Imam Al-Hassan Al-Basri Brigades

This group has claimed responsibility for several attacks in Basrah in recent months, targeting mainly Iraqi police patrols and British intelligence.<sup>475</sup> It has also claimed responsibility for the killing of Abdul Hussein Khazal, a journalist from the US-funded Al-Hurrah TV channel in Basrah.<sup>476</sup> In a message posted on an Islamist website, the group said it had 'liquidated the apostate agent Abdul Hussein Khazal' and accused him 'of being a member of the Badr Brigade' and an 'Iranian agent'.<sup>477</sup>

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<sup>467</sup> Agence France-Presse, *Radical Iraqi groups threaten strike against 'un-Islamic' election*, 31 December 2004, <http://www.abc.net.au/news/newsitems/200412/s1274882.htm>.

<sup>468</sup> Agence France-Presse, *Islamic Army in Iraq claims Chalabi slay try*, 5 September 2004, <http://www.manilatimes.net/national/2004/sept/05/yehey/world/20040905wor2.html>.

<sup>469</sup> Northeast Intelligence Network, *Islamic Army in Iraq threatens attacks inside US*, 3 January 2005, <http://www.homelandsecurityus.com/article.asp?id=48>.

<sup>470</sup> BBC, *Iraq militants show 'crash video'*, 22 April 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4472199.stm](http://news.bbc.co.uk/2/hi/middle_east/4472199.stm).

<sup>471</sup> SITE Institute, *Islamic Army in Iraq Denies Alleged Negotiations with American Officials*, 27 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications61405&Category=publications&Subcategory=0>; *ibid.*,

*Islamic Army in Iraq and the Mujahideen Army Issues Combined Statement Denying Claim by Dr. Aiham Alsammarae That the Groups are Willing to Negotiate with the American and Iraqi Governments*, 8 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications54305&Category=publications&Subcategory=0>.

<sup>472</sup> See for example, SITE Institute, *Ansar al-Sunnah, the Islamic Army in Iraq and the Mujahideen Army Issues a Combined Statement Claiming Responsibility for an Attack on the American Base at Baghdad National Airport*, 22 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications60205&Category=publications&Subcategory=0>.

<sup>473</sup> Agence France-Presse, *Radical Iraqi groups threaten strike against 'un-Islamic' election*, 31 December 2004, <http://www.abc.net.au/news/newsitems/200412/s1274882.htm>.

<sup>474</sup> SITE Institute, *The Mujahideen Army Deny "War Criminal Rumsfeld's Pretensions" of Negotiating with American Military Officials*, 27 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications61505&Category=publications&Subcategory=0>; *ibid.*, *Islamic Army in Iraq and the Mujahideen Army Issues Combined Statement Denying Claim by Dr. Aiham Alsammarae That the Groups are Willing to Negotiate with the American and Iraqi Governments*, 8 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications54305&Category=publications&Subcategory=0>.

<sup>475</sup> *Ibid.*, *Hassan al-Basri Brigades Issue Propaganda Video of their Insurgency*, 9 June 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications54805&Category=publications&Subcategory=0>.

<sup>476</sup> BBC, *TV reporter gunned down in Iraq*, 9 February 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4249007.stm](http://news.bbc.co.uk/2/hi/middle_east/4249007.stm).

<sup>477</sup> Reporters Without Borders, *Unknown group claims killing of Al-Hurra correspondent*, 9 February 2005, [http://www.rsf.org/article.php3?id\\_article=12522](http://www.rsf.org/article.php3?id_article=12522).



### Shura Council of Mujahedeen

This group appeared as an umbrella organisation of Iraqi resistance fighters in Fallujah prior to the US military's assault on the city in November 2004.<sup>478</sup> The US-led Coalition has posted a reward of US \$50,000 for information leading to the capture of Sheik Abdullah Al-Janabi, the Iraqi Sunni cleric who heads the Shura Council of Mujahedeen.

In March 2005, the group claimed to have built a surface-to-surface rocket with a range of 40 km.<sup>479</sup> The group also warned Iraqis against participating in the 30 January 2005 elections.<sup>480</sup> In a video that was released to the international media on 1 May 2005, the group has claimed responsibility for the abduction of Douglas Wood, an 63-year-old Australian citizen and US resident who was working on reconstruction projects with the US military in Iraq. The captors called on Australia to withdraw its troops from Iraq; however the Australian Government made it clear that it would not accede to the demand. Douglas Wood was rescued in a military raid after being held for six weeks.<sup>481</sup>

### Jaish Al-Tifa Al-Mansoura (Victorious Army Group)

This previously unknown group appeared in May 2004 when it claimed responsibility for the kidnapping of two Russian electrical workers and called for the withdrawal of foreign citizens from Iraq.<sup>482</sup> The group issued a number of communiqués in July 2005 claiming responsibility for the killing of Saleh Mahdy Al-Ameri, a leader in the Badr Organization, and various attacks on US military convoys.<sup>483</sup>

### Qatta'ab Al-Imam Al-Hussein (Imam Al-Hussein Brigades)

This group claimed responsibility for a number of attacks in Baghdad and in the South directed against the 'occupation forces' and those persons, including Iraqi civilians, suspected of supporting them.<sup>484</sup> Furthermore, it claims the assassination of a Ministry of Commerce official and member of the Badr Brigades.<sup>485</sup> It also said that it was responsible for an assassination attempt on Deputy Prime Minister Ahmed Chalabi on 31 July 2005 when his convoy was attacked near Latifiyah.<sup>486</sup> Given the group's name, which refers to one of the most venerated

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<sup>478</sup> See also the section on 'Western Iraq (Governorate of Al-Anbar)'.

<sup>479</sup> SITE Institute, *The Shura Council of Fallujah Mujahideen: A New Rocket Made by the Mujahideen*, 30 March 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications31205&Category=publications&Subcategory=0>.

<sup>480</sup> Agence France-Presse, *The price of voting in Mosul*, 14 January 2005, <http://www.thestandard.com.hk/stdn/std/Focus/GA14Dh02.html>.

<sup>481</sup> BBC, *Freed hostage 'in good spirits'*, 16 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4098310.stm](http://news.bbc.co.uk/2/hi/middle_east/4098310.stm).

<sup>482</sup> CNN, *Two Russian hostages in Iraq freed*, 17 May 2004, <http://us.cnn.com/2004/WORLD/meast/05/17/russian.hostages.freed/>.

<sup>483</sup> SITE Institute, *Victorious Army Group Claims Responsibility for Bombing Attacks Directed Against American Vehicles in Baghdad, and Provides Video of Each Operation*, 28 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications74805&Category=publications&Subcategory=0>; *ibid.*, *The Victorious Army Group Claims Responsibility for the Assassination of Saleh Mahdy al-Ameri, a Leader in Badr Organization, and Attacks on American Forces in Baghdad and al-Taramya, and Issues a Statement that a New Site Documenting Their Foundation is Forthcoming*, 25 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications73205&Category=publications&Subcategory=0>.

<sup>484</sup> See for example, *The Observer*, *Two Britons die in Iraq as bomb blasts convoy*, 31 July 2005, <http://observer.guardian.co.uk/international/story/0,6903,1539666,00.html>; SITE Institute, *Imam al-Hussain Brigades Claims Responsibility for the Killing of Three British Soldiers in Iraq*, 16 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications69205&Category=publications&Subcategory=0>; *ibid.*, *Imam al-Hussein Brigades Claims Responsibility for an Attack in Baghdad*, 6 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications64905&Category=publications&Subcategory=0>.

<sup>485</sup> SITE Institute, *The Imam al-Hussein Brigades Claims Responsibility for an Assassination of a Badr Brigade Officer in Baghdad*, 28 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications74405&Category=publications&Subcategory=0>.

<sup>486</sup> Aljazeera, *Guard killed in Chalabi convoy attack*, 31 July 2005, <http://english.aljazeera.net/NR/exeres/EB522849-8D7C-4EEB-BE17-C7DF2AFD3CA4.htm>.

Shiite imams, it is assumed that this insurgency group (unlike most others) is Shiite.<sup>487</sup>

#### Ahel Al-Sunnah Al-Munasera (Supporters of the Sunni People in Iraq)

This group only recently announced its establishment, stating that it is fighting ‘to defend our people in middle and south Iraq’ against what it calls Shiite aggression and ‘systematic genocide’ of the Sunnis in Iraq. It has claimed responsibility for the abduction and killing of Ali Shakir Eidan, the President of the Iraqi Karate Union, an attack on members of the Badr Brigade on the Baghdad - Basrah highway and a suicide operation targeting a Shiite shrine in southern Baghdad.<sup>488</sup>

### **3. Mines / Unexploded ordnance**

After decades of war and internal conflicts, Iraq is one of the most mine/UXO-affected countries in the world.<sup>489</sup> Most affected are border areas, in particular the Iran-Iraq border. Approximately one out of every five Iraqis lives within one kilometre of areas highly contaminated by the explosive remnants of war.<sup>490</sup> Children are exposed to a particular risk and are injured or killed on a daily basis, such as when working in the street or living in abandoned buildings.

The Landmine Impact Survey (LIS), which was undertaken by the Iraqi Ministry of Planning and Development Cooperation (MoPDC)/National Mine Action Authority through the Vietnam Veterans of America Foundation, found that by 20 June 2005, 26 percent of the communities in the three Northern and 11 percent of the communities in the four Southern Governorates were contaminated (a total of 1,464 communities). Despite the higher prevalence of contaminated areas in the three Northern Governorates, the survey found many more victims in the South. The LIS established that all in all, an estimated 2400 km<sup>2</sup> is suspected mine or UXO contaminated, mostly in the South near the Iranian border. There are some 1,777 km<sup>2</sup> of contaminated area in the Governorate of Basrah alone, as it was one of the main battlegrounds during the eight-year long Iraq-Iran War.<sup>491</sup>

Mine clearance and explosive ordnance disposal is carried out by numerous actors, including local authorities, MNF, commercial companies and several NGOs. Ongoing insecurity in Iraq has seriously hampered these activities and has resulted in the withdrawal of several international NGOs as well as UN mine action staff. To date, the UN has cleared almost 12 km<sup>2</sup> by removing more than 900,000 mines or other explosive ordnance items. Full clearance will require many years, provided that sufficient resources are made available.<sup>492</sup>

Mines and UXO represent major obstacles to reconstruction and development in certain areas.<sup>493</sup> They prevent people from having access to fields for grazing, land for cultivation and water for irrigation. The LIS found that in 60 percent of the accidents, the victims had been herding or

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<sup>487</sup> Agence France-Presse, *Two Britons among dead in Iraq as constitution deadline looms*, 31 July 2005, <http://aawsat.com/english/news.asp?section=1&id=1034>.

<sup>488</sup> SITE Institute, *The Supporters of the Sunni People in Iraq Claims Responsibility for the Capture and Murder of Ali Shakir Eidan, President of the Iraqi Karate Union, Attacks on American and Iraqi Forces on al-Basrah Road, and a Suicidal Operation in Baghdad*, 18 July 2005, <http://siteinstitute.org/bin/articles.cgi?ID=publications69505&Category=publications&Subcategory=0>.

<sup>489</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 44, [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>490</sup> UN News Service, *UN helps Iraq clear 500 kilometres of land of deadly unexploded mines*, 20 June 2005, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/HMYT-6DJK36?OpenDocument&rc=3&cc=irq>.

<sup>491</sup> Information obtained from UNDP, June 2005.

<sup>492</sup> Ibid.

<sup>493</sup> UN Security Council, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, 7 June 2005, p. 11, <http://www.reliefweb.int/library/documents/2005/unsc-irq-07jun.pdf>.



farming.<sup>494</sup> While local communities are often aware of the approximate whereabouts of mined areas in their environment, IDPs and returnees are at particular risk as they are often not familiar with the areas they are in. In addition, they are exposed to such risks when returning to Iraq through mined border areas or upon return when they live in vacated public buildings (such as former military sites) due to a lack of housing. Many cannot return because their villages of origin have been destroyed and mined: many villages in the North were depopulated during the *Anfal* campaign and villages along the border with Iran were heavily mined during the Iraq-Iran War. UNHCR is aware of 28 Iranian refugees (including 14 children) from the Al-Tash Camp that have sustained injuries caused by UXO during the past months.

According to the Mine Advisory Group, there were an average of 20 mine/UXO-related casualties per month in Northern Iraq in early 2004.<sup>495</sup> The Landmine Monitor Report 2004 accounts for at least 2,189 new mine/UXO casualties in Iraq in 2003.<sup>496</sup> Data collected in the four Southern Governorates found that mines and UXO caused 324 casualties over a six-week period from 16 June to 1 August 2003. The figures obtained for the Southern Governorates are extremely high when compared with other countries such as Afghanistan where on average 150 victims are recorded per month. In the three Northern Governorates, 70 casualties were reported over the period of 18 June to 29 July 2003. Adult males and boys are most at risk, with 75 percent of children's injuries attributed to playing or tampering with explosive ordnance.<sup>497</sup> The NGO Norwegian People's Aid (NPA) estimates that between 1991 and 2002, 3,500 Iraqi civilians were killed and 6,000 were injured in the three Northern Governorates alone.<sup>498</sup> The UN/World Bank estimated that under the strategy and funding scenario outlined in the Joint Iraq Needs Assessment of October 2003, 'freeing northern Iraq from the impact of landmines and UXO will take eighteen years'.<sup>499</sup>

In addition to the general dire state of the health system,<sup>500</sup> rehabilitation and reintegration of persons with disabilities, including mine victims, is hampered by the following factors: shortage of raw materials for prosthetic and orthotic manufacturing workshops,<sup>501</sup> a lack of rehabilitation equipment and aids such as wheelchairs and crutches, a lack of transport to existing facilities, a lack of psychosocial support programmes, insufficient knowledge, training and skill among rehabilitation specialists and a lack of vocational training programmes and income generation opportunities.<sup>502</sup>

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<sup>494</sup> Information obtained from UNDP, June 2005.

<sup>495</sup> Mines Advisory Group, *IRAQ: MAG clears more than one million mines and bombs since the war and says the work must continue*, March 2004, [http://www.mag.org.uk/magtest/n\\_iraq/march04.htm](http://www.mag.org.uk/magtest/n_iraq/march04.htm).

<sup>496</sup> International Campaign to Ban Landmines, *Landmine Monitor Report 2004: Iraq*, November 2004, <http://www.icbl.org/lm/2004/iraq>.

<sup>497</sup> UN/World Bank, *Joint Iraq Needs Assessment/Mine Action*, October 2003, pp. 4-6, [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/IQ-MINE+ACTION/\\$File/MINE+ACTION+final+sector+report+16+October.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/IQ-MINE+ACTION/$File/MINE+ACTION+final+sector+report+16+October.pdf).

<sup>498</sup> Norwegian People's Aid, *Buried mines and ordnance continue to maim Iraqi civilians*, 28 July 2004, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVIU-654G3F?OpenDocument>.

<sup>499</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 45, [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>500</sup> See also the section on 'Health services'.

<sup>501</sup> For an overview of prosthetic/orthotic centres, please refer to the Landmine Monitor Report 2004 under <http://www.icbl.org/lm/2004/iraq>.

<sup>502</sup> World Rehabilitation Fund, *Situation Analysis of Different Social Welfare Issues in Iraq*, 13 October 2003, pp. 27-29, <http://www.worldrehabfund.org/publications/WRF-IRAQ%20Report-October%202003-Website.pdf>.

## 4. Security situation in the different areas

### a) Northern Iraq

#### The three Northern Governorates of Dohuk, Erbil and Sulaymaniyah

Unlike the rest of Iraq, the security situation in the three Governorates administered by the KRG has not changed significantly as a result of the fall of the former regime. Although overall security conditions appear to be somewhat more stable in comparison with the rest of the country, the situation remains tense and unpredictable due to a number of factors:

- There is a high level of fear that the conflict prevailing in the other parts of the country, in particular in the Governorates of Kirkuk and Mosul, may spill over to the three Northern Governorates. Accordingly, the security measures applied within the three Northern Governorates are very strict (numerous checkpoints within the region, high presence of security forces, limited freedom of movement). On 27 June 2005, Nechirvan Barzani, Prime Minister of the KRG in Erbil, said that Kurdish security forces had ‘arrested a large number of terrorists’, adding that the proximity of Erbil to Kirkuk and Mosul had facilitated their entry to the area.<sup>503</sup> Nevertheless, security incidents such as assassinations and assassination attempts against high-profile persons (especially politicians) as well as suicide attacks by extremist groups such as Ansar Al-Sunna do take place, even if at a lower scale than in other parts of the country. The suicide attack on a KDP office in Erbil killing more than 60 people<sup>504</sup> and on a police recruitment centre in Erbil killing at least 11 people<sup>505</sup> are reminders of the fragility of the security situation in the three Northern Governorates.
- Despite numerous announcements by the two main political factions that they intend to unite, it appears that to date both the PUK and the KDP continue to exist separately and exercise individual (rather than joint) influence and control over the political and socio-economic aspects of life in areas under their respective control. It remains to be seen whether the recent election of the Kurdistan National Assembly as well as the installation of Jalal Talabani, the chairman of the PUK, as Iraq’s President may have a positive influence on the evolution of a closer cooperation between the two parties in future. The clashes between KDP and PUK members after the nomination of Talabani<sup>506</sup> still show the lack of unity.
- The division of powers and oil revenues between the Central Government and the Kurdish authorities and questions about the future status of the three Northern Governorates (whether they will be part of a federal state, what their geographical boundaries will be, how calls for an autonomous area will be dealt with) are still unclear and may be a factor fuelling future tensions.<sup>507</sup>

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<sup>503</sup> Kurdistan Observer, *Nechirvan Barzani Says Security Forces Arrest Terrorists in Arbil*, 27 June 2005, <http://home.cogeco.ca/~kobserver/27-6-05-nechirvan-says-arrest-terrorists.htm>.

<sup>504</sup> Reuters, *Iraq's Ansar al-Sunna claims Arbil bombing*, 4 May 2005, <http://www.abc.net.au/news/newsitems/200505/s1360115.htm>.

<sup>505</sup> BBC, *Attack on Irbil police kills many*, 20 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4109908.stm](http://news.bbc.co.uk/2/hi/middle_east/4109908.stm).

<sup>506</sup> Kurd Media, *KDP and PUK supporters clash following Talabani's election*, 16 April 2005 <http://www.kurdmedia.com/news.asp?id=6624>.

<sup>507</sup> In an unofficial, unmonitored referendum accompanying the 30 January elections, more than 1.9 million or 95 percent of Kurdish voters are reported to have favoured independence. The referendum was conducted in the three Northern Governorates but also other Kurdish areas such as Kirkuk, Khanaqeen and Mosul. A petition carrying the signatures of over 1.7 million Kurds, almost half the Kurdish population in Northern Iraq, asking for an UN-sponsored referendum on independence was delivered to the UN by the Kurdistan Referendum Movement on 22 December 2004. The UN has, however, adopted several resolutions calling for the preservation of Iraq’s territorial integrity; see Reuters, *Kurds overwhelmingly ‘vote’ for independence*, 2 February 2005, <http://msnbc.msn.com/id/6901834/>.

- Kurdish ambitions to expand the Kurdish areas of control, in particular in the Governorates of Kirkuk and Mosul, have met resistance from Sunni Arabs, Turkmen and the Turkish authorities. The latter have, at least rhetorically, emphasized that they will not accept Kurdish dominance in Kirkuk or the inclusion of Kirkuk into the Kurdish-controlled area/state.<sup>508</sup> The final status of Kirkuk, and in particular the question of what will happen to settled Arabs in the area, is highly sensitive and bears the potential to cause further unrest.
- The reported presence of some 5,000 PKK fighters in Northern Iraq is another cause for tensions between the Kurdish authorities and the Turkish Government. According to the latter, PKK fighters are using Northern Iraq as a staging ground from which to launch attacks against the Turkish Army.<sup>509</sup>

Accordingly, the situation in the three Northern Governorates remains tense and a large number of security measures have been introduced. Permanent check points exist between the Centre of Iraq and the three Northern Governorates, as well as on the main entry/exit points linking Erbil, Dohuk and Sulaymaniyah. These checkpoints limit freedom of movement to and within the Northern region.

### The Governorates of Mosul (Ninewa) and Kirkuk (Tameem)

Historically an ethnically mixed city populated predominantly by Kurds and Turkmen, Kirkuk is a symbol for both Kurdish and Turkoman identity. Kirkuk is also at the centre of Iraq's petroleum industry, said to account for half of Iraq's total oil output.<sup>510</sup> Control of the oil-rich city of Kirkuk is a dispute in which various actors are involved, including the Kurdish parties, the Central Authorities and the Arab and Turkoman population. The debate is highly charged, both economically as well as ethnically, as both the Kurds and the Turkmen feel that they have been historically wronged regarding their claims to Kirkuk. Kirkuk was at the centre of successive Iraqi governments' 'Arabization' policies, aimed at gaining control over the economically, strategically and politically important city. *Arabization* was the displacement of hundreds of thousands of Kurds, Turkmen and Assyrians to the North<sup>511</sup> and the relocation of Arabs originating from Central and Southern Iraq to take their place. The confiscation of property, forced ethnic 'identity correction' and deliberate changes of the Governorate's geographic boundaries followed.

After the fall of the former regime, Kurdish parties seized control of key positions within Kirkuk's security forces and enabled the return of thousands of displaced Kurds and Turkmen to Kirkuk, thereby causing the displacement of Arabs, who fled out of fear or because of harassment and threats. Kirkuk today hosts more than 21,800 IDPs families (some 120,000 persons). A quarter of the IDPs are reported to be living in tent camps, a quarter in public buildings, a quarter in collective settlements and the remaining quarter mixed with the host

<sup>508</sup> Radio Free Europe/Radio Liberty, *Turkey: Ankara increasingly preoccupied by developments in Northern Iraq*, 9 February, 2005, <http://www.rferl.org/featuresarticle/2005/02/3d2dc0ed-7c9f-4e46-be7a-0a9bf9c0b21d.html>; Al-Ahram, *Turkey rattles the sabre over Kirkuk*, Issue No. 728, 3-9 February 2005, <http://weekly.ahram.org.eg/2005/728/re92.htm>.

<sup>509</sup> BBC, *Turkey urges US to strike rebels*, 28 July 2005, <http://news.bbc.co.uk/1/hi/world/europe/4725515.stm>; CNN, *U.S. 'wants Kurdish rebels seized'*, 19 July 2005, <http://www.cnn.com/2005/WORLD/meast/07/19/iraq.turkey/>; Kurdish Media, *Turkish army criticizes US over Kurdish rebels, warns over Kirkuk*, 20 April 2005, <http://www.kurdmedia.com/news.asp?id=6663>; Xinhuanet, *Turkey deploys troops in Northern Iraq*, 3 March 2005, [http://news.xinhuanet.com/english/2005-03/04/content\\_2647134.htm](http://news.xinhuanet.com/english/2005-03/04/content_2647134.htm).

<sup>510</sup> BBC, *Kirkuk: Iraq's incendiary city*, 16 March 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/2871775.stm](http://news.bbc.co.uk/2/hi/middle_east/2871775.stm).

<sup>511</sup> According to Human Rights Watch, as many as 250,000 Kurds and other non-Arabs were forcibly expelled from their homes, including an estimated 120,000 during the 1990s; see Human Rights Watch, *Iraq: In Kurdistan, Land Disputes Fuel Unrest*, 3 August 2004, <http://hrw.org/english/docs/2004/08/03/iraq9174.htm>.

communities.<sup>512</sup> The Kurdish Peshmerga has emerged as a main ally of the MNF in the fight against the mainly Sunni Arab insurgents in the region, and in the 30 January 2005 elections the Kurdish alliance won a majority in Kirkuk's Provincial Council. Fears are high among the Turkmen and Arab populations that the Kurdish parties' ultimate aim is for Kirkuk to be attached to their area of control within a federal Iraqi state. As Turkey claims to protect the Turkmen minority in Kirkuk and fears that Kurdish control over the city's oil wealth would give an economic foundation to an independent Kurdish state, the fight over Kirkuk has a dimension going beyond Iraq's borders.<sup>513</sup>

Article 58 TAL outlines a process for reversing the consequences of the former regime's policies, including the return of the displaced, the recovery of their homes and properties, the resettlement and compensation of those that were newly introduced to the disputed areas and remedying the change of administrative boundaries done for political reasons. Only once these steps have been undertaken and a census has been held will the final status of the disputed territories, including Kirkuk, be determined, 'taking into account the will of the people of those territories'.<sup>514</sup> The Kurdish parties interpret this to mean that a provincial referendum will be held to decide the status of Kirkuk while Turkmen and Arabs accuse the Kurds of pushing Kurds to settle in Kirkuk to secure a majority in any popular referendum.<sup>515</sup>

The US Government holds the position that how to undo the former regime's unjust policies in and around Kirkuk is an internal issue to be decided by Iraqis, and supports the implementation of Article 58 TAL.<sup>516</sup> The highly contentious issue regarding Arab families settled by the former regime in Northern Iraq under its *Arabization* policy, particularly in Kirkuk where the majority of such families remained following the 2003 war, has not yet been resolved. Article 58(2) TAL provides that in accordance with Article 10 of the IPCC *Statute* 'newly introduced' persons may either be resettled, receive compensation, new land in their place of origin or compensation for the cost of moving to these areas. While it appears that many 'secondary displaced' Arabs do not wish to return to the areas of origin, in particular those originating from the South,<sup>517</sup> there are strong calls from the Kurdish side not to allow them to remain in the formerly 'Arabized' areas, particularly in view of a popular referendum, as this would endorse the injustice of *Arabization*.<sup>518</sup> This issue, which continues to be a source of tension, must be part of a national

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<sup>512</sup> IOM, IDP Monitoring, *Internally Displaced Persons Overview*, April 2005.

<sup>513</sup> Henri J. Barkey, United States Institute of Peace, *Turkey and Iraq - The Perils (and Prospects) of Proximity*, Special Report 141, July 2005, <http://www.usip.org/pubs/specialreports/sr141.pdf>; Knight Ridder Newspapers, *Ethnic tensions in Kirkuk dangerously high, raising fears of civil war*, 6 April 2005, <http://www.realcities.com/mld/krwashington/11327248.htm>; Nimrod Raphaeli, Middle East Media Research Institute, *Kirkuk: Between Kurdish Separatism and Iraqi Federalism*, 31 March 2005, <http://www.globalpolicy.org/security/issues/iraq/election/2005/0331kirkuk.htm>; International Crisis Group, *Iraq: Allaying Turkey's Fears over Kurdish Ambitions*, Middle East Report No. 35, 26 January 2005, [http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/35\\_iraq\\_allaying\\_turkey\\_s\\_fears\\_over\\_kurdish\\_ambitions.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/35_iraq_allaying_turkey_s_fears_over_kurdish_ambitions.pdf).

<sup>514</sup> Article 58(C) TAL.

<sup>515</sup> Knight Ridder Newspapers, *Ethnic tensions in Kirkuk dangerously high, raising fears of civil war*, 6 April 2005, <http://www.realcities.com/mld/krwashington/11327248.htm>.

<sup>516</sup> US Department of State, Press Statement, *U.S. Policy on the Status of Kirkuk*, 13 January 2005, <http://www.state.gov/r/pa/prs/ps/2005/40916.htm>.

<sup>517</sup> UN Cluster F/UNCT, Draft *UN Strategic Plan on Assistance and Durable Solutions for IDPs in Iraq*, p. 9, June 2005.

<sup>518</sup> The New Yorker, *The Next Iraqi War*, 4 October 2004, [http://www.newyorker.com/fact/content/articles/041004fa\\_fact](http://www.newyorker.com/fact/content/articles/041004fa_fact); International Crisis Group, *Iraq: Allaying Turkey's Fears over Kurdish Ambitions*, 26 January 2005, [http://www.icg.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/35\\_iraq\\_allaying\\_turkey\\_s\\_fears\\_over\\_kurdish\\_ambitions.pdf](http://www.icg.org/library/documents/middle_east_north_africa/iraq_iran_gulf/35_iraq_allaying_turkey_s_fears_over_kurdish_ambitions.pdf); Agence France-Presse, *Kurds must be able to return to Kirkuk now: Iraq president*, 2 July 2005, <http://www.kurdmedia.com/news.asp?id=7182>.



policy on displacement and durable solutions that the relevant Iraqi authorities, including the MoDM, must address.

Today, security in Kirkuk is threatened by the various ethnic groups' aiming to gain control over the city and insurgent groups trying to deepen sectarian rivalries planted by the former regime's *Arabization* policy. So far, sectarian violence has been limited, although in recent time an increase in the killings of leading figures in each of the three ethnic communities has been reported, fuelling anew the fears that ethnic tensions could turn into widespread violence and possibly civil war.<sup>519</sup> Once the status of Kirkuk and other disputed areas is addressed by the competent Iraqi authorities, further sectarian tensions can be expected. According to Jane's Intelligence Review, such a trend had already been observed during the negotiations for the TAL, which eventually deferred a number of sensitive questions to future resolution by a freely elected government.<sup>520</sup> The fact that the ITG has decided not to debate the status of Kirkuk in the ongoing drafting process for the Permanent Constitution<sup>521</sup> is a strong indication of the many sensitivities linked to the issue. In his inaugural speech on 14 June 2005, The KRG's new President Massoud Barzani was clear about Kurdish claims on Kirkuk, saying that Kirkuk and 'other separated areas must all be reincorporated into the Kurdistan region, because they are Kurdistan territories and cannot be separated'.<sup>522</sup> On the other hand, Ammar Al-Hakim, a spokesperson for SCIRI, said in an interview with the AFP 'we do not accept the annexing of Kirkuk to (the autonomous Kurdish region) because Kirkuk is a micro-Iraq and it belongs to all Iraqis'. He also stated that SCIRI was against the eviction of Arab settlers in Kirkuk by returning Kurds, saying that 'every Iraqi has the right to live in the city of his choice'.<sup>523</sup> Col. Anthony Wickham, the US Army's liaison to the Kirkuk Council, confirms the threat of civil war and its possible destabilizing effect on Iraq as a whole, stating that 'the threat is out there. There are armed Arab groups, Turkomen groups that say they need to arm themselves, and the Kurds say, 'we know how to keep the peace, we'll deploy the Peshmerga'.<sup>524</sup>

In an attempt to undermine reconstruction efforts, insurgents repeatedly target the region's oil infrastructure, particularly the main pipelines connecting Iraq's main refinery at Bayji with the Kirkuk oil fields.<sup>525</sup>

Mosul is Iraq's third largest city and also has an ethnically mixed population with a majority of Arab Sunnis and Kurds and a minority population of Aramaic-speaking Christian Assyrians and Turkmen. Many villages in the Mosul/Tal Afar area were subjected to the Arabization policy by the former regime with mass deportations of Kurdish and Turkmen citizens and therefore bear a high potential for sectarian tensions. A series of armed clashes between Sunni, Kurdish, Turkmen and Christian communities took place immediately after the surrender of the city to US forces on 11 April 2003, with the area of Mosul east of the Tigris river remaining under Kurdish control and the Old City and suburbs of the west bank dominated by the large Sunni

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<sup>519</sup> Reuters, *Killings inflame ethnic tension in Iraq's Kirkuk*, 31 May 2005, <http://www.epic-usa.org/Default.aspx?tabid=1090>; The New York Times, *Suicide Bomber Kills 10 at Iraq Gathering of Sufi Muslims on Day of Dozens of Deaths*, 4 June 2005, <http://www.nytimes.com/2005/06/04/international/middleeast/04iraq.html?>

<sup>520</sup> Jane's Intelligence Review, *Northern Iraq faces increased instability in 2005*, 20 February 2005, p. 30, <http://www.washingtoninstitute.org/opedsPDFs/4216175bf103e.pdf>.

<sup>521</sup> Reuters, *With Kirkuk aside, Iraq can meet charter deadline*, 20 June 2005.

<sup>522</sup> Kurdistan Observer, *Massoud Barzani's Inaugural Speech*, 14 June 2005, <http://home.cogeco.ca/~kobserver/15-6-05-barzani's-inaugural-speech.htm>.

<sup>523</sup> Ibid., *Iraq Shiite Faction Opposes Key Kurdish Demand*, 6 June 2005, <http://home.cogeco.ca/~kobserver/7-6-05-shia-opposes-kurdish-kirkuk.htm>.

<sup>524</sup> Knight Ridder Newspapers, *Ethnic tensions in Kirkuk dangerously high, raising fears of civil war*, 6 April 2005, <http://www.realcities.com/mld/kwashington/11327248.htm>.

<sup>525</sup> See also the section on 'Insurgency'.

Arab majority.<sup>526</sup> Mosul has seen a high level of activities of former Ba'athists and a number of senior figures of the former regime have been hiding there, including Saddam Hussein's two sons Uday and Qusay.<sup>527</sup>

The security situation rapidly deteriorated on 10 November 2004 when the city was overrun by armed insurgents targeting Iraqi police stations and security forces. While some policemen fought the insurgents, most deserted their posts, giving insurgents almost free reign over the city.<sup>528</sup> Though the MNF/ISF (including Kurdish Peshmerga units) restored control in December 2004, the security situation remained highly tense with daily security incidents, including fighting between insurgents and MNF/ISF, attacks on police stations, party offices and election staff, assassinations of political and religious figures as well as government employees and foreign contactors. One of the major attacks against US forces took place on 21 December 2004 when a suicide bomber blew himself up inside a US military base in Mosul, killing 22 people and wounding more than 60, most of them military personnel.<sup>529</sup> The city is effectively split, with insurgents controlling the west bank of the Tigris River and Kurdish political parties and militia on the east bank.<sup>530</sup> The presence of the Kurdish Peshmerga angers many of the majority Sunni Arab community and has raised fears of a wider conflict between Arabs and Kurds,<sup>531</sup> which have only been exacerbated by the Peshmerga's operation in villages around Mosul in which the IPCC is still deciding on property claims to reverse the effect of *Arabization*.<sup>532</sup>

Despite the fact that the US increased troop numbers in Mosul to provide security ahead of the elections, according to the HIEC an estimated 18,000 residents of Mosul and nearby areas were not able to vote due to safety concerns or closed polling stations. After the elections, HIEC representatives inspected the polling boxes and determined that approximately 50 had been filled fraudulently and needed to be cancelled.<sup>533</sup>

Attacks against Christian churches in August and December 2004 caused an exodus of Christians to safer areas further north and into neighbouring countries.<sup>534</sup> Mosul also saw a number of killings of University staff, including Wa'adullah Abdulqader, a professor at University of Mosul (29 March 2005),<sup>535</sup> Imam Abdul-Munim Younis, Head of the Translation Department at Mosul University's College of Arts (28 August 2004),<sup>536</sup> Layla Abdallah Sa'id,

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<sup>526</sup> Jane's Intelligence Review, *Northern Iraq faces increased instability in 2005*, 20 February 2005, p. 31, <http://www.washingtoninstitute.org/opedsPDFs/4216175bf103e.pdf>.

<sup>527</sup> Guardian Unlimited, *Dead: the sons of Saddam*, 23 July 2003, <http://www.guardian.co.uk/Iraq/Story/0,2763,1004168,00.html>.

<sup>528</sup> Ibid., *Insurgents step up the battle for Mosul*, 25 November 2004, <http://www.guardian.co.uk/international/story/0,3604,1358943,00.html>.

<sup>529</sup> BBC, *US suffers worst Iraq attack yet*, 21 December 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4116487.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4116487.stm).

<sup>530</sup> The Boston Globe, *In Mosul, Kurdish militia helps keep order*, 18 November 2004, [http://www.boston.com/news/world/articles/2004/11/18/in\\_mosul\\_kurdish\\_militia\\_helps\\_keep\\_order/](http://www.boston.com/news/world/articles/2004/11/18/in_mosul_kurdish_militia_helps_keep_order/).

<sup>531</sup> The New York Times, *Kurds Vow to Retain Militia as Guardians of Autonomy*, 27 February 2005, <http://www.nytimes.com/2005/02/27/international/middleeast/27militia.html?ex=1119326400&en=f127e17997c63ecf&ei=5070&pagewanted=2&ei=5070&en=4b8fb5ab9b5399c9&ex=1117684800>.

<sup>532</sup> Jane's Intelligence Review, *Northern Iraq faces increased instability in 2005*, 20 February 2005, p. 33, <http://www.washingtoninstitute.org/opedsPDFs/4216175bf103e.pdf>.

<sup>533</sup> IRIN, *IRAQ: Thousands were unable to vote in north*, 9 February 2005, [http://www.irinnews.org/report.asp?ReportID=45460&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=45460&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>534</sup> The Associated Press, *3 injured in bombings of 2 Mosul churches*, 8 December 2004, <http://www.washtimes.com/world/20041207-095551-3910r.htm>.

<sup>535</sup> Kuwait News Agency, *Iraq, US forces arrest 25 militants*, 29 March 2005, <http://www.kuna.net.kw/Home/Story.aspx?Language=en&DSNO=718077>.

<sup>536</sup> Reuters, *Gunmen kill university lecturer in Iraq's Mosul*, 28 August 2004, [http://www.khaleejtimes.com/displayArticle.asp?col=&section=focusoniraq&xfile=data/focusoniraq/2004/August/focusoniraq\\_August310.xml](http://www.khaleejtimes.com/displayArticle.asp?col=&section=focusoniraq&xfile=data/focusoniraq/2004/August/focusoniraq_August310.xml).



Dean of Mosul University's College of Law (22 July 2004)<sup>537</sup> and Adel Jabar Abid Mustafa, Dean of Political Science at Mosul University (3 January 2004).<sup>538</sup> Progressive women have increasingly become victims of Islamic militants and are forced to cover their hair with veils.<sup>539</sup> On 14 July 2004 the Governor of Ninewa Governorate, Usama Kashmula, was assassinated near Mosul<sup>540</sup> and the son of the new Governor, Durayd Kashmula, was killed on 7 September 2004.<sup>541</sup> The Deputy Governor escaped an assassination attempt on 31 January 2005, but several members of the Ninewa Provincial Council have been assassinated, among them Hana Abd Al-Qadir (killed on 6 March 2005)<sup>542</sup> and Ojeil Mohsin Ojeil (killed on 10 April 2005).<sup>543</sup> Mosul continues to be a centre for insurgent activity.<sup>544</sup>

Tal Afar, a city of 200,000, remains another hot-spot in the Governorate of Mosul despite an MNF-led offensive to root out insurgents in September 2004.<sup>545</sup> Other areas in the Kirkuk and Mosul Governorates with considerable insurgent activities are Hawija and Tuz Khurmatu.

## b) Central Iraq

Since the fall of the former regime, the security situation in the Centre has been marked by daily armed clashes between insurgents and MNF/ISF, mainly in and around Baghdad and the Western Governorate of Al-Anbar, and to a lesser degree in the Governorates of Salah Al-Din and Diyala. The Centre has continuously seen the highest number of security incidents compared to the North and the South. Particular upsurges in violence came in late 2004, peaking in the military operation in Fallujah in the run-up to the first national elections on 30 January 2005, and again in recent months before and after the appointment of the ITG of Prime Minister Ibrahim Al-Ja'afari. Since the beginning of the conflict on 19 March 2003, the majority of US soldiers killed in Iraq were killed in the Centre, with 340 fatalities in Baghdad and 177 fatalities in the Governorate of Al-Anbar (Fallujah 139, Ramadi 103) by 5 July 2005.<sup>546</sup>

MNF/ISF and its recruits as well as high-profile government officials are the major targets of the insurgents, with civilians often also becoming victims of attacks. Other attacks, mainly in Baghdad, have deliberately targeted civilians, for example attacks on mosques, market places, restaurants and gas stations. Furthermore, targeted kidnappings and killings for political or criminal reasons are rife. Daily life is also affected by sabotage acts against civilian infrastructure such as the water and electricity supply networks. Continued armed conflict, mainly in Western Iraq, has led to short or longer-term displacement and urgent humanitarian needs for water, food, shelter, and so forth. A number of counter-insurgency operations by the

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<sup>537</sup> Radio Free Europe/Radio Liberty, *Assassinations, attacks continue in Iraq*, 25 June 2004, <http://www.rferl.org/reports/iraq-report/2004/06/23-250604.asp>.

<sup>538</sup> The Washington Times, *Iraqi rebels down U.S. helicopter*, 3 January 2004, <http://washingtontimes.com/world/20040102-112752-7125r.htm>.

<sup>539</sup> IRIN, *IRAQ: Focus on threats against progressive women*, 21 March 2005, <http://www.irinnews.org/print.asp?ReportID=46206>.

<sup>540</sup> BBC, *Iraqi governor killed in attack*, 14 July 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3894653.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3894653.stm).

<sup>541</sup> Ibid., *Dozens killed in Baghdad fighting*, 7 September 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3633742.stm](http://news.bbc.co.uk/2/hi/middle_east/3633742.stm).

<sup>542</sup> Radio Free Europe/Radio Liberty, *Ninawah Governorate Council Member assassinated*, 7 March 2005, <http://www.rferl.org/newsline/2005/03/6-SWA/swa-070305.asp>.

<sup>543</sup> Arabic News, *Ten Iraqis killed in different attacks*, 11 April 2005, <http://www.arabicnews.com/ansub/Daily/Day/050411/2005041103.html>.

<sup>544</sup> Anthony H. Cordesman, CSIS, *Iraq's Evolving Insurgency*, Working Draft updated as of 19 May 2005, pp. 15, 38, [http://www.csis.org/features/050512\\_IraqInsurg.pdf](http://www.csis.org/features/050512_IraqInsurg.pdf); see also Annexes II and III for insurgents attacks in Mosul.

<sup>545</sup> The New York Times, *Magnet for Iraq Insurgents Is a Crucial Test of New U.S. Strategy*, 16 June 2005, <http://www.nytimes.com/2005/06/16/international/middleeast/16talafar.html?pagewanted=3&fta=y>.

<sup>546</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 5, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

MNF/ISF in resistive areas such as Fallujah (April and November 2004), Al-Qaim (May 2005), Haditha, Karabilah and Hit (June 2005) aimed at rooting out insurgents and interrupting the supply of fighters and weapons.

Following a surge in violence after the announcement of the Shiite-led Government of Prime Minister Ibrahim Al-Ja'afari on 28 April 2005, the ITG responded with a large-scale campaign in Baghdad (Operation 'Lighting'), involving 40,000 Iraqi soldiers and policemen with the support of thousands of US soldiers. Despite a temporary decrease of violence – officials say that the death toll decreased by more than one-third in June with a total of 430 Iraqis killed and 933 wounded as compared to May when 672 persons were killed<sup>547</sup> – the insurgents have shown that they are still able to stage coordinated and devastating attacks.

### Baghdad

Since the fall of the former regime, Baghdad has been the main focus of insurgent activities and is shaken daily by rampant violence. Many streets in the city are restricted or closed to traffic. Large traffic jams are common due to fighting and bombings as well as security patrols and checkpoints. Attacks with car bombs, mortars, RPGs and small arms are a daily occurrence and have led to some of the most devastating incidents, killing scores of Iraqi and foreign civilians. The attack on the UN Headquarters (which occurred on 19 August 2003 and killed 23 persons including the Secretary-General's Special Representative in Iraq, Sergio Viero de Mello<sup>548</sup>), the ICRC and other humanitarian organizations and personnel led to the withdrawal of most international UN and NGO staff from Iraq.

Efforts to undermine the political process have taken the form of numerous attacks on political figures, party offices, election staff and voters, however the Iraqi authorities continued to follow the political schedule and people in Baghdad turned out in high numbers on the Iraqi election day. As in all of Iraq, the ISF remain one of the most vulnerable targets, with regular attacks against police stations, checkpoints and recruitment centres as well as high-profile security personnel. Deliberate attacks, including kidnappings and killings directed against civilians of all different sectors of society (professors, journalists, doctors rights activists, religious or ethnic groups and women) create an atmosphere of fear and terror in the city, severely impacting on the freedom to move, work, study, worship and express opinions.

The 'International Zone' (formerly known as the 'Green Zone') is the heavily guarded area of closed-off streets in central Baghdad where the MNF, Iraqi authorities, the UN and most embassies – including the US embassy – are located, making it a target with high symbolic value. In the past, the zone has been hit by frequent mortar and missiles attacks, while today the focus is successive (suicide) attacks at the zone's perimeter – especially at checkpoints at entrances to the zone<sup>549</sup> – in an attempt to penetrate the high security cordon. On 14 October

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<sup>547</sup> Agence France-Presse, *Aide to Iraq spiritual leader killed, bomber targets PM office*, 1 July 2005, [http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/focusoniraq/2005/July/focusoniraq\\_July2.xml&section=focusoniraq](http://www.khaleejtimes.com/DisplayArticle.asp?xfile=data/focusoniraq/2005/July/focusoniraq_July2.xml&section=focusoniraq).

<sup>548</sup> BBC, 2003: *UN envoy dies in Baghdad bombing*, 19 August 2003, [http://news.bbc.co.uk/onthisday/hi/dates/stories/august/19/newsid\\_3504000/3504255.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/august/19/newsid_3504000/3504255.stm).

<sup>549</sup> For example, the ISF thwarted a triple suicide attack on the 'Green Zone' on 14 July 2005, see Reuters, *Suicide barrage on Baghdad govt compound foiled*, 14 July 2005, <http://www.swissinfo.org/sen/swissinfo.html?siteSect=143&sid=5939645&cKey=1121285115000>; an attack by a suicide bomber at the main entrance of the 'international zone', killed 11 and wounded more than 40 on 14 July 2004, see The Washington Post, *Car Bomb Kills 11 in Baghdad*, 15 July 2004, <http://www.washingtonpost.com/wp-dyn/articles/A48620-2004Jul14.html>; a suicide car bomber killed seven people at a 'Green Zone' checkpoint on 14 December 2004, the second attack in two days near the same gate into the district, killing seven and wounding at least 13 persons, see The Associated Press, *Bombers Strike Baghdad's Green Zone Again*, 14 December 2004, <http://abcnews.go.com/International/wireStory?id=329938>.

2004, insurgents hand-carried explosives into the zone and detonated the bombs within seconds of each other, killing 10 people, including four Americans.<sup>550</sup>

Operation 'Lightning', which was launched in late May 2005, included the setting-up of hundreds of checkpoints in and around Baghdad and street-by-street sweeps in an attempt to deter insurgents from entering the city. According to Iraq's Minister of Interior, Bayan Jabr, almost 1,700 suspected insurgents have been detained. The number of car bombs in the capital decreased to 40 in June 2005 as compared to 70 in May 2005. 160 cars rigged with explosives were dismantled.<sup>551</sup> Major incidents during that period included the detonation of four car bombs in the Karada district on 23 June 2005, killing 15 and wounding 28,<sup>552</sup> three car bombs in the Shula neighbourhood on 22 June 2006, killing at least 18 people and wounding 46 others,<sup>553</sup> and a suicide attack on a popular restaurant near the 'International Zone' on 19 June 2005, killing at least 23 people and wounding many more.<sup>554</sup> The fact that the ISF is mainly made up of Shiites fighting the mainly Sunni insurgents (at times for personal vendetta or benefit) have led to fears that sectarian tensions may further increase.<sup>555</sup>

The main routes leading out of Baghdad are highly insecure, in particular the airport road, the roads leading West to Jordan and Syria (which pass through Ramadi and Fallujah) and South to Hilla (which pass through the 'triangle of death'). All vehicular travel on these roads is extremely dangerous, and there have been numerous attacks on civilian vehicles and military convoys, during the day and at night. The airport road is known as the most dangerous of all, and car bombs and small arms attacks are common. Firing by the MNF and PDS at suspected car bombers can often claim additional civilian lives if civilians miss the warning signals or do not know that overtaking a military convoy is likely to be fatal.<sup>556</sup>

Travel by air to and from Baghdad's international airport is also highly insecure. Insurgents have targeted civil aviation with small arms and missiles on several occasions.

#### North Central Iraq (Governorates of Salah Al-Din and Diyala)

The main centres of insurgent activity are Baiji, Tikrit, Samarra, Balad, Al-Dawr, Taji and Baqouba, but numbers of significant incidents are also reported to take place in Khalis, Balad Ruz, Jalula and Duluyah. The main focus of insurgent attacks remains the MNF/ISF, with regular attacks on MNF bases, military convoys and police stations.<sup>557</sup> Civilians working with the MNF/ISF have also frequently been killed.<sup>558</sup> Officials of the local authorities and administration are common targets for assassination, e.g. the killing of Hussein Alwan Al-Tamimi, Deputy Chief of Diyala Provincial Council (2 June 2005)<sup>559</sup>, the suicide attacks on the

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<sup>550</sup> The Washington Post, *Suicide Bombings Kill 10 in Green Zone*, 14 October 2004, <http://www.washingtonpost.com/wp-dyn/articles/A31692-2004Oct14.html>.

<sup>551</sup> The Associated Press, *A counterinsurgency operation nears end in Iraq, aide says*, 8 July 2005, [http://www.boston.com/news/world/articles/2005/07/08/a\\_counterinsurgency\\_operation\\_nears\\_end\\_in\\_iraq\\_aide\\_says/](http://www.boston.com/news/world/articles/2005/07/08/a_counterinsurgency_operation_nears_end_in_iraq_aide_says/).

<sup>552</sup> The Washington Post, *Car Bombs Kill Dozens in Baghdad*, 23 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/23/AR2005062300363.html>.

<sup>553</sup> BBC, *Many die in triple Baghdad blasts*, 22 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4121202.stm](http://news.bbc.co.uk/2/hi/middle_east/4121202.stm).

<sup>554</sup> *Ibid.*, *Baghdad restaurant bomb kills 23*, 19 June 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4108480.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4108480.stm).

<sup>555</sup> Radio Free Europe/Radio Liberty, *Iraq: Domestic Security Forces Hunt Insurgents In Baghdad*, 30 May 2005, <http://www.rferl.org/featuresarticle/2005/05/1f9d93ba-5fcd-44f0-9a0c-e96144454d38.html>.

<sup>556</sup> See also the section on 'Multinational Forces'.

<sup>557</sup> See Annex II 'Attacks on Iraqi Security Forces'.

<sup>558</sup> See UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 42-43 and Annex I 'Civilians Working with the MNF, International Organizations, Foreign Companies'; also see Annex II of this report 'Attacks on Iraqi Security Forces'.

<sup>559</sup> The New York Times, *Insurgent Attacks in Iraq Kill at Least 33*, 3 June 2005,

convoy of Raad Rashid, the Governor of Diyala (15 May 2005)<sup>560</sup>, the killing of Ali Haddawi, the Deputy Governor of Diyala Governorate (2 January 2005)<sup>561</sup> and the killing of Nawfal Abdul Hussein Al-Shamary, chairman of Diyala Provincial Council in Baqouba (1 January 2005)<sup>562</sup>. Insurgents also target Shiite shrines and politicians, a pattern which seems to be part of a larger country-wide campaign to target the Shia community.<sup>563</sup>

Both Governorates host a significant number of IDPs, in particular secondary displaced Arabs and Kurdish IDP returnees, bearing the potential for ethnic tensions. Since the fall of the former regime in 2003, Diyala Governorate has witnessed the highest number of post-conflict IDPs of all the Governorates in Iraq. IOM's IDP Monitoring recorded approximately 13,332 IDP families (almost 80,000 persons), out of which more than half (6,916 families) are secondary displaced Arabs.<sup>564</sup> Since the fall of the former regime, Kurdish IDPs, who were displaced from Diyala in the 1970s as part of the *Arabization* campaign, have returned to Diyala, mainly to Khanaqeen. There is also potential for ethnic tensions between Kurdish IDP returnees and Arab secondary displaced persons on many grounds, including unresolved property issues. In addition, Diyala hosts 4,029 families who originate from border areas with Iran and were displaced as a result of the Iraq-Iran War in the 1980s. While some of them seem to have integrated in their areas of displacement and were provided with houses by the former regime, others wish to return to their places of origin. Their return is hampered, however, by the destruction of their villages as well as heavy mine-contamination.<sup>565</sup>

The Governorate of Salah Al-Din also hosts a considerable number of secondarily displaced Arabs (2,367 families); 62 percent of these families currently live in public buildings. There are also Kurdish IDP returnees (1,085 families), who live mainly in the district of Tooz. This district was originally a part of Kirkuk Governorate, but was changed to the administration of Salah Al-Din in 1976 as part of the government's aim to change the ethnic make-up of Iraq's provinces.<sup>566</sup>

#### Western Iraq (Governorate of Al-Anbar)

The vast, largely unpopulated Governorate of Al-Anbar, which covers one third of Iraq's territory stretching west from Baghdad to the Syrian, Jordanian and Saudi borders, is a bastion of the Sunni-dominated insurgency. The area is inhabited mainly by Sunni tribes who are virulently opposed to the presence of foreign troops. Anti-American feelings have been further stirred up by incidents in which Iraqi civilians were killed by US troops, e.g. on 28 April 2003, US soldiers opened fire on a crowd of Iraqis protesting the foreign military presence in the city, killing more than a dozen people.<sup>567</sup>

The major pockets of insurgent activity remain the areas of Ramadi and Fallujah, and further

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<http://www.nytimes.com/2005/06/03/international/middleeast/03iraq.html?>

<sup>560</sup> Reuters, *Rice in Iraq amid wave of attacks*, 16 May 2005, <http://washingtontimes.com/world/20050516-124929-5371r.htm>.

<sup>561</sup> Guardian Unlimited, *26 killed in Iraqi suicide blast*, 3 January 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1382363,00.html>.

<sup>562</sup> CBS News/The Associated Press, *Gruesome Al Qaeda Video In Iraq*, 1 January 2005, <http://www.cbsnews.com/stories/2005/01/02/iraq/main664258.shtml>.

<sup>563</sup> See Annex I 'Attacks aiming at sparking religious unrest'.

<sup>564</sup> 'Secondary displaced Arabs' had been settled by the former regime in the areas of Mosul, Kirkuk, Diyala and Salah Al-Din as part of the 'Arabization' campaign and were displaced as a consequence of the return of mainly Kurdish IDPs to the area after the fall of the former regime, see also the section on 'Internally displaced persons'.

<sup>565</sup> IOM, IDP Monitoring, *Diyala Profile*, April 2005.

<sup>566</sup> Tooz has a very complex ethnic make-up with sub-districts inhabited by 100 percent Kurds and others with a 100 percent Arabic population; only a few sub-districts are mixed; see IOM, IDP Monitoring, *Salah Al Din Profile*, April 2005.

<sup>567</sup> BBC, *Falluja: City with history of rebellion*, 23 December 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3235213.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3235213.stm).



west in Hit, Haditha, Haqlaniyah, Al-Asad, Rutbah and Al-Qaim. Security incidents are also commonly reported in the Habbaniyah/Saqlawiyah and Taqaddum areas. Despite major military operations in the area, the insurgents have constantly succeeded in regrouping once the MNF has left and the weaker ISF has taken over.<sup>568</sup> The MNF/ISF's efforts to restore security in the region are seriously hampered by the sheer size of the area and its long borders which permit the easy smuggling of fighters and weapons.

For various periods of time, several towns have fallen under the control of Sunni Islamist groups. When in control, these groups have created an atmosphere of fear, demanding full loyalty to their stance against the 'occupation' and their strict interpretations of Islam. 'Traitors', such as persons joining the ISF or working for the MNF, risked execution, often in cruel ways, in an aim to deter the wider public from following their lead. At some times, insurgents have set up checkpoints near the highway leading from Baghdad to Syria and Jordan, staging ambushes on civilian and military cars. A large number of truck drivers bringing supplies from neighbouring countries to Iraq have been kidnapped or killed.<sup>569</sup>

In a highly publicized attack on 31 March 2004, residents of Fallujah showed their animosity when they attacked the vehicle of four US private security contractors, dragged their burned and mutilated bodies through the streets and strung them up on a bridge.<sup>570</sup> In response to this killing, the MNF launched a major attack on the city in early April 2004, which according to Iraqi hospital officials resulted in 600 Iraqis killed and 1,250 wounded (including many women and children).<sup>571</sup> While the insurgents were accused of using civilians as human shields and firing at the MNF from schools, mosques and hospitals, the US forces were blamed for causing excessive civilian casualties. In early May 2004, intense fighting ended in a truce under which US troops withdrew from the city and security was taken over by the 'Fallujah Force', consisting mainly Fallujahns led by Major General Mohammed Latif, an officer of the former Iraqi Army. In actuality, control remained in the hands of the insurgents and the city became a no-go zone for the MNF. The Shura Council of Mujahedeen is said to have set up Islamic courts that imposed Sharia punishments, executed suspected spies and enforced strict Islamic rules.<sup>572</sup>

After the attack on Fallujah, insurgents continued to mount regular attacks against MNF positions and military convoys on Fallujah's outskirts.<sup>573</sup> The MNF responded with sporadic air strikes during summer and autumn of 2004. Most of their targets were suspected hideouts and weapons caches belonging to Al-Qaeda in Iraq, the group held responsible for numerous attacks on the MNF.<sup>574</sup>

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<sup>568</sup> Guardian Unlimited, *Gunmen take over Ramadi as bomb kills five marines*, 17 June 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1508573,00.html>.

<sup>569</sup> The Associated Press, *Many foreign truckers refuse to brave Iraq's dangerous roads*, 27 July 2004, [http://www.usatoday.com/news/world/2004-07-27-truckers-iraqroads\\_x.htm](http://www.usatoday.com/news/world/2004-07-27-truckers-iraqroads_x.htm).

<sup>570</sup> BBC, *Bodies mutilated in Iraq attack*, 31 March 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3585765.stm](http://news.bbc.co.uk/2/hi/middle_east/3585765.stm).

<sup>571</sup> See Global Security, *Fallujah*, updated 22 June 2004, <http://www.globalsecurity.org/military/world/iraq/fallujah.htm>.

<sup>572</sup> The Associated Press, *Two locals were core of Fallujah insurgency*, 24 November 2004, <http://www.msnbc.msn.com/id/6578062/>; Times Online/Agence France-Presse, *Mujahidin terrorised Fallujah, residents say*, 15 November 2004, [http://www.timesonline.co.uk/article/0,,3-1359782\\_1,00.html](http://www.timesonline.co.uk/article/0,,3-1359782_1,00.html).

<sup>573</sup> See for example, Aljazeera, *US marines killed in Iraq ambush*, 6 September 2004, <http://english.aljazeera.net/NR/exeres/79A11113-FB79-494C-85CA-BE8C9CA01C5A.htm>.

<sup>574</sup> Agencies, *Dozens more die in Iraq violence*, 17 September 2004, <http://www.guardian.co.uk/Iraq/Story/0,2763,1306807,00.html>; Aljazeera, *Falluja under sustained US attack*, 25 August 2004, <http://english.aljazeera.net/NR/exeres/D793225B-1552-4BA3-A48A-5D0CC8AD30F5.htm>; *ibid.*, *US planes bomb Falluja*, 1 July 2004, <http://english.aljazeera.net/NR/exeres/7732A66D-252E-4D85-8608-8AF6237D2DAD.htm>; *ibid.*, *Fresh US raid on Falluja*, 23 June 2004, <http://english.aljazeera.net/NR/exeres/9BDDA023-7D09-4C0C-9FE7-F6335BB02C06.htm>.

In early November 2004, UN Secretary-General Kofi Annan warned the US, UK and Iraq that an assault on Fallujah would further anger Iraqis and undermine the planned January elections.<sup>575</sup> On 7 November 2004, the IIG declared a 60-day state of emergency in anticipation of an assault on Fallujah. One day later, the (then) Prime Minister Iyad Allawi authorized the offensive on Fallujah which had the stated aim of ‘clearing out’ Fallujah ahead of the 30 January TNA elections.<sup>576</sup> An estimated 10,000-15,000 US soldiers and a significantly smaller number of Iraqi soldiers were involved.<sup>577</sup> According to the US military, 51 US soldiers and eight Iraqi soldiers were killed and 425 and 43 respectively were wounded in the attack. Furthermore, 1,200 insurgents were killed in the battle and 1,000 were taken prisoner.<sup>578</sup> The US forces discovered weapon caches, propaganda materials and intelligence,<sup>579</sup> at least two prisons, multiple execution rooms and 10 bomb-making factories. A number of hostages were also rescued.<sup>580</sup>

Prior to the offensive, US forces urged civilians to leave Fallujah. Almost the entire population of 300,000 fled, mainly to the outskirts of the city (Amiriyah, Habaniyah, Neimiyah, Saqlawiyah and Karma) and to Baghdad.<sup>581</sup> According to the Iraqi Red Crescent Society (IRCS), at least 157 families remained in the city and humanitarian agencies faced severe difficulties in providing them with assistance, as non-military trucks and ambulances were not allowed to enter the city. Both sides in the conflict were accused of breaking rules designed to protect civilians and wounded combatants during the fighting. According to Amnesty International, the attacking US and Iraqi troops failed to take the necessary steps to ensure non-combatants did not come under fire, while the insurgents abused flags of truce and fired indiscriminately.<sup>582</sup> The UN High Commissioner for Human Rights, Louise Arbour, called for an investigation into the alleged abuses in Fallujah. She expressed particular concern over the poor access to humanitarian aid in the city and the paucity of information on civilian casualties.<sup>583</sup>

About 70 percent of the city’s buildings were badly damaged or destroyed during the conflict. This number includes mainly houses but also the city’s main hospital, 40 school buildings, 20 government buildings and 60 mosques. Basic services such as electricity, water treatment and sewage systems were badly hit and to date not all services have been rehabilitated. Some areas still depend on tankered water and private generators and many residents continuing to live in tents or amid the rubble of their homes. There is no official figure of the number of Iraqi civilians that were killed or injured. According to the Ministry of Health, 650 civilians died, while other reports suggest that number could be as high as 1,300.<sup>584</sup> Residents were allowed to

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<sup>575</sup> Ibid., *Annan warns against offensive*, 5 November 2004, <http://english.aljazeera.net/NR/exeres/BBBE0759-6B44-4A50-A0CA-37D09C66F58B.htm>.

<sup>576</sup> Guardian Films & Channel 4 News, *Fallujah: The Real Fall*, 11 January 2005, [http://www.channel4.com/news/2005/01/week\\_2/11\\_iraq.html](http://www.channel4.com/news/2005/01/week_2/11_iraq.html).

<sup>577</sup> Out of the 2,000 ISF members expected to fight along with the MNF, an unknown number did not show up, see Global Security, *Operation al-Fajr (Dawn)/Operation Phantom Fury [Fallujah]*, updated 26 May 2005, <http://www.globalsecurity.org/military/ops/oif-phantom-fury-fallujah.htm>.

<sup>578</sup> US Department of Defence/American Forces Press Service, *Fallujah Secure, But Not Yet Safe, Marine Commander Says*, 18 November 2004, [http://www.defenselink.mil/news/Nov2004/n11182004\\_2004111803.html](http://www.defenselink.mil/news/Nov2004/n11182004_2004111803.html).

<sup>579</sup> The Christian Science Monitor, *Fallujah yields up weapons, videos*, 19 November 2004, <http://www.csmonitor.com/2004/1119/p06s03-woiq.html>.

<sup>580</sup> Agence France-Presse, *Secret Iraqi prisons found*, 17 November 2004, [http://www.news24.com/News24/World/Iraq/0,6119,2-10-1460\\_1622278,00.html](http://www.news24.com/News24/World/Iraq/0,6119,2-10-1460_1622278,00.html); The Washington Times, *Zarqawi's city of death*, 29 November 2004, <http://washingtontimes.com/op-ed/20041128-111715-5760r.htm>.

<sup>581</sup> IOM, IDP Monitoring, *Anbar Profile*, April 2005.

<sup>582</sup> Amnesty International, Public Statement, *Iraq: Fears of serious violations of the rules of war in Falluja*, 12 November 2004, <http://web.amnesty.org/library/Index/ENGMDE140562004?open&of=ENG-IRQ>.

<sup>583</sup> UNHCHR, Press Release, *Iraq: UN human rights chief concerned over plight of civilians in Falluja*, 16 November 2004, <http://www.un.org/apps/news/story.asp?NewsID=12544&Cr=iraq&Cr1=>.

<sup>584</sup> IRIN, *IRAQ: Focus on reconstruction in Fallujah*, 24 May 2005,



return to the city as of mid December after undergoing biometric identification and on the condition that they carried their 'Fallujah Identity Card' at all times.

The widespread destruction and slow rehabilitation have hampered returns and population movements in and out of the city, problems that are ongoing.<sup>585</sup> To date only one fifth of the estimated US \$500 million needed to reconstruct destroyed houses and infrastructure in Fallujah has been released.<sup>586</sup> In addition, compensation payments for destroyed or damaged houses have reportedly been delayed.<sup>587</sup> Checkpoints at the entrances to the city have delayed the inflow of supplies and the rehabilitation of businesses, ultimately impacting on the city's path towards reconstruction and hindering the creation of highly needed employment opportunities. According to Capt. Rudy Quiles, a US Marine civil affairs officer, 85 percent of the people in Fallujah are un- or underemployed.<sup>588</sup> Furthermore, residents consider the stringent security rules imposed on them to be humiliating.<sup>589</sup>

Although strict security measures were imposed in Fallujah after the military offensive, including checkpoints at all its entrances, curfews, and a ban on weapons, there are concerns that the insurgents have nonetheless rebuilt their base in the city. In recent weeks, there have been daily attacks against MNF/ISF, and several members of the Fallujah City Council have quit or stopped coming to meetings, reportedly due to threats on their lives. The mainly Shiite ISF enjoy little confidence with the predominantly Sunni population, which has led to accusations of harassment, indiscriminate killings and arbitrary arrests.<sup>590</sup> It is feared that slow reconstruction, delayed compensation payments and the generally low participation of Sunnis in the political process could again generate popular support for the insurgency in Fallujah.

Ramadi, the provincial capital of Al-Anbar, has been a stronghold of the insurgency since the fall of the former regime. MNF/ISF claim to have quelled the insurgency in the region with Operation 'River Blitz', which lasted from 20 February to 5 March 2005. This operation took place in Ramadi, Haditha, Hit, Baghdad and Haqlaniyah, where many Sunni insurgents fled after the US assault on Fallujah in late 2004.<sup>591</sup> According to US Central Command, the operation was designed to target 'criminals and terrorists, who have attempted to destabilize the Al-Anbar Province by terrorizing the populace through wanton acts of violence and intimidation'.<sup>592</sup> It resulted in the arrest of 400 suspected terrorists and the seizure of numerous weapons caches throughout Al-Anbar.<sup>593</sup> The operation involved strict security measures,

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[http://www.irinnews.org/report.asp?ReportID=47259&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47259&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>585</sup> IOM, IDP Monitoring, *Internally Displaced Persons Overview*, April 2005.

<sup>586</sup> Ibid.

<sup>587</sup> Asia Times, *The Failed Siege of Fallujah*, 3 June 2005,

[http://www.atimes.com/atimes/Middle\\_East/GF03Ak01.html](http://www.atimes.com/atimes/Middle_East/GF03Ak01.html); IRIN, *IRAQ: Focus on reconstruction in Fallujah*, 24 May 2005, [http://www.irinnews.org/report.asp?ReportID=47259&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47259&SelectRegion=Middle_East); ibid., *IRAQ: Compensation for Fallujah residents slow – locals*, 4 April 2005,

[http://www.irinnews.org/report.asp?ReportID=46441&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46441&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>588</sup> The Washington Post, *Increased Security In Fallujah Slows Efforts to Rebuild*, 19 April 2005,

<http://www.washingtonpost.com/wp-dyn/articles/A64292-2005Apr18.html>.

<sup>589</sup> Asia Times, *The failed siege of Fallujah*, 3 June 2005,

[http://www.atimes.com/atimes/Middle\\_East/GF03Ak01.html](http://www.atimes.com/atimes/Middle_East/GF03Ak01.html).

<sup>590</sup> Reuters, *Falluja: Iraq's former hotbed simmers again*, 21 July 2005; The New York Times, *8 Months After US-Led Siege, Insurgents Rise Again in Falluja*, 15 July 2005,

<http://www.nytimes.com/2005/07/15/international/middleeast/15falluja.html?pagewanted=1&ei=5070&en=57e8868d29a06102&ex=1122091200&adxnml=1&emc=etal&adxnmlx=1121695884-9NXUeU2Bc5MI/wgAnstuuQ>.

<sup>591</sup> The Christian Science Monitor, *In Fallujah's wake, marines go west*, 24 February 2005,

<http://www.csmonitor.com/2005/0224/p06s01-woiq.html>.

<sup>592</sup> US Central Command, News Release No. 05-02-12, *Iraqi, US Forces Kick Off Operation River Blitz*, 20 February 2005, [http://www.centcom.mil/CENTCOMNews/news\\_release.asp?NewsRelease=20050212.txt](http://www.centcom.mil/CENTCOMNews/news_release.asp?NewsRelease=20050212.txt).

<sup>593</sup> US Central Command, News Release No. 05-03-05, *Operation River Blitz Security Measures to Continue*, 5 March 2005, [http://www.centcom.mil/CENTCOMNews/news\\_release.asp?NewsRelease=20050305.txt](http://www.centcom.mil/CENTCOMNews/news_release.asp?NewsRelease=20050305.txt).

including checkpoints, patrols and house-to-house sweeps. The fact that the MNF/ISF met only light resistance when entering the cities raised concerns that many fighters may have left the area to regroup somewhere else. Renewed counter-insurgency operations (Operations 'Matador', 'Spear', and 'Sword') in Al-Qaim, Haditha, Hit and Karabilah in May and June 2005 may indicate that insurgents have in fact reasserted control.<sup>594</sup> As the insurgents appear to have regained control over Ramadi, residents fear that a new military offensive may be launched there by MNF/ISF.<sup>595</sup>

According to the IRCS, nearly 1,000 families were displaced after a major military operation against insurgents in Al-Qaim in early May 2005 dubbed 'Matador'. These families sought refuge in the desert or in surrounding villages, and while many returned after the cessation of hostilities, hundreds are still displaced and fear new military confrontations. The main hospital in Al-Qaim came under attack, reportedly resulting in the death of eight people and the destruction of crucial medical supplies. Dozens of houses were destroyed, including a mosque and a school, and many more were damaged.<sup>596</sup>

The military operation 'Spear', launched in Western Iraq on 17 June 2005, resulted in the displacement of nearly 7,000 residents following days of air strikes and street-to-street gun battles in Karabilah, a town of 60,000 inhabitants some 320 km west of Baghdad. According to the IRC, 65 percent of the houses in Karabilah were damaged and water and electricity supplies were interrupted.<sup>597</sup> Most inhabitants returned to the town after fighting ceased, and are expecting to obtain compensation for destroyed or damaged properties.<sup>598</sup>

With the ongoing surge of insurgent activities and the expected continuation of military confrontations between the MNF/ISF and the insurgency, it is safe to assume that the security situation in the Centre will remain highly insecure for some time yet.

### **c) Southern Iraq**

While the situation in the South, in particular in the Lower South area (Governorates of Basrah, Missan, Thi-Qar and Muthanna) seems relatively stable in comparison to the Central Region, the difference there lies in the intensity and nature of the attacks.

The major threat in this area comes from insurgent groups who continue to plan and execute attacks on the MNF/ISF, foreign contractors and private security firms. They also specifically target Iraqis involved in reconstruction efforts, working with the MNF/ISF or working with the Iraqi Government/Administration.

A high number of insurgent activities have been seen in the Upper South Area (Governorates of Kerbala, Babil, Wasit, Najaf and Qadisiya). The highest intensity of activities is in the so-called

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<sup>594</sup> United Press International, *US forces attack Hit, Haditha - again*, 28 June 2005, <http://www.washingtonpost.com/upi/20050628-091150-8699r.htm>.

<sup>595</sup> Guardian Unlimited, *Gunmen take over Ramadi as bomb kills five marines*, 17 June 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1508573,00.html>.

<sup>596</sup> IRIN, *IRAQ: Hundreds of displaced from al-Qaim in need of supplies*, 17 May 2005, [http://www.irinnews.org/report.asp?ReportID=47151&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47151&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>597</sup> Ibid., *IRAQ: Families returning to Karabila in need*, 17 July 2005, [http://www.irinnews.org/report.asp?ReportID=48160&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=48160&SelectRegion=Middle_East&SelectCountry=IRAQ); *ibid.*, *IRAQ: Aid agencies call for access to Karabila*, 20 June 2005, [http://www.irinnews.org/report.asp?ReportID=47732&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47732&SelectRegion=Middle_East&SelectCountry=IRAQ); *ibid.*, *IRAQ: Thousands of Karabila residents return*, 28 June 2005, [http://www.irinnews.org/report.asp?ReportID=47857&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47857&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>598</sup> The Washington Post, *After Striking Rebel Route, Marines and Iraqis Pull Back*, 22 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/21/AR2005062101419.html>.

'triangle of death' south of Baghdad in the Governorate of Babil, bounded by the city of Yusufiyah to the northwest, Latifiyah to the south and Mahmoudiyah to the east. Road ambushes are common in the triangle, as the main roads connecting Baghdad with Iraq's Centre and South – including the holy Shiite places Najaf and Kerbala – passes through it. Kidnappings, shootings and assassinations of Shiite Muslims (including pilgrims and clerics), foreigners and members of the MNF/ISF are all common. The area also became known because of the killing of six Spanish intelligence officers,<sup>599</sup> the abduction of the two French journalists Christian Chesnot and Georges Malbrunot and their Syrian driver Mohammed Al-Joundi,<sup>600</sup> the assassination attempt against INC politician Ahmed Chalabi<sup>601</sup> and the beheading of British hostage Kenneth Bigley.<sup>602</sup> It has been reported that hundreds if not thousands of Shiites are fleeing the area after a series of tit-for-tat killings have increased sectarian tensions in recent months.<sup>603</sup> The area is dominated by Sunni tribes, many of which originate from the Governorate of Al-Anbar. During the 1980s, Saddam Hussein encouraged Sunni tribes to settle along the highways leading out of Baghdad, in order to create a 'buffer zone' between the capital Baghdad and the mainly Shiite South. It is said that Saddam Hussein rewarded these tribes for doing so with money and cars, and built a highway linking Fallujah with Latifiyah in order to bypass the Baghdad traffic.<sup>604</sup>

Travellers trying to avoid passing through the 'triangle of death' by using alternate routes are frequently targeted by criminal and insurgent groups for kidnapping and robbery.

Hilla, Kerbala and Najaf have seen some of the most devastating attacks since the fall of the former regime, including the 30 May 2005 multiple suicide attack in Hilla killing at least 31 people and wounding 108,<sup>605</sup> the mass casualty suicide attack in Hilla on 28 February 2005 that killed at least 122 people,<sup>606</sup> the 19 December 2004 car bomb attack near religious shrines in Najaf and Kerbala that killed at least 64 people and wounded more than 140 others,<sup>607</sup> the 2 March 2004 coordinated bomb attacks on Shiites in Kerbala (and Baghdad) that killed some 200 people and wounding more than 500<sup>608</sup> and the 29 August 2003 car bomb attack outside a mosque in Najaf that killed at least 95 (including leading Shiite politician Mohammed Bakr Al-Hakim) and wounded hundreds.<sup>609</sup>

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<sup>599</sup> Reuters, *Arrests in Iraq over slain Spanish agents*, 10 December 2003,

[http://www.swisspolitics.org/en/news/index.php?section=int&page=news\\_inhalt&news\\_id=4535558](http://www.swisspolitics.org/en/news/index.php?section=int&page=news_inhalt&news_id=4535558).

<sup>600</sup> Los Angeles Times, *French Journalists Freed After 4 Months of Captivity in Iraq*, 22 December 2004,

<http://www.globalsecurity.org/org/news/2004/041222-french-hostages.htm>.

<sup>601</sup> Times Online, *Ahmed Chalabi escapes assassination attempt*, 1 September 2004,

<http://www.timesonline.co.uk/printFriendly/0,,1-3-1242335-3,00.html>.

<sup>602</sup> BBC, *Bigley killed after 'escape bid'*, 10 October 2004, <http://news.bbc.co.uk/1/hi/uk/3728596.stm>.

<sup>603</sup> Agence France-Presse, *Sectarian killings spark Shiite exodus from Triangle of Death*, 20 May 2005,

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVOD-6CKH6N?OpenDocument&Click=>; Times Online, *Fear of civil war grows as Shia start to retaliate*, 23 May 2005, <http://www.timesonline.co.uk/article/0,,7374-1623875,00.html>.

<sup>604</sup> Al-Ahram, *Deadly triangle*, Issue No. 715, 4-10 November 2004, <http://weekly.ahram.org.eg/2004/715/re1.htm>.

<sup>605</sup> The Washington Post, *Suicide Bombers Kill 31 in Iraq*, 30 May 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/05/30/AR2005053000378.html>.

<sup>606</sup> The New York Times, *Blast Kills 122 at Iraqi Clinic in Attack on Security Recruits*, 1 March 2005,

<http://www.nytimes.com/2005/03/01/international/middleeast/01iraq.html?ex=1267333200&en=b405e3b838512635&ei=5090&partner=rssuserland>.

<sup>607</sup> Aljazeera, *Blasts hit Kerbala, Najaf*, 20 December 2004, <http://english.aljazeera.net/NR/exeres/ECE9EAA4-424E-4CF6-9EFC-95ED43E4E855.htm>.

<sup>608</sup> Ibid., *Al-Qaida denies Kerbala, Baghdad bombings*, 4 March 2004,

<http://english.aljazeera.net/NR/exeres/OBD56449-5FDF-4054-89DB-A2101A8E244B.htm>.

<sup>609</sup> BBC, *Four arrested over Najaf bombing*, 30 August 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3193713.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3193713.stm).

The role of Muqtada Al-Sadr and the Mehdi Army remain another factor of insecurity.<sup>610</sup> In general it appears that support among the Shia for armed confrontations has decreased with the new political role played by the Shiite majority and accordingly chances for renewed military confrontations are slim. However, people in Southern Iraq expect the ITG to improve security and create tangible improvements of their living conditions; if this does not take place soon, Muqtada Al-Sadr may again find supporters, in particular among the poor who are willing to resort to armed resistance to make their voices heard. Muqtada Al-Sadr, who became the symbol of resistance to foreign occupation, may gain increased popularity if the ITG fails to provide a credible plan for the withdrawal of the MNF from Iraq.

The Imam Mehdi Army has taken control over towns and cities, ensuring that strict Islamic codes are followed. Women are required to cover themselves to comply with Islamic dress codes, and alcohol, hairdressing salons and music shops have been closed down.<sup>611</sup> Muhammad Nassir, a physician who heads Basrah Maternity and Paediatric Hospital, reported that Mehdi followers came to the hospital telling the male doctors not to treat female patients.<sup>612</sup> In March 2005, a students' picnic in Basrah was brutally dissolved by armed followers of Al-Sadr who claimed that the students had violated Islamic norms by dressing in Western clothing, singing, and dancing. Two students were reported killed and more injured. Such activities appear to happen without intervention by the MNF/ISF or the authorities and are expected to continue.<sup>613</sup>

The Lower South area – in particular Basrah but also Nassariyah and Al-Amarah – witnesses regular low-intensity attacks against MNF/ISF and oil facilities, piracy and banditry.<sup>614</sup> A major attack occurred on 21 April 2004 when insurgents targeted police stations around Basrah, killing at least 68 people, mostly policemen and schoolchildren.<sup>615</sup>

Similar to the Kurdish request for federalism, several leaders of Iraq's Shiite majority are pushing for the power of self-rule and the control over oil wealth, though the degree of autonomy requested varies from decentralization to an independent southern region.<sup>616</sup> Ahmed Chalabi, Deputy Prime Minister in the cabinet of Ibrahim Al-Ja'afari, and Sheik Abdul Kareem Al-Muhammadawi, a prominent member of the TNA, are planning to propose a regional vote on the question of Southern autonomy together with the popular referendum on the Permanent Constitution in October 2005.<sup>617</sup> These demands have raised concerns that the country will be divided along ethnic and religious lines and that the Central Government might be too weak to hold the country together. The Sunni minority fear being further marginalized given that most resources are concentrated in the Northern and Southern regions of Iraq.

Tribal fighting throughout this area continues unabated, in particular between the Garamsha and the Halaf tribes. Both sides are armed with mortars, RPGs and heavy machine guns. The

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<sup>610</sup> See also the section on 'Imam Mehdi Army / Muqtada Al-Sadr'.

<sup>611</sup> Jane's Intelligence Review, *Battle for Iraq lies in the south*, June 2005, pp. 14-15, <https://www.washingtoninstitute.org/opedsPDFs/42a88e53e11f1.pdf>.

<sup>612</sup> Post-Gazette, *Islamist militias patrolling Basrah*, 24 April 2005, <http://www.post-gazette.com/pg/05114/493468.stm>.

<sup>613</sup> Times Online, *Death at 'immoral' picnic in the park*, 23 March 2005, <http://www.timesonline.co.uk/article/0,,7374-1537512,00.html>.

<sup>614</sup> Aljazeera, *Pirates raid oil tanker at Basrah*, 8 June 2005, <http://english.aljazeera.net/NR/exeres/221D18D3-0C2C-4BE5-89B3-2C2EF5C8FF7C.htm>.

<sup>615</sup> United Press International, *U.K. troops review security after Basrah bombs*, 22 April 2004, <http://washingtontimes.com/upi-breaking/20040421-020500-1068r.htm>.

<sup>616</sup> The Christian Science Monitor, *In the south, a bid to loosen Baghdad's grip*, 28 June 2005, <http://www.csmonitor.com/2005/0628/p01s04-woiq.html>.

<sup>617</sup> The New York Times, *Secular Shiites in Iraq Seek Autonomy in Oil-Rich South*, 30 June 2005, [http://www.occupationwatch.org/headlines/archives/2005/06/secular\\_shiites.html](http://www.occupationwatch.org/headlines/archives/2005/06/secular_shiites.html).



Garamsha originate from the Marshes, but after the former regime drained the Marshes, the Garamsha tribe was forced to relocate to the outskirts of Basrah, a traditionally Halaf area.<sup>618</sup> Both tribes have been involved in criminal activities, mainly kidnappings and car hijacking on the main road from Basrah to Al-Amarah. While the British troops have undertaken several attempts in the past to pacify the area, the conflict has not yet been settled.<sup>619</sup> As a sizable number of members of the Halaf tribe are serving in the Iraqi police and there is a concern that policemen, who are often more loyal to their tribe than to their duty, may enter tribal feuds and further undermine the reputation and effectiveness of the ISF. When Abbas Alawi, the son of a tribal chief of the Garamsha tribe, died while being held in detention by the MNF/ISF, this further increased the feud between the two tribes and may lead to more tit-for-tat killings.<sup>620</sup> In the past, feuds have also taken place between the Garamsha and the Basun tribe,<sup>621</sup> the Garamsha and the Awlad Amer tribe<sup>622</sup> and the Al-Abtut and Al-Hamadne tribes.<sup>623</sup>

## 5. Restrictions on movement

All vehicular travel in Iraq is extremely dangerous and there have been numerous attacks on civilian vehicles as well as military convoys. Attacks occur throughout the day, but travel at night is exceptionally dangerous. Travel in or through Ramadi and Fallujah, travel between Hilla and Baghdad and between the International Zone and Baghdad International Airport is particularly dangerous, however, no major route into Iraq is to be considered safe. Main risks include:

- *Ongoing armed conflict between MNF/ISF and insurgents*, mainly near Fallujah and Ramadi (highway to Jordan/Syria) and near the Syrian border, but also on the roads to Samarra, Tikrit and Mosul, as well as on the roads leading South;
- *Ambushes/hostage taking by insurgents/criminals*, mainly on the road from Baghdad to Fallujah as well as South of Baghdad ('Triangle of death'). The kidnappers often demand money but have also carried out kidnappings for political/religious reasons;
- *Highway robbery/car-jacking* by armed thieves are very common, even during daylight hours, and particularly on the highways from Baghdad to Jordan and Kuwait;
- *Roadside bombs*, in particular near Baghdad, mainly targeting MNF/ISF, but often causing civilian deaths;
- *Mines/UXO*, in particular near Iraqi-Iranian border and along the former 'green line';
- *'Friendly fire'*: there have been a number of incidents in which civilians were killed at MNF/ISF checkpoints or when getting close to a military convoy.<sup>624</sup>

Freedom of movement is further restricted due to the numerous military checkpoints which have been set up, especially in and around Baghdad as well as at the former 'green line', which separates the Northern Governorates from Central Iraq.<sup>625</sup> In addition, there are illegal checkpoints set up by armed groups and militias. For security reasons, airports and border

<sup>618</sup> The Scotsman, *Tribal leaders call the shots but Scots Guards sort out the bother*, 29 January 2005, <http://thescotsmen.scotsmen.com/international.cfm?id=108972005>.

<sup>619</sup> Times Online, *Troops sound pipe of peace for Basrah tribes*, 1 January 2005, <http://www.timesonline.co.uk/article/0,,7374-1421973,00.html>.

<sup>620</sup> Information received by UNHCR Iraq, July 2005.

<sup>621</sup> Al-Ahram Weekly, *Daggers and roses*, Issue No. 647, 17-23 July 2003, <http://weekly.ahram.org.eg/2003/647/re8.htm>.

<sup>622</sup> UK Ministry of Defence, News release, *British soldiers avert Basrah confrontation*, 26 September 2003, [http://www.operations.mod.uk/telic/pn\\_26sep\\_kings.pdf](http://www.operations.mod.uk/telic/pn_26sep_kings.pdf).

<sup>623</sup> Ibid., *Press release*, 23 December 2003, [http://www.operations.mod.uk/telic/pn\\_23dec\\_feud.pdf](http://www.operations.mod.uk/telic/pn_23dec_feud.pdf).

<sup>624</sup> Also see the section on 'Central Iraq / Baghdad'.

<sup>625</sup> UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, Annex VII 'Internal Flight or Relocation Alternative within the Iraqi Context'.



crossings may be closed, for example on religious holidays or political events such as elections. At times however, such closures are imposed without prior notice.

### **III. Material safety**

#### **1. Overall situation**

Economic sanctions during the 1990s, misguided economic policies, three successive wars and the failure to maintain existing structures have all contributed to the deterioration of Iraqi infrastructure and public services. After the most recent war, the situation worsened due to looting, the destruction of public property and general insecurity.

The first comprehensive survey on living conditions in Iraq, the *Iraq Living Conditions Survey* (ILCS) 2004, was released on 12 May 2005 by the MoPDC in collaboration with UNDP. The survey is based on a representative sampling of 21,668 households covering all 18 Governorates of the country and was carried out in April and May 2004 (August 2004 in the Governorates of Erbil and Dohuk). It examines housing conditions, the availability of infrastructure and services and environmental issues, looking at both the availability/delivery of basic services and infrastructure but also at the quality and stability of supply. The ILCS revealed grave deterioration in living standards over the past 25 years. Iraq now suffers from some of the region's highest rates of joblessness and child malnutrition and has continuing severe deficiencies in sewage systems, electric power supplies and other essential public services.

#### **Some of the ILCS' main findings are the following:**

- Unemployment among young men with secondary education or higher stands at 37 percent;
- Almost a quarter of children between the ages of six months and five years suffer from malnutrition;
- Even though most Iraqis are connected to water, electricity or sewage networks, supplies remain unstable and unreliable;
- More young people today are illiterate than in previous generations;
- Just 83 percent of boys and 79 percent of girls of school age are enrolled in primary school.<sup>626</sup>

To obtain a better picture of to what degree basic needs being are met, this chapter will examine the following issues:

- Food: what is the extent of the prevailing food insecurity in Iraq and how many Iraqis are dependent on the PDS?
- Potable water and sanitation facilities: do Iraqis have access to drinking water and sanitation facilities?
- Shelter/housing: what is the extent of Iraq's lack of housing? What is the quality of existing housing?
- Health services: do Iraqis have access to health care? What medical infrastructure, supplies and treatments are available?
- Education: how many children go to school? What are the conditions of school infrastructure and quality of education?
- Employment: what are levels of unemployment and who is mainly affected? What is the situation of child labour?
- Other infrastructure: do Iraqis have sufficient electricity, fuel and heating oil supply?

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<sup>626</sup> UNDP, News Bulletins, *Report on Iraqi living conditions released in Baghdad today*, 12 May 2005, <http://www.undp.org/dpa/pressrelease/releases/2005/may/pr12may05.html>.

As returnees, IDPs and refugees are often particularly affected by insufficient services, given that their traditional support networks have been destroyed and need to be rebuilt, their situation will be presented separately at the end of each topic.

## 2. Food

### a) General situation

Almost half of the population in Iraq is under the age of 18. Even before the most recent conflict began, many children were highly vulnerable to disease and malnutrition after years of wars and economic sanctions. International aid efforts and the UN Oil for Food Programme helped reduce the impact of sanctions and the rate of acute malnutrition among the youngest Iraqis gradually dropped from a peak of 11 percent in 1996 to 4 percent in 2002. The military intervention in March 2003 and the widespread looting that followed severely damaged the basic structures in Iraq; furthermore, persistent violence across the country slowed the pace of reconstruction almost to a halt. As a result, large parts of the population continue to depend on the monthly food ration provided under the PDS, introduced by the former regime of Iraq in 1991 and managed by the Ministry of Trade.

Food insecurity persists in Iraq, despite the PDS. The WFP Baseline Food Security Analysis in Iraq (2004) established that 4.4 percent of children under the age of 5 suffer from acute malnutrition, 11.5 percent are underweight and 1 in 4 children are chronically malnourished or stunting.<sup>627</sup> The ILCS found that 23 percent of children aged between six months and five years are malnourished, 12 percent suffer from general malnutrition and eight percent suffer from acute malnutrition. The prevalence of acute malnutrition is highest in the South, particularly in the Governorate of Qadisiya, where 17 percent of the children are acutely malnourished. While the Northern Governorates of Sulaymaniyah and Dohuk are relatively better off with regard to acute malnutrition, with four percent of children affected, their levels of chronic malnourishment are very high when compared with the national average. The percentage of severely stunted children is also highest in the Governorates of Erbil and Dohuk, at over 13 percent. In Erbil, the level of severely underweight children is also the highest, at 10 percent. Girls and boys are equally affected by food shortages.<sup>628</sup> Though the WFP Baseline Food Security Analysis and the ILCS provide slightly different results as regards the level of malnutrition in Iraq, the prevalence of all forms of malnutrition is at an alarmingly high level.

WFP reported that the prevailing security situation affects the overland transport of food into Iraq through unexpected border and road closures. While food distribution is usually completed on time in most governorates, there are some governorates whose food rations are delayed by 1-2 months, mainly for security reasons. WFP also reported countrywide shortfalls of various commodities such as oil, tea, sugar, rice and washing powder that are part of the monthly food ration. The major reasons for the shortages are insecurity – only a few trucking companies are still willing to operate in Iraq – and the slow response to needs by suppliers. WFP has said that it ‘is concerned about the shortfall in the rations as it seriously affects the poorest sections of the Iraqi population’.<sup>629</sup>

Reports of contaminated wheat flour led to the suspension of wheat imports from Australia and

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<sup>627</sup> WFP Iraq Country Office, *Baseline Food Security Analysis in Iraq*, 2004, p. 6,

[http://www.wfp.org/country\\_brief/middle\\_east/iraq/assessments/0409\\_foodsecurity.pdf](http://www.wfp.org/country_brief/middle_east/iraq/assessments/0409_foodsecurity.pdf).

<sup>628</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 58-63,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>629</sup> IRIN, *Iraq: Shortage in food rations raises concern*, 25 July 2005,

[http://www.irinnews.org/report.asp?ReportID=48279&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=48279&SelectRegion=Middle_East&SelectCountry=IRAQ).

doctors expressed concern about its effects on the health of consumers.<sup>630</sup> According however to Radhi Hamza Al-Radhi, the chief of the Commission on Public Integrity, Trade Ministry officials were responsible for spreading rumours about contaminated food in order to discredit the flour supplier and renegotiate the contract. Others speculated that Ministry employees added metal filings to food parcels to cheat on their weight, in order to sell parts of them on the black market.<sup>631</sup>

### **b) Particular problems faced by refugees, returnees and IDPs**

Refugees, returnees and IDPs are entitled to register with a food distribution agent and obtain food through the PDS. Like most Iraqis, they tend to sell some part of the monthly ration and use the income from the sale (along with any other income and savings they may have) to buy fresh food such as fruits, vegetables and meat as a supplement to their diet.<sup>632</sup> Most families have no food stocks.<sup>633</sup>

Newly displaced persons may face problems obtaining their food rations in their place of displacement, as their ration cards only allow receipt of food in a particular location. The transfer of food ration cards is often delayed by bureaucratic procedures, leaving families without food for several months. In addition, security conditions may prevent access to IDPs as observed in Fallujah in late 2004<sup>634</sup> and in Najaf during August 2004.<sup>635</sup> At times, returnees face delays in obtaining their food ration cards.

## **3. Potable water and sanitation facilities**

### **a) Introduction**

Before 1991 Gulf War, the water and sanitation sector in Iraq operated efficiently and using up-to-date technology. Safe, potable water was available to over 95 percent of the urban and 75 percent of the rural population. Furthermore, 75 percent of the urban and 45 percent of the rural population had access to sanitation facilities.<sup>636</sup> With much infrastructure damaged or neglected, access to potable water and sanitation facilities has become far more difficult.

### **b) Access to and supply of clean drinking water**

According to the ILCS,<sup>637</sup> most urban households (88 percent) and less than half of rural households (43 percent) have drinking water piped directly into their dwellings. The others rely on tanker-trucks and water piped into their yard or compound. One in every four rural households gets drinking water from unsafe natural sources such as rivers, lakes and streams. In the South, unprotected natural sources are the principle source of drinking water.

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<sup>630</sup> Ibid., *IRAQ: Contaminated flour taken out of bread basket*, 26 April 2005,

[http://www.irinnews.org/report.asp?ReportID=46806&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46806&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>631</sup> Los Angeles Times, *Corruption, theft tied to shortage of food rations*, 19 June 2005,

[http://www.boston.com/news/world/middleeast/articles/2005/06/19/corruption\\_theft\\_tied\\_to\\_shortage\\_of\\_food\\_rations/](http://www.boston.com/news/world/middleeast/articles/2005/06/19/corruption_theft_tied_to_shortage_of_food_rations/).

<sup>632</sup> The monthly ration includes rice, salt, sugar, beans, tea, vegetable oil cereal and infant formula.

<sup>633</sup> For example IDP Monitoring in the Governorate of Erbil showed that only 23 percent of the surveyed IDPs had food stocks, see UNOPS, IDP Monitoring, *Erbil Profile*, April 2005 update, p. 5.

<sup>634</sup> IOM, IDP Monitoring, *Anbar Profile*, April 2005, pp. 3-4.

<sup>635</sup> Ibid., *Najaf Profile*, p. 2.

<sup>636</sup> UN/World Bank, *Joint Iraq Needs Assessment*, p. 21, October 2003,

[http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assessment.pdf](http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assessment.pdf).

<sup>637</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 19-29, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

One third of the households have an unstable supply of drinking water and experience supply problems more than once a week. Of particular concern is the water supply in the Southern Governorates of Muthanna and Kerbala as well as the central Governorate of Diyala, where approximately half of all households suffer from an unstable drinking water supply.

In conclusion, the ILCS finds that nationwide only slightly more than half of all households have access to a safe and stable supply of drinking water, with higher rates in urban areas and lower rates in rural areas.<sup>638</sup> Less than one third of all households have water from safe sources, but they have an unstable supply, with 13 percent having no secondary source to turn to in case of water cuts. 17 percent of all households have neither safe nor stable supplies of drinking water. All of these figures combined make for an estimated 722,000 Iraqi households with unsafe and unstable drinking water, mainly concentrated in the Southern Governorates of Basrah, Muthanna, Babil, Kerbala and Qadisiya as well as in the Central Governorates of Salah Al-Din and Diyala (where less than half of all households have access to safe and stable drinking water).<sup>639</sup>

The majority of households report that they have problems obtaining the amount of drinking water they need (70 percent of all rural households), both due to inadequate supply and the high cost of water.

The results from the ILCS indicates a substantial reduction in access to safe and stable water – one UNDP study indicates that between 2003 and 2004 the percentage of households with such water supplies dropped from 95 to 60 percent. In comparison with neighbouring countries, Iraq lags far behind in the provision of safe and stable water supplies.

According to the Mayor's Office, Baghdad produces about 544 million gallons (2,059 million litres) of water per day, some 370 million gallons (1,400 million litres) short of its required amount. Some 55 percent of the water is lost because of leaking pipes.<sup>640</sup> In mid June 2005, two million persons in Western Baghdad were without fresh water for several days after insurgents sabotaged one of the main water plants that feeds the city.<sup>641</sup>

### **c) Access to sanitation facilities**

Nearly half of all urban households but only 3 percent of rural households are connected to a sewage system. Besides the significant difference between rural and urban areas, there is also a large variation between governorates. In Baghdad, more than two-thirds of the households are connected to a sewage system; this is only the case for three percent of the households in Diyala Governorate.

Of those connected to a sewage system, more than 50 percent in the South report frequent or even constant problems with their connection, while in the North and the Centre fewer problems are experienced. 40 percent of urban and 33 percent of rural households observed sewage in the streets of their neighbourhoods, a clear indicator of malfunctioning infrastructure and a severe lack of maintenance. The situation is most serious in the urban areas of the South and the rural

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<sup>638</sup> 33 percent of the rural population and 60 percent in urban areas have access to safe and stable supply of drinking water.

<sup>639</sup> In the Southern Governorate of Basrah, only 11 percent have access to safe and stable drinking water, in Al-Muthanna 30 percent, Babil 44 percent, Kerbala 46 percent and Al-Qadisiya 47 percent. In the Central Governorates of Salah Al-Din and Diyala, only 42 and 43 percent have access to safe and stable drinking water.

<sup>640</sup> The Associated Press, *Baghdad's mayor complains about crumbling capital*, 30 June 2005, <http://www.signonsandiego.com/news/world/iraq/20050630-1454-iraq.html>.

<sup>641</sup> IRIN, *IRAQ: Water main attack affects two million in Baghdad*, 22 June 2005, [http://www.irinnews.org/report.asp?ReportID=47762&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47762&SelectRegion=Middle_East&SelectCountry=IRAQ).

areas in the North, where more than 50 percent of households live in areas where sewage is visible in the streets. This has a direct impact on the health conditions of affected populations and health experts in Baghdad recently warned of a possible cholera outbreak this summer. According to Dr. Duraid Al-Khatoun, a paediatrician at the Children's Teaching Hospital in Baghdad, a three-fold increase of cholera in children has been observed since last year, with at least one case being hospitalized per day (last year less than 10 cases were hospitalized per month). He further explained that 90 percent of the cases were living in suburbs not connected to a sewage system.<sup>642</sup>

#### **d) Particular problems faced by refugees, returnees and IDPs**

Returnees and IDPs living in camps/settlements, public buildings or tents face major problems to obtain adequate amounts of drinking water. In addition, large numbers of newly arriving returnees and IDPs put an additional strain on already weak water networks. In the Governorate of Erbil, 43 percent of the IDP families have to share one tap between five families and 25 percent share two taps between 2-4 families, often for short duration due to unstable supply.<sup>643</sup>

Public buildings and camps/settlements often have no sanitation facilities. For example, among the 1,519 IDP families (8,267 persons) living in public buildings in Erbil, 56 percent have no latrines, 61 percent have no bathrooms, 31 percent have bad or very bad latrines and 28 percent have bad or very bad bathrooms.<sup>644</sup>

## **4. Shelter / housing**

### **a) Introduction**

Subsequent wars, government campaigns aimed at destroying people's houses and livelihoods, the generally poor state of the economy and the over-centralization of the public administration have created an enormous lack of housing, which experts say is now at a 'crisis level'.<sup>645</sup> In addition, many houses are in need of rehabilitation due to lack of investment and maintenance, overcrowding and inadequate basic services such as water, sanitation, electricity and road infrastructure. Other houses have been damaged or destroyed by previous or current conflict. Given that nearly 30 percent of the urban Iraqis are living near the poverty line,<sup>646</sup> many of the poor cannot afford adequate housing and live in overcrowded accommodation, illegally occupy public buildings or private homes or live in tents or makeshift accommodation. After the fall of the former regime, rents, which had previously been regulated by the government, increased dramatically, forcing many Iraqis out of their apartments. For example in Baghdad, IOM recorded more than 12,200 families (more than 75,000 persons) who were forced to leave their apartments after the 2003 conflict.<sup>647</sup> It appears that households headed by women have been particularly affected by rent increases.<sup>648</sup> Many moved into public buildings due to the lack of affordable alternatives. As authorities increasingly need to return public buildings to their original purposes, evictions continue to threaten those living in public buildings. Displaced

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<sup>642</sup> Ibid., *IRAQ: Doctors alert for a possible cholera outbreak in summer season*, 25 May 2005,

[http://www.irinnews.org/report.asp?ReportID=47306&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47306&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>643</sup> UNOPS, *IDP Monitoring, Erbil Profile*, April 2005, p. 6.

<sup>644</sup> Ibid., p. 5.

<sup>645</sup> UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.

<sup>646</sup> Ibid.

<sup>647</sup> IOM, *IDP Monitoring, Baghdad Profile*, April 2005, p. 5.

<sup>648</sup> UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.



persons are also particularly affected by the lack of housing.<sup>649</sup>

### **b) Housing shortage**

The full magnitude of the housing problem in Iraq is unknown due to a lack of proper data.<sup>650</sup> According to a Joint Needs Assessment undertaken by the UN Development Group and the World Bank, Iraq is experiencing a housing sector shortage of between 1.0 to 1.5 million housing units, which by international standards constitutes a 'crisis level'.<sup>651</sup> This shortage affects up to 9 million people,<sup>652</sup> as the available housing stock of about 2.8 million units is well below the minimum needs for the current population.<sup>653</sup> In addition, due to the high population growth in Iraq, some 70,000 new housing units are needed each year.<sup>654</sup> The military intervention in March 2003 and the continued fighting in the aftermath of the fall of the former regime have further resulted in the loss of housing units,<sup>655</sup> and the return of refugees and IDPs have increased pressure on the existing housing situation. The Minister of Housing and Construction, Jasim Muhammad Jafar, stated at a news conference that Iraq needs an additional three million residential units to alleviate the housing shortage.<sup>657</sup>

### **c) Quality of housing**

The quality of housing has worsened significantly due to overcrowding and limited maintenance. Housing space available per person was only 10 m<sup>2</sup> in 2000. About 30-35 percent of housing stock is below the minimum standards set by the Iraqi Ministry of Housing, particularly in urban centres.<sup>658</sup>

According to the ILCS, one in ten households is overcrowded, mainly those in rural areas. In particular, rural areas in the Governorates of Dohuk, Sulaymaniyah, Ninewa Babil, Kerbala, Najaf, Qadisiya and Muthanna suffer from serious overcrowding, where roughly 25 percent of households are overcrowded.<sup>659</sup> Accordingly, a high number of households (37 percent) say that they are 'rather dissatisfied' or 'very dissatisfied' with the size of their current dwelling. 58 percent of households in the Governorate of Sulaymaniyah expressed high degrees of dissatisfaction with housing costs, which they consider to be too high.<sup>660</sup>

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<sup>649</sup> See also the section on 'Particular problems faced by refugees, returnees and IDPs'.

<sup>650</sup> Information received from UN-Habitat, July 2005.

<sup>651</sup> UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.

<sup>652</sup> For calculation purposes, the UN Agencies take the number six as average family size.

<sup>653</sup> UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.

<sup>654</sup> UN-Habitat, *UN-Habitat in Iraq - History*, <http://www.unhabitat.org/iraq/Observation.asp>.

<sup>655</sup> An estimated 5,000 housing units were lost during the military conflict in March/April 2003 and the looting in the aftermath; see UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.

<sup>656</sup> See also the section on 'Western Iraq (Al-Anbar Governorate)' regarding the loss of housing during military operations in Fallujah and Karabilah.

<sup>657</sup> The New York Times, *3 Car Bombs Go Off at Once in Northern Iraq, Killing 20*, 8 June 2005, <http://www.nytimes.com/2005/06/08/international/middleeast/08iraq.html>.

<sup>658</sup> UN Development Group/World Bank, *Joint Needs Assessment, Housing and Urban Management Sector Report*, 10 September 2003, <http://www.unhabitat.org/iraq/documents/IRAQ-UNDG-WB-Housing-Urban-Final-Submitted%20Report.doc>.

<sup>659</sup> Overcrowding means that more than three persons live in a room in a dwelling. 16 percent of rural households and 7 percent of urban households were found to be overcrowded. In rural areas in the Governorate of Dohuk, 25 percent of households are overcrowded, 20 percent in Sulaymaniyah, 24 percent in Ninewa, 22 percent in Babil, 21 percent in Kerbala, Najaf and Al-Qadisiya and 32 percent in Al-Muthanna Governorate.

<sup>660</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 31-33,

The quality of available housing has also suffered because of damage inflicted by armed conflict. According to the ILCS, an average of five percent of all households have experienced damage to their current dwelling due to military activity.<sup>661</sup> It is safe to assume, however, that military operations in places such as Najaf, Fallujah, Ramadi, Mosul and Al-Qaim, which took place after the survey was conducted, caused additional damage. According to the ILCS, damage due to military activity is particularly high in the Northern Governorates where as many as 25 percent of all rural households and 7 percent of all urban households report damage to their current dwelling. The Governorate of Sulaymaniyah has suffered the most damage, with 49 percent of all rural and 12 percent of all urban households reporting military damages to their current residence. Another six percent of all households reside in dwellings that sustained damage from other causes, such as lack of maintenance. Finally, small numbers of households report damage to their dwellings caused by looting. Three in four households that live with damages to their dwellings say they have no plans to start repairs, often due to a lack of financial resources.<sup>662</sup>

#### **d) Particular problems faced by refugees, returnees and IDPs**

IDP and returnee monitoring has revealed that shelter is one of the most pressing concerns for IDPs and returnees. Large numbers of Iraqis cannot return to their places of origin as their villages were either destroyed by the former regime, either as part of the *De-villagization* and *Anfal* campaigns in Northern Iraq<sup>663</sup> or the drainage of the Marshes in Southern Iraq. In addition, Iraqis' financial resources are often limited, impeding them from reconstructing or rehabilitating their houses or paying rents. A lack of shelter is one of the major reasons for returnees and IDPs not being able to return to their places of origin and instead returning into a situation of internal displacement. Many are hosted with relatives, in public buildings or even in tents. Public buildings housing returnees and IDPs are usually overcrowded and lack hygienic facilities and potable water. Their residents are at risk of being evicted by the authorities that wish to use such buildings for their original purposes.

The following figures from IOM/UNOPS IDP Monitoring provide an overview of the extent of the shelter problem faced by IDPs (note: housing is a problem prevalent in all governorates; the data below does not cover all governorates but should illustrate the extent of the problem):

- In the *Governorate of Dohuk*, 3,120 IDP families are living in public buildings that are sub-standard and lack adequate water and sanitation facilities. Almost two thirds of the buildings are in either bad or very bad condition.<sup>664</sup> According to the local authorities, 5,018 IDP families were living in 374 locations such as health centres, kindergartens and schools, military buildings, factories and police stations by the end of May. This significant increase in the number of IDPs living in public buildings (in July 2004, the local authorities accounted for 1,728 families) is linked, *inter alia*, to the return of refugees from Iran, many of whom cannot return to their homes near the Iraq-Turkish border due to security reasons, and the numbers of Iraqis who have relocated to Northern Iraq, seeking refuge from persecution and general violence in other parts of the country. The local authorities have

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<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>661</sup> Five percent of urban and three percent of rural dwellings.

<sup>662</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 34-35,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>663</sup> According to the local authorities, 4,006 out of 4,655 villages were destroyed in the three Northern Governorates. To date, 2,620 villages have been reconstructed, leaving 1,386 destroyed; see Kurdistan Development Corporation, *Construction/Village Statistics*,

[http://www.kurdistancorporation.com/construction\\_rebuild.html](http://www.kurdistancorporation.com/construction_rebuild.html).

<sup>664</sup> UNOPS, IDP Monitoring, *Duhok Profile*, April 2005, pp. 2, 7.

been reluctant to accept these persons given the already dire housing situation in the North. In addition, the increase of rental prices for apartments has forced impoverished IDPs to leave their apartments and begin residing in public buildings.<sup>665</sup>

- The local authorities in the *Governorate of Sulaymaniyah* have done an inventory of all public buildings currently being used by IDPs and other populations and introduced a programme to provide US \$2,000 to each family to vacate public buildings, provided that the authorities have the necessary financial resources.<sup>666</sup> To date, a number of IDPs have made use of this programme, in particularly those originating from Kirkuk as they also benefit from land allocation.<sup>667 668</sup> However, for those not originating from Kirkuk, the amount is hardly enough to rent an apartment, given the increased rental prices,<sup>669</sup> and accordingly there are still 1,388 IDP families (8,849 persons) living in public buildings in the Governorate. The majority of such buildings are in either bad or very bad conditions (80 percent), while the others are in fair or good condition (20 percent).<sup>670</sup> UNHCR was informed by the local authorities in the *Governorate of Erbil* that they are planning to implement a similar initiative to vacate public buildings in Erbil city, providing US \$3,200 per family in addition to a piece of land (200m<sup>2</sup>) outside the city, access to public services and shelter materials. It remains to be seen to what degree resources will be available for this initiative. If the programme succeeds, it might be expanded to other towns in the Governorate and the Governorate of Dohuk.<sup>671</sup>
- In the *Governorate of Kirkuk*, 25 percent of the 21,800 IDP families are reported to be living in tented camps, 25 percent in public buildings, 25 percent in collective settlements and the remaining 25 percent mixed with host communities.<sup>672</sup>
- The vast majority of the 9,776 IDP families in the *Governorate of Ninewa* are living in tents and in old military barracks.<sup>673</sup>
- In the *Governorate of Diyala*, 15 percent of the secondary displaced Arabs live in public buildings and military barracks and more than 400 IDP returnee families live in tents. In addition, 238 refugee returnee families from Iran were found to be living in public buildings and IDP camps/settlements.<sup>674</sup>
- In the *Governorate of Salah Al-Din*, 62 percent of secondarily displaced Arabs live in public buildings, 73 percent of Marsh Arabs (who were displaced as a result of the drainage of the Marshes) live in camps/settlements (the remainder live in public buildings) and 94 percent of the Kurdish IDP returnees are mixed with host communities, (the remainder live in public buildings or in camps or settlements).<sup>675</sup>
- In the *Governorate of Baghdad*, there are, *inter alia*, 605 Roma families, who were displaced after the fall of the former regime due to their different social practices. 90 percent of them are living in public buildings.<sup>676</sup>
- In the *Governorate of Wasit*, 66 percent of the 1,300 IDP families are accommodated in camp-like settlements on the outskirts of the main urban centres, 17 percent in public building and few mixed with host communities.<sup>677</sup>
- In the *Governorate of Thi-Qar*, 65 percent of the 5,000 IDP families reside in public

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<sup>665</sup> UNHCR Iraq, July 2005.

<sup>666</sup> This programme was created by Administrative Order No. 363 dated 9 October 2004.

<sup>667</sup> UNHCR Iraq, July 2005.

<sup>668</sup> See also the section on 'Restitution of property rights or compensation'.

<sup>669</sup> A small apartment in Sulaymaniyah costs around US \$250-300 per month.

<sup>670</sup> UNOPS, IDP Monitoring, *Sulaymaniyah Profile*, April 2005, pp. 2, 7.

<sup>671</sup> UNHCR Iraq, July 2005.

<sup>672</sup> IOM, IDP Monitoring, *Tameem Profile*, April 2005, p. 1.

<sup>673</sup> *Ibid.*, *Ninewa Profile*, p. 6.

<sup>674</sup> *Ibid.*, *Diyala Profile*, pp. 2-3.

<sup>675</sup> *Ibid.*, *Salah Al Din Profile*, p. 2.

<sup>676</sup> *Ibid.*, *Baghdad Profile*, p. 4.

<sup>677</sup> *Ibid.*, *Wasit Profile*, p. 1.

buildings, with a few living in camp-like settlements and some living in mixed/host communities.<sup>678</sup>

- In the *Governorate of Qadisiya*, half of the 2,300 IDP families are being hosted by local communities, 35 percent are living in collective towns and 15 percent are living in camp-like settlements or public buildings. Assessments in collective towns have revealed dire housing conditions, usually with one family of up to ten members sharing a single room which is poorly insulated and has no water/electricity supply or sanitation facilities. Among the IDPs living with host families, several were found to live in rooms with unfinished or missing windows, doors or pavement insulation.<sup>679</sup>
- In the *Governorate of Basrah*, 98 percent of the more than 11,600 IDP families that were displaced as a result of the drainage of the Marshes and 92 percent of the 16,417 families that were displaced by the Iraq-Iran War are living in camp-like settlements with little or no access to water and sanitation facilities.<sup>680</sup>

UNHCR Returnee Monitoring in Southern Iraq revealed that returnees have much more severe shelter needs than those of the general population. Surveys in the Governorates of Basrah, Missan and Thi-Qar showed that the majority of the houses had suffered minor or moderate damage and that 11 percent were severely damaged or destroyed; however, the situation of returnees was much more worrisome with 24 percent of houses having sustained severe damage and 33 percent being completely destroyed. Most returnees were found to be living in rented accommodation or with relatives. However, in the Governorates of Basrah and Thi-Qar, large numbers of returnees are living in public buildings (24.6 percent in Basrah and 16.4 percent in Thi-Qar).<sup>681</sup>

Refugee returnee monitoring in the district of Soran and particularly in the sub-district of Dyana, which has the highest number of returnees in the Governorate of Erbil, showed that some 80 percent of the surveyed returnees were not able to return to their place of origin, and therefore, ended up in internal displacement, mainly because their villages were destroyed. The main reasons for not returning to rebuild their houses are a lack of financial resources and the lack of basic services in these areas.<sup>682</sup> Other returnees in Northern Iraq, whose villages have not yet been rehabilitated, are currently living in tents at the Kawlok Hamiya Camp (Governorate of Erbil) and the Chwarqurna Camp (Governorate of Sulaymaniyah).<sup>683</sup> To assist with the reintegration of returnees from Iran in the Governorate of Sulaymaniyah, local authorities allocate each family a piece of land (approximately 200m<sup>2</sup>). Until recently, the authorities also provided a reconstruction grant of US \$1,000 to each returnee family; however, given the authorities' limited financial abilities, this assistance was stopped. To date, a number of returnee families benefited from this programme; however, it appears that few, if any, have been able to begin construction given the current high prices for construction materials. The average cost of constructing a two room house in the area with a bathroom and latrine is estimated to be between US \$10,000 - \$15,000. The programme is limited to families originating from the Governorate of Sulaymaniyah or those who are having strong political links to the local authorities. There is no such reintegration programme available for returnees in other governorates.<sup>684</sup>

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<sup>678</sup> Ibid., *Thi'Qar Profile*, p. 1.

<sup>679</sup> Ibid., *Qadissiyah Profile*, pp. 1, 3.

<sup>680</sup> Ibid., *Basrah Profile*, pp. 2-3.

<sup>681</sup> UNHCR, *Returnee Monitoring Governorates of Basrah, Missan, Muthanna, Thi Qar*, April 2005, pp. 20-23.

<sup>682</sup> Ibid., *Returnee Monitoring Governorates of Dohuk, Erbil, Sulaymaniyah (Three Northern Governorates)*, June 2005, pp. 9-10.

<sup>683</sup> Ibid., pp. 11, 13.

<sup>684</sup> Ibid., pp. 13-14.

The lack of housing also affects refugees living outside camps. After the fall of the former regime, hundreds of Palestinian refugees were evicted from their homes. In the meantime, all have moved into rented accommodation provided to them by the authorities and UNHCR. UNHCR also provides rental allowances to vulnerable Syrian refugee families in Baghdad and Iranian refugees in the Governorates of Erbil and Sulaymaniyah. Iranian refugees that relocated from the Al-Tash Camp to the Governorate of Sulaymaniyah were living in very poor conditions, with several families living in tents.<sup>685</sup> UNHCR supports the neediest among them with the construction of settlements in Barika that include the construction of houses, water/electricity supply and the rehabilitation of school facilities. UNHCR is aware that the majority of Ahwazi refugees are either living in public buildings or mud houses that lack water, electricity and sewage services. Most public buildings will almost certainly be repossessed by the Government in the future, and also remain at risk from mines and unexploded ordinance.

## 5. Health services

### a) Introduction

In the 1970s and early 1980s, Iraq's health care system was considered one of the region's best. According to UNICEF, infant mortality rates decreased from 80 per 1,000 live births in 1974 to 40 in 1989. In the same period, under-five mortality rates fell from 120 per 1,000 live births to around 60.<sup>686</sup> However, discriminatory government policies based on political, ethnic and geographic considerations have led to large disparities in health between different populations.<sup>687</sup> Years of wars and sanctions have contributed to the deterioration of the Iraqi health system, and medical supplies and equipment are constantly in short supply. In the eight months following the 1991 Gulf War, under-five mortality rates rose to 120 per 1,000 live births and remained at approximately that level, with higher rates in the Centre and South where rates up to 150 per 1,000 live births in the year 2000 were recorded. The maternal mortality rate rose from 117 per 100,000 in 1989 to 294 during 1989-1998.<sup>688</sup> A reproductive health survey conducted by UNFPA revealed that in 2002 maternal mortality stood at 310 deaths per 100,000.<sup>689</sup> The ILCS provides a lower figure with 193 deaths per 100,000.<sup>690</sup>

Today's situation is marked by limited access to health care in areas of conflict and general poor quality of health services (lack of medicines and medical supplies, non-functioning medical equipment, degraded or disrupted electricity and water supply, sanitation and communication). Accordingly, maternal and infant mortality and malnutrition continue to be major problems (nearly a quarter of Iraq's children suffer from chronic malnutrition.<sup>691</sup> Certain previously well-controlled illnesses such as diarrhoea, acute respiratory infections and typhoid have recurred, and malaria, cholera<sup>692</sup> and leishmaniasis<sup>693</sup> are endemic in several parts of the country. In

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<sup>685</sup> See also the section on 'Iranian Kurdish refugees'.

<sup>686</sup> WHO/UNICEF, *Iraq Watching Briefs, Health and Nutrition*, July 2003, Executive Summary, <http://www.cumc.columbia.edu/dept/nursing/institutes-centers/whoCenter/pdf/wtchngBfHlthNutrf110903.pdf>.

<sup>687</sup> UN/World Bank, *Joint Iraq Needs Assessment*, p. 16, October 2003, [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>688</sup> WHO/UNICEF, *Iraq Watching Briefs, Health and Nutrition*, Executive Summary, July 2003, <http://www.cumc.columbia.edu/dept/nursing/institutes-centers/whoCenter/pdf/wtchngBfHlthNutrf110903.pdf>.

<sup>689</sup> UN News Centre, *Maternity Deaths in Iraq Nearly Triple Since 1990*, 4 November 2003, <http://www.globalhealth.org/news/article/3698>.

<sup>690</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 51-53, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>691</sup> See also the section on 'Food'.

<sup>692</sup> See IRIN, *IRAQ: Doctors alert for a possible cholera outbreak in summer season*, 25 May 2005, [http://www.irinnews.org/report.asp?ReportID=47306&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47306&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>693</sup> See IRIN, *IRAQ: Health officials fear leishmaniasis epidemic*, 5 April 2005,



Baghdad, a 30 percent increase of hepatitis was registered in March 2005 (899 cases) compared to the same period in 2004 (615 cases), mainly due to poor sewage systems. Hepatitis C is very common, and according to the WHO no vaccine is currently available while treatment remains too expensive for most people in developing countries.<sup>694</sup> Tuberculosis, another airborne disease, has been on the increase in the Governorate of Missan after it had been largely under control for more than 50 years. The reasons for this include widespread poverty, large amounts of dust in the air and a lack of health awareness programmes and medicines.<sup>695</sup> According to health officials in Al-Amarah, there are an estimated 5,000 cases of tuberculosis, with more than 400 cases currently under treatment.<sup>696</sup>

Continuing insecurity and lawlessness constrain access to health facilities, and fighting causes large numbers of casualties and destroys or damages of health infrastructure, overwhelming the already strained system.<sup>697</sup> The MNF have been accused of hindering medical care in areas of combat. During the siege of Fallujah in November 2004, it was reported that hospitals were raided, infrastructure destroyed, medical supplies prevented from reaching the city and ambulances shot at.<sup>698</sup>

### **b) Access to health care**

According to the ILCS,<sup>699</sup> most urban households can reach health facilities within a reasonable period of time, whereas access to health care facilities is a problem in rural areas. An average of 89 percent of the households are within the reach of a health centre,<sup>700</sup> pharmacies are within the reach of 86 percent of households<sup>701</sup> and 69 percent of the population live within 30 minutes travel time of a public hospital.<sup>702</sup> Still, a considerable number of rural households can reach health care facilities only with difficulty. The situation is in particularly severe in the Southern Governorate of Muthanna and the Northern Governorate of Sulaymaniyah, where only 37 and 41 percent respectively of rural households have easy access to health centres and less than 20 percent live within 30 minutes travel time of a public hospital. Furthermore, more than 40 percent of the population in the Governorates of Muthanna, Sulaymaniyah and Kirkuk cannot reach pharmacies within 30 minutes. Lack of easy access affects mainly low-income households.

### **c) Health infrastructure**

Iraq's physical health infrastructure has deteriorated as a result of over twenty years of under-investment, poor management and conflict. It is reported that between 1991 and 2000, 869 of 1,800 primary health care centres closed down because of a lack of personnel, drugs, supplies and equipment.<sup>703</sup> This situation has been further exacerbated by the latest conflict which was

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[http://www.irinnews.org/report.asp?ReportID=46462&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46462&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>694</sup> Ibid., *IRAQ: Doctors fear hepatitis outbreak*, 18 April 2005,

[http://www.irinnews.org/report.asp?ReportID=46678&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46678&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>695</sup> Ibid., *IRAQ: Increase in TB cases worrying, doctors say*, 13 June 2005,

[http://www.irinnews.org/report.asp?ReportID=47610&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47610&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>696</sup> UNHCR Iraq, June 2005.

<sup>697</sup> The military confrontation between US Forces and Muqtada Al-Sadr in August 2004 left Najaf's main hospital damaged and two smaller hospitals had to carry out surgeries in reception lobbies. Ten months later, little reconstruction has been done; see Knight Ridder Newspapers, *Much-needed emergency medical supplies arrive in Najaf*, 5 June 2005.

<sup>698</sup> Inter Press Service, *US Military Obstructing Medical Care in Iraq*, 13 December 2004,

<http://www.ipsnews.net/interna.asp?idnews=26644>.

<sup>699</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 38-39,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>700</sup> 95 percent in urban areas and 70 percent in rural areas.

<sup>701</sup> 93 percent in urban areas and 60 percent in rural areas.

<sup>702</sup> 78 percent in urban areas and 38 percent in rural areas.

<sup>703</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 6,

followed by widespread looting<sup>704</sup> and the insecure supply of electricity and water. According to the Ministry of Health, all hospital buildings and almost 90 percent of health centres require repair or total reconstruction.<sup>705</sup>

All of Iraq remains plagued by shortages in electricity<sup>706</sup> and water.<sup>707</sup> The Medicine for Peace (MFP) survey showed that all hospitals surveyed have installed electrical power generators as a back-up and have adequate stores of fuel on hand (some sources estimate however that gasoline-driven electric generators make up for only 60-70 percent of a hospital's electrical needs as compared to public electricity).<sup>708</sup> The survey further found that in several hospitals the supply of potable water was inadequate and condition of the sanitation system was deplorable, with sixty percent of the toilets in the surveyed Baghdad hospitals not working. Hygienic conditions in all hospitals were found to be insufficient and pose a threat of hospital-acquired infections.<sup>709</sup>

MFP found that clinical laboratory equipment is generally old and malfunctioning. Seventy percent of hospitals are unable to provide the necessary laboratory tests to support the clinical activities in the hospital. Standard x-ray examinations and the ability to do laboratory testing are limited, and most hospitals are unable to perform them.<sup>710</sup> Five of the institutions surveyed had marginal to inadequate radiological services due to outdated and poorly functioning clinical imaging equipment.<sup>711</sup>

#### **d) Hospital staff**

A MFP study marked it as a positive development that the number of hospital staff in Baghdad has increased since 2002.<sup>712</sup> Salaries have also risen: while a physician would earn US \$11 and a nurse US \$6 per month in 2002, they made US \$299 and US \$181 per month respectively in 2004.<sup>713</sup> The MFP study further noted a qualitative change in the medical staff, with many doctors having worked in military hospitals before but also many well-experienced physicians fleeing Iraq due to increased threats to their security.<sup>714</sup> Many doctors therefore employ armed guards to provide protection.<sup>715</sup> After years of isolation, medical staff are in urgent need of training.

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<http://www.medpeace.org/news/MFPstudy2005.pdf>.

<sup>704</sup> It is estimated that 12 percent of hospitals were damaged and seven percent looted, mainly in Baghdad, see WHO/UNICEF, *Iraq Watching Briefs, Health and Nutrition*, July 2003, p. 39,

<http://www.cumc.columbia.edu/dept/nursing/institutes-centers/whoCenter/pdf/wtchnBfHithNutrf110903.pdf>.

<sup>705</sup> IWPR, Iraq Crisis Report No. 118, *Patients Told to Buy Their Own Drugs*, 25 March 2005,

[http://www.iwpr.net/index.pl?archive/irq/irq\\_118\\_3\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_118_3_eng.txt).

<sup>706</sup> See also the section on 'Electricity'.

<sup>707</sup> See also the section on 'Potable water and sanitation facilities'.

<sup>708</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 11,

<http://www.medpeace.org/news/MFPstudy2005.pdf>.

<sup>709</sup> *Ibid.*, pp. 12-13.

<sup>710</sup> Serological assays for HIV, hepatitis B and C, or HIV viral load (HIV RNA) assays tests are performed at the Central Blood Bank Laboratory. The capacity and quality of testing is currently not known; see Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 14,

<http://www.medpeace.org/news/MFPstudy2005.pdf>.

<sup>711</sup> *Ibid.*, pp. 4, 13.

<sup>712</sup> Hospital-based physicians have increased by an average of 20 percent, nurses 70 percent.

<sup>713</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 10,

<http://www.medpeace.org/news/MFPstudy2005.pdf>; the Ministry of Health announced that salaries would be further increased in an attempt to encourage doctors to return to Iraq, see IRIN, *IRAQ: Doctors' salaries set to improve*, 29 June 2005,

[http://www.irinnews.org/report.asp?ReportID=47873&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47873&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>714</sup> See UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 57-58 and Annex V 'Doctors and Medical Personnel'.

<sup>715</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 10.

### e) Availability of medicine, medical supply and special treatment

Hospitals usually support both in-patient and out-patient pharmacies and provide medicine free of charge or at minimal cost. The MFP study showed that all surveyed hospitals in Baghdad experienced either sporadic or persistent deficiencies in essential drug categories, and most hospitals suffered from shortages of medical supplies such as sterile needles, intravenous tubing, cannulas, sterile gloves, masks, antiseptics and soap in hospitals with surgical services.<sup>716</sup> Consequently, patients are requested to buy medicines from pharmacies outside the hospital where costs are generally high. In a country where the economy is still reeling from war and years of sanctions, the prices of medicine are too high for many Iraqis, in particular when it comes to chronic diseases or special treatment. Iraqi doctors reported a shortage of medicine for children suffering from epilepsy due to the high cost of purchasing the necessary drugs.<sup>717</sup> Medicine for adult epilepsy patients is more widely available and at a lower price.<sup>718</sup> Treatment for tuberculosis (Rifampicin, Ethambutol and Pyrazinimide) reportedly costs at least US \$500 and is not widely available.<sup>719</sup> The ILCS revealed that 35 percent of the ill people in rural areas who did not seek medical assistance said that they could not afford it. In urban areas, 15 percent of all ill people reported that they could not afford medical assistance. The highest proportion that could not afford health services were found in the South (27 percent).<sup>720</sup>

Officials from the AIDS Research Centre in Baghdad, which offers free treatment for HIV/AIDS patients, say that they suffer from a shortage of medicines as the Ministry of Health has not replenished their stocks for months. Even though the Ministry of Health provides financial assistance to HIV-positive Iraqis, medical staff says that it is not enough to afford the costly medicines, and patients therefore depend on the AIDS Research Centre. Before 2003, most HIV/AIDS patients were infected through blood transfusions but transmission by sexual intercourse is on the rise and now accounts for 90 percent of the infections recorded by the centre.<sup>721</sup> The number of HIV/AIDS cases reported to health authorities in Iraq is very low:<sup>722</sup> in April 2005 there were 72 persons under treatment at the centre but actual numbers are likely much higher as persons may not report to the centre for fear of social stigma.<sup>723</sup>

Reasons for shortages in medicines include, *inter alia*, insufficient funding, lack of basic tools needed to run an efficient medical supply management system, mismanagement, corruption and theft. Iraqi officials say that the problem is so serious that the health of the general populous is being affected. Dr. Shakir Al-Ainachy, Head of Operations in the Ministry of Health, says that his Ministry allocated \$518 million for the purchase of 831 items of medical equipment in the

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<sup>716</sup> Ibid., p. 14; see also Table 6, p. 22 for an overview of the availability of pharmaceuticals and medical supplies in the surveyed hospitals in Baghdad.

<sup>717</sup> For example, the medicine 'Nandrolone' costs US \$70 for a treatment of less than 20 days while 'Nikan' costs around US \$50 for a one-month treatment.

<sup>718</sup> IRIN, *IRAQ: Shortage of drugs for epileptic children*, 3 May 2005,

[http://www.irinnews.org/report.asp?ReportID=46931&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46931&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>719</sup> Ibid., *IRAQ: Increase in TB cases worrying, doctors say*, 13 June 2005,

[http://www.irinnews.org/report.asp?ReportID=47610&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47610&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>720</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 89,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>721</sup> IRIN, *IRAQ: Focus on shortage of medicine for HIV/AIDS patients*, 7 April 2005,

<http://www.irinnews.org/report.asp?ReportID=46501>.

<sup>722</sup> According to UNAIDS, a total of 150 HIV cases were reported at the end of 2000 and a total of 124 cases at the end of 2001. It further states that the system of reporting and screening of HIV was tightly monitored by the health authorities with certain groups of persons (e.g. travellers before entering the country, Gypsies, prostitutes and night club workers, blood recipients, prisoners and pregnant women) being systematically tested. By the end of 2003, it is estimated <500 (range <1000) adults and children are living with HIV, see UNAIDS, *Epidemiological Fact Sheets, Iraq*, 2004 Update, 1 September 2004, <http://www.unaids.org/en/geographical+area/by+country/iraq.asp>.

<sup>723</sup> IRIN, *IRAQ: Living with HIV/AIDS*, 1 July 2003,

[http://www.irinnews.org/report.asp?ReportID=35107&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=35107&SelectRegion=Middle_East&SelectCountry=IRAQ).

second half of 2004 but that large parts of those funds were wasted or misappropriated. The Iraqi Government says it is committed to investigating and rooting out corruption in the healthcare sector.<sup>724</sup> Stolen and smuggled medicine usually finds its way to the black market where it is sold cheaper than in private pharmacies, but may have negative affects on people's health as it is often sold without prescription, may be expired or may have been wrongly stored.<sup>725</sup>

In the South, shortages of medicines such as antibiotics, intravenous painkillers, fluids and syringes continue to be a matter of concern.<sup>726</sup> A shortage of medicine is also a major concern in the Northern Governorates.<sup>727</sup>

The MFP survey shows that most medical and surgical sub-specialty services are available in the health care system in Baghdad, however a number are seriously deficient. There are inadequate surgical support services, a lack of competent anaesthetists and nurses and shortages of antibiotics for surgical procedures. In addition, Iraq's health system lacks services in a number of areas of chronic disease care, such as dialysis, adult and paediatric medical oncology and radiation oncology.<sup>728</sup>

Blood for transfusions is supplied by the National Blood Transfusion Centre in Baghdad. It is reported that the continuing violence has led to a lack of blood supplies. Insecure power supplies and unreliable generators have resulted in the loss of urgently needed blood due to continually interrupted refrigerated storage conditions. In addition, shortages of disposable blood bags and tubes for laboratory tests have also caused delays in the ability to replenish the supply through donations.<sup>729</sup>

According to the MFP survey, psychiatric services in Baghdad are only available in two old facilities. MFP noted that 'the absence of acute psychiatric services and consulting services in all hospitals surveyed and the general lack of knowledge of psychiatric aspects of medical illness is a serious problem in a society that has endured years of political oppression, and suffers from high levels of poverty and violence'.<sup>730</sup> The Ministry of Health reported that there are about nine psychiatric clinics (both specialized psychiatric hospitals as well as psychiatric units in general hospitals) and two psychiatric units in the two Teaching Hospitals in Baghdad. Furthermore, there are psychiatric services in other governorates of Iraq. However, the services in these facilities are basic and involve only physical treatment (pharmacotherapy and ECT). There are also psychiatric services available in the other governorates, either in specialized psychiatric units in general hospitals or in psychiatric clinics. Psychological and psycho-social support and counselling are rarely available, there is a noticeable lack of qualified professionals and no outreach system has been established so far. There are efforts by the Ministry of Health to expand such services, e.g. by training school teachers to identify children that show psycho-

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<sup>724</sup> IWPR, Iraqi Crisis Report No. 119, *Health service mired in corruption*, 1 April 2005, [http://www.iwpr.net/index.pl?archive/irq/irq\\_119\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_119_1_eng.txt).

<sup>725</sup> IRIN, *IRAQ: Crackdown on unauthorised sale of medicines*, 30 March 2005, [http://www.irinnews.org/report.asp?ReportID=46368&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46368&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>726</sup> Ibid., *IRAQ: Health system improves in south*, 4 February 2005, [http://www.irinnews.org/report.asp?ReportID=45384&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=45384&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>727</sup> Ibid., *IRAQ: Special on healthcare in north*, 7 April 2004, [http://www.irinnews.org/report.asp?ReportID=40462&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=40462&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>728</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, pp. 10-11, <http://www.medpeace.org/news/MFPstudy2005.pdf>.

<sup>729</sup> IRIN, *IRAQ: Campaign for blood donation launched*, 12 April 2005, [http://www.irinnews.org/report.asp?ReportID=46595&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=46595&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>730</sup> Medicine for Peace, *Civilian Health in Iraq, Assessment of Public Hospitals in Baghdad*, 7 February 2005, p. 4, <http://www.medpeace.org/news/MFPstudy2005.pdf>.

social disturbances. In Dohuk, a psychosocial centre for traumatized children is run by an NGO. In addition, there are private psychiatric services for both physical and psychological therapies.<sup>731</sup> For women suffering from domestic violence, women's shelters in Erbil, Sulaymaniyah, Kirkuk and Baghdad offer psychological counselling, however, their capacities are limited and access to these centres may in practice be restricted for a number of social and familiar reasons.<sup>732</sup>

#### **f) Immunization**

A nation-wide polio immunization campaign was launched in June 2005 to prevent the re-emergence of the disease.<sup>733</sup> A measles, mumps and rubella campaign to immunize approximately four million children aged between one and five years in all governorates started in May 2005. Preliminary coverage figures indicate that 90-100 percent of children were reached.<sup>734</sup>

#### **g) Particular problems faced by refugees, returnees and IDPs**

Refugees, returnees and IDPs have the same level of access to health services as the general population does. As access to safe drinking water is a major problem for IDPs and returnees living in public buildings and camps, gastro-intestinal disorders are highly prevalent among these populations, particularly during the summer. Contaminated drinking water also increases the risk of diseases such as typhoid fever and cholera. UNHCR was informed by the local authorities in Missan that the most recent tuberculosis outbreak affected a particularly high number of returnees and IDPs. Accordingly, UNHCR temporarily suspended the repatriation of Iraqis from Iran to the Governorate until the health situation stabilized.<sup>735</sup> In the winter, IDPs' and returnees' health is particularly at risk due to poor housing conditions and the high cost of kerosene for heating. IDPs living in settlements or camps are often far away from health centres. For example, in the area of Huwair in the Governorate of Basrah more than 2,000 IDP families must walk more than 40 minutes to reach the nearest health facility, which is often under-equipped.<sup>736</sup> National vaccination campaigns tend to reach out to displaced populations.

Even though refugees are entitled to equal access to public health services, UNHCR has learned that Ahwazi refugees face difficulties in receiving subsidized medicine and secondary health care from government-supported clinics. Furthermore, most Ahwazi children are suffering from malnutrition.

## **6. Education**

### **a) Introduction**

Twenty-five years ago, the education system in Iraq was considered one of the best in the Middle East.<sup>737</sup> Primary education was made compulsory in 1976 and nearly universal primary enrolment was achieved by 1980.<sup>738</sup> After three wars, 13 years of sanctions, and widespread

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<sup>731</sup> Information received from Ministry of Health and WHO Iraq, July 2005.

<sup>732</sup> See also the section on the 'Current situation of women'.

<sup>733</sup> IRIN, *IRAQ: Emergency polio campaign to be launched*, 9 June 2005,

[http://www.irinnews.org/report.asp?ReportID=47554&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47554&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>734</sup> US Department of State, *Iraq Weekly Status Report*, 27 June 2005,

[http://www.export.gov/iraq/pdf/state\\_wklyrpt\\_062905.pdf](http://www.export.gov/iraq/pdf/state_wklyrpt_062905.pdf).

<sup>735</sup> UNHCR Iraq, June 2005.

<sup>736</sup> IOM, IDP Monitoring, *Basrah Profile*, April 2005, p. 4.

<sup>737</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 14,

[http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>738</sup> Ibid.



neglect of the education system however, the quality of education has seriously declined. Many children, particularly girls, are kept out of school to work at home or to generate family income. Before the 2003 conflict, one-quarter of all children were out of school.<sup>739</sup> In the classroom, teachers were underpaid, facilities were dilapidated and curricula outdated.

The first comprehensive study on the condition of schools in post-conflict Iraq, the *School Survey 2003-2004 in Iraq*,<sup>740</sup> was released in October 2004 by the Iraqi Ministry of Education (and produced with in collaboration with UNICEF). It shows that overall enrolment surged in the 2003/2004 school year despite the fact that school facilities are not nearly adequate. Some 4.3 million children (2.4 million boys, 1.9 million girls) are currently enrolled in primary schools (compared to 3.6 million in 2000).<sup>741</sup> Furthermore, 1.57 million children (950,000 boys and 620,000 girls) are enrolled in secondary schools.<sup>742</sup> The enrolment of girls is lower than boys in every grade and in every governorate. Overcrowding (many schools have up to three shifts per day), insecurity and the lack of water and sanitation facilities in schools are three main causes of lower enrolment of girls. On a daily basis, teachers, children and their families in Baghdad and other flash-points of conflict and criminality have to overcome a fear of bombings, explosions and kidnappings. Nevertheless, and especially in a situation of insecurity and conflict, regular attendance at school is one of the best ways a child can regain sense of normalcy in his or her life.

## **b) Condition of school buildings**

### Primary schools

The School Survey 2003-2004 shows that one-third of all primary schools in Iraq lack a water supply, almost one-fourth have no electricity and almost half are without sanitation facilities.<sup>743</sup> It further reveals that out of 11,368 school buildings, only 1,271 sustained no damage, whereas 529 were completely destroyed and more than 9,500 need minor or major rehabilitation. In the Northern Governorates of Dohuk, Erbil and Sulaymaniyah, there are no schools that do not need rehabilitation and Sulaymaniyah has the highest rate of completely destroyed school buildings (171 out of 1,381 school buildings).<sup>744</sup>

### Secondary Schools

Iraq has 2,753 secondary schools, of which 36 are completely destroyed and 2,408 need minor or major rehabilitation. Again, the three Northern Governorates as well as the Governorate of Najaf do not have one school building that does not require rehabilitation.<sup>745</sup> Half of the school buildings have no functioning latrines, one fifth has no electricity and sufficient water is available in only half of them.<sup>746</sup>

## **c) Access to education**

According to the ILCS,<sup>747</sup> 73 percent of children of primary school-age require less than 15 minutes to reach a primary school with the usual means of transportation (80 percent in urban

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<sup>739</sup> USAID, *Iraq Update: Revitalizing Education*, September 2003,

[http://www.usaid.gov/iraq/pdf/fs\\_iraq\\_education.pdf](http://www.usaid.gov/iraq/pdf/fs_iraq_education.pdf).

<sup>740</sup> Ministry of Education/UNICEF, *School Survey 2003-2004 in Iraq*, October 2004,

<http://www.unicef.org/files/school-survey-vol1-eng.pdf>.

<sup>741</sup> *Ibid.*, p. 35.

<sup>742</sup> *Ibid.*, p. 85.

<sup>743</sup> *Ibid.*, p. 79.

<sup>744</sup> *Ibid.*, p. 57.

<sup>745</sup> *Ibid.*, p. 108.

<sup>746</sup> *Ibid.*, p. 130.

<sup>747</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp. 92-105,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

areas, 56 percent in rural areas). The Southern Governorates of Babil and Muthanna have the lowest availability of primary schools. In Babil, 20 percent of the children need more than 30 minutes to reach a primary school and 4 percent need more than 60 minutes; in Muthanna, 19 percent need more than 30 minutes to reach a primary school and 6 percent need more than 60 minutes. The availability of secondary schools is lower than that of primary schools, but in most governorates the majority of children need less than 30 minutes to get a secondary school, which is considered to be within a reasonable distance. Again, the lowest availability of secondary schools can be found in the Governorates of Babil and Muthanna.

#### **d) Literacy and level of education**

According to the ILCS, the youth (defined as persons from age 15-24) literacy rate in Iraq stands at 74 percent and the adult literacy rate at 65 percent, with lower rates for women.<sup>748</sup> The population above 65 years of age has a very low literacy rate, at only 39 percent for men and 14 percent for women. It is of particular concern that the literacy rate for the population between 15 and 24 is lower than the literacy rate for the population between 25 and 34. This clearly indicates the deterioration of the educational system in Iraq over the past decade.

With regards to literacy, there are again large disparities between urban and rural populations: 21 percent of the urban population is illiterate whereas 39 percent of the rural population is illiterate. The lowest literacy rates are found in the Governorates of Muthanna and Dohuk, especially among women.<sup>749</sup> The highest literacy rates can be found in the Governorates of Baghdad and Babil. The gender difference appears to be larger in older age groups than in younger ones, indicating that the gender gap has diminished over time. This is, however, a result of a decreasing literacy rate among men and a stagnation of the literacy rate among women.

The ILCS found that 22 percent of the adult population in Iraq has never attended school, with more women than men being affected.<sup>750</sup> 44 percent of the adult population attended primary school, of which 15 percent of the adult population did not complete it and 29 percent did. Secondary school is the highest completed level of education for nine percent of the population, and a further 11 percent have completed higher education. There are significant variations in education between regions. The lowest educational levels are found in the Northern Governorates, where 31 percent of the adult population never attended school and only seven percent have started or completed higher education (for example, in the Governorate of Dohuk 55 percent have not completed primary school). Educational achievement depends, *inter alia*, on access to schools, place of residence, sex, family income and the level of education of one's parents.

#### **e) Higher education**

Iraq has 20 universities, 47 technical colleges and 10 private institutes offering courses in information technology, administration and economy, and used to enjoy a high reputation in the Arab world. However, after years of wars and economic sanctions, Iraq's universities and institutes are suffering from neglected infrastructure and a lack of experienced professionals, equipment and laboratories. According to the International Leadership Institute (which belongs to the United Nations University), one-third of all Iraqi professors hold only a bachelor's degree even though their job normally requires a master's degree. This, together with long periods of isolation, makes the retraining of staff to international standards an urgent priority. Furthermore, more than 80 percent, or five out of six, of Iraq's universities and colleges have been vandalized, looted or otherwise damaged since the US-led invasion in 2003. To date, only 40 percent of the

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<sup>748</sup> 56 percent of adult women and 74 percent of adult men can read and write.

<sup>749</sup> More than 50 percent of the women in the Governorates of Al-Muthanna and Dohuk are illiterate.

<sup>750</sup> 31 percent of the women and 13 percent of the men never attended school.

infrastructure destroyed has been rebuilt, and water and electricity supplies remain unreliable.<sup>751</sup> In an effort to improve the education system and encourage academics to return to Iraq, the Ministry of Higher Education has announced that salaries of university lecturers will be increased by July 2005.<sup>752</sup> According to Iraq's Deputy Minister of Higher Education, more than 2,000 academics left Iraq under the former regime and since its fall a further 260 have followed them, mainly due to threats by insurgents, who have already killed 47 Academics.<sup>753 754</sup>

#### **f) Particular problems faced by refugees, returnees and IDPs**

Refugees, returnees and IDPs in principle have access to education on par with the general population. However, they face a number of particular problems.

Due to a lack of documentation, returnee families often face difficulties enrolling their children in schools, in particular in Southern Iraq. School attendance is further fraught by the lack of Arabic language skills, as many returnee children were born abroad and Arabic has not been their primary language of education. Already overcrowded schools suffer from additional pressure by returnees and headmasters are often reluctant to accept new pupils. Returnee children that do not speak the language properly rarely receive the attention required to integrate into a class, leading to quick dropouts and a high dropout rate overall. In addition, returnee children usually lack grade equivalency papers and are therefore often placed in grades several years below their same-age peers.<sup>755</sup>

IDPs in camps often have no access to education and rates of non-attendance at schools are particularly high among IDP children. In the Governorate of Kirkuk for example, it is reported that most IDP camps (one quarter of IDPs in that governorate live in camps) have no schools. IDP children need to go to school in towns, where they add to the already existing overcrowding.<sup>756</sup> In the Governorate of Babil, most schools operate in two or three shifts to accommodate large numbers of students, but this is still insufficient to meet needs.<sup>757</sup> Accordingly, illiteracy rates among IDPs are particularly high. In the Governorate of Thi-Qar for example, illiteracy rates among the general population stand at 25 percent but reach more than 50 percent among IDPs.<sup>758</sup> Children that live in overcrowded or sub-standard accommodation often face problems at school as they have no space to read or sleep quietly. In addition, many do not have access to recreational activities.

After April 2003, the Iraqi Ministry of Higher Education introduced tuition fees for Arab students studying at an Iraqi University, ranging from US \$5,000 to 8,000 and to be applied retroactively for the full term of studies. After negotiations by UNHCR with the Ministry of Higher Education, Palestinian, Syrian and Ahwazi refugee students were exempted from paying University fees; however, UNHCR had to intervene in several cases in order to ensure free access. In addition, Palestinian students are unwilling to report to school due to the harassment and verbal abuse of their fellow students and teachers requesting them to leave Iraq.

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<sup>751</sup> United Nations University, update.unu.edu, Issue 37, *Call for world aid to repair Iraq's devastated universities*, May-June 2005, [http://update.unu.edu/issue37\\_16.htm](http://update.unu.edu/issue37_16.htm).

<sup>752</sup> IRIN, *IRAQ: Salaries increased to improve education*, 22 June 2005,

[http://www.irinnews.org/report.asp?ReportID=47758&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47758&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>753</sup> UNESCO, *The New Courier, UNESCO in action education, Precarious future for Iraqi universities*, May 2005, [http://portal.unesco.org/en/ev.php-URL\\_ID=26888&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=26888&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>754</sup> UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 57-58 and Annex IV 'Academics'.

<sup>755</sup> *Ibid.*, *Returnee Monitoring Governorates of Basrah, Missan, Muthanna, Thi Qar*, April 2005, p. 26.

<sup>756</sup> IOM, *IDP Monitoring, Tameem Profile*, April 2005, p. 6.

<sup>757</sup> *Ibid.*, *Babil Profile*, p. 4.

<sup>758</sup> *Ibid.*, *Thi'Qar Profile*, p. 4.

## 7. Employment

### a) General situation

There is widespread unemployment in Iraq. According to the ILCS, the overall unemployment rate is 18.4 percent, and is at its highest among young men at 33.4 percent. Young men with secondary or higher education are even more affected, facing an unemployment rate of 37.2 percent.<sup>759</sup> Unemployment varies by region. It is highest in the Baghdad region and lower in the Northern and Central regions, while the South is close to the national average. The Governorate of Muthanna has the highest unemployment rate and the Governorate of Erbil has the lowest.<sup>760</sup> It appears that those employed before the 2003 conflict have been able to hold on to their jobs, but that it has become very difficult for new entrants to find employment.<sup>761</sup> Labour force participation rates in Iraq are much lower for women than for men. Out of the total labour force of 6.7 million, only 1.1 million are women (with higher rates in rural areas mainly due to the lower incomes and agricultural production).<sup>762</sup> Other sources, including the Iraqi authorities, put the actual unemployment rate higher.<sup>763</sup> There are concerns that unemployed young men in particular are being recruited by insurgents who are known to pay for attacks against the MNF/ISF and kidnappings.<sup>764</sup>

The lagging economy, the dismissal of the former Iraqi security forces<sup>765</sup> and the removal of senior members of the former Ba'ath Party from all branches of government<sup>766</sup> are all major factors contributing to Iraq's high unemployment rate. Today, only 11 percent of those who were in the army under the previous regime are employed. Almost one third are not working, while the majority are either working in private companies, family businesses or for the government.<sup>767</sup>

Prime Minister Ibrahim Al-Ja'afari announced plans to scale back Iraq's public sector, which according to the ILCS employs 29 percent of the total workforce,<sup>768</sup> using means like the privatization of Iraq's 192 state-owned enterprises.<sup>769</sup> Such plans have led to fears of the social impact such a move might have.

The prevailing insecurity is hampering women's access to employment as their freedom of movement is severely restricted.<sup>770</sup>

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<sup>759</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 119, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>760</sup> Ibid., pp. 134-135.

<sup>761</sup> Ibid., pp. 135-136.

<sup>762</sup> Ibid., pp. 121-122.

<sup>763</sup> See International Crisis Group, *Reconstructing Iraq*, 2 September 2004, p. 16, Footnote 157,

[http://www.crisisgroup.org/library/documents/middle\\_east\\_north\\_africa/iraq\\_iran\\_gulf/30\\_reconstructing\\_iraq.pdf](http://www.crisisgroup.org/library/documents/middle_east_north_africa/iraq_iran_gulf/30_reconstructing_iraq.pdf).

<sup>764</sup> The Washington Post, *Tackling Another Major Challenge in Iraq: Unemployment*, 20 June 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/19/AR2005061900729.html>.

<sup>765</sup> CPA by Order No. 2 dissolved the Iraqi army and other military organizations, see CPA, Order No. 2, *Dissolution of Entities, Annex*, 23 August 2003,

[http://www.iraqcoalition.org/regulations/20030823\\_CPAORD\\_2\\_Dissolution\\_of\\_Entities\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20030823_CPAORD_2_Dissolution_of_Entities_with_Annex_A.pdf).

<sup>766</sup> CPA, Order No. 1, *De-Ba'athification of Iraqi Society*, 16 May 2003,

[http://www.iraqcoalition.org/regulations/20030516\\_CPAORD\\_1\\_De-Ba\\_athification\\_of\\_Iraqi\\_Society\\_.pdf](http://www.iraqcoalition.org/regulations/20030516_CPAORD_1_De-Ba_athification_of_Iraqi_Society_.pdf).

<sup>767</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 137,

<http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>768</sup> Ibid., p. 118.

<sup>769</sup> UN/World Bank, *Joint Iraq Needs Assessment*, October 2003, p. 41,

[http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/\\$File/Joint+Needs+Assesment.pdf](http://Inweb18.worldbank.org/mna/mena.nsf/Attachments/Iraq+Joint+Needs+Assessment/$File/Joint+Needs+Assesment.pdf).

<sup>770</sup> See also the section on the 'Current situation of women'.

## **b) Child Labour**

19,610 young Iraqis participated in a nationwide Youth Survey that was conducted between February and August 2004 by the Ministry of Planning and supported by UNICEF. This survey showed that 17.1 percent of the 15-18 age group are working and that even 5.9 percent of children aged 10-14 years are working. 23.1 percent of surveyed children started to work at an age below 11, and 40.5 percent engaged in labour when they were 11-15 years. Most indicated that poor economic conditions were the main reason behind going to work.<sup>771</sup> Almost nine percent of the surveyed child workers sustained injuries during 2003 and indicated that they work in a hazardous environment.<sup>772</sup> While child labour is not a new phenomenon in Iraq,<sup>773</sup> UNICEF says that child labour seems to have increased since the last war.<sup>774 775</sup>

## **c) Particular problems faced by refugees, returnees and IDPs**

While high unemployment is a problem faced by many Iraqis, it is especially prevalent among returnees, IDPs and refugees who lack social networks and sometimes suffer negative perceptions from parts of the local population.

UNHCR Returnee Monitoring in the three Northern Governorates revealed that for example in Dyana sub-district (Governorate of Erbil), only 23 percent of the surveyed returnees have access to regular employment, 28 percent said that casual employment was their main source of income and 22 percent are living on their savings. A similar situation was found among the surveyed returnees living in the Kawlok Hamiya Camp (Governorate of Erbil) and the Chwarqurna Camp (Governorate of Sulaymaniyah). Those with employment usually work for the government (e.g. as guards or in garbage collection) or as daily labourers. Despite rumours that the local authorities in the Governorate of Sulaymaniyah support at least one family member from each family to find employment in the public sector, this kind of support has not been given.<sup>776</sup>

IDP Monitoring in the Governorate of Erbil has revealed that 61 percent of the IDPs have a regular income, usually through a family member employed with the Peshmerga or casual work such as construction labourers and taxi drivers. The others depend fully on the PDS and as assistance from the local authorities.<sup>777</sup> Of the IDPs surveyed in the Governorate of Sulaymaniyah, only 36 percent have a regular source of income, while 64 percent depend on the PDS and assistance from local authorities and relatives.<sup>778</sup> Child labour is one of the main coping mechanisms of IDPs.

Refugees are perceived by many Iraqis as having benefited from the former regime's generosity or as supporters of the current insurgency. Accordingly, many Iraqis do not wish to employ refugees. UNHCR is aware that many Palestinian refugees working in the private sector were dismissed without legitimate grounds from their jobs and therefore remain dependent on UNHCR assistance. UNHCR has also received reports according to which child labour is prevalent among Turkish and Ahwazi refugees.

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<sup>771</sup> Iraqi Ministry of Planning/UNICEF, *Survey of Knowledge, Attitudes and Practices of Youth in Iraq*, KAP2-2004, Final Report, September 2004, p. 18.

<sup>772</sup> Ibid., pp. 9-10.

<sup>773</sup> Before the war, it was estimated that eight percent of Iraqi children between eight and 14 years were working, see UNICEF, *The State of the World's Children 2005*, Table 9/Child Protection, p. 138, <http://www.unicef.org/sowc05/english/sowc05.pdf>.

<sup>774</sup> IRIN, *Iraq: Children expect a better future, survey says*, 1 February 2005,

[http://www.irinnews.org/report.asp?ReportID=45319&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=45319&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>775</sup> For information on the legal framework banning child labour, please see the section on 'Access to employment'.

<sup>776</sup> UNHCR, *Returnee Monitoring Governorates of Dohuk, Erbil, Sulaymaniyah (Three Northern Governorates)*, June 2005, pp. 10-11, 13.

<sup>777</sup> UNOPS, *IDP Monitoring, Erbil Profile*, April 2005, p. 5.

<sup>778</sup> Ibid., *Sulaymaniyah Profile*, pp. 5-6.



## 8. Other infrastructure

### a) Introduction

In all parts of the country, supplies of electricity, water and fuel do not meet established needs. Major reasons for this are a lack of maintenance, spare parts and training of workers, obsolete technology and corruption. Widespread looting after the fall of the former regime further exacerbated the dire state of the supply systems. A report on US reconstruction in Iraq delivered to the US Congress in April 2005 stated that the ‘original estimate of the damage done to the basic infrastructure from decades of neglect and warfare was significantly underestimated,’ and that as a result, ‘more time and resources are required to stand-up and maintain systems than originally thought’.<sup>779</sup> In addition to the considerable amount of time needed to rehabilitate Iraq’s public infrastructure, frequent attacks on Iraqi infrastructure by insurgents – especially on electricity, water and oil supplies – are intended to stall economic recovery and increase popular discontent, undermining support for the Iraqi authorities and the MNF-presence.

According to Iraqi and US officials, attacks against Baghdad’s supplies of crude oil, gasoline, heating oil, water and electricity have reached a degree of coordination and sophistication not seen before, showing that insurgents have a good understanding of the complex supply network.<sup>780</sup> Much of the resources needed to upgrade Iraq’s infrastructure are now being diverted to security programmes. Out of US \$5.5 billion allocated by the US Congress for electricity improvement in late 2003, about 1 billion was spent on security.<sup>781</sup> The unsafe supplies of fuel and electricity are closely interlinked: inadequate fuel supplies for the power sector causes frequent power failures while the disruption of power supplies to crude oil operations, refineries and production facilities significantly reduces the supply of domestically produced fuel. In addition, the needs for small power generators to provide electricity in case of electricity cuts have increased the demand for diesel. As a consequence, Iraq has to import large quantities of refined oil products from neighbouring countries.<sup>782</sup> Insecure land routes continue to hamper the import of refined products.<sup>783</sup>

### b) Electricity

According to the ILCS, almost all households are connected to the electricity networks.<sup>784</sup> Supplies are highly unstable however, with three out of four Iraqi households facing daily voltage problems and cuts to their supply. Despite the frequent failure of the public networks, less than half of all households that suffer from unstable supply have an alternative source of supply. According to the ILCS, the electricity situation is worst in Baghdad and other areas in the Centre, and is least severe in the South of the country where 58 percent report ‘unstable’ supply and 14 percent report ‘rather unstable’ supply.<sup>785</sup>

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<sup>779</sup> Cited in The Washington Post, *Power Grid In Iraq Far From Fixed*, 1 May 2005, p. 2, [http://www.washingtonpost.com/wp-dyn/content/article/2005/04/30/AR2005043001121\\_2.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/04/30/AR2005043001121_2.html).

<sup>780</sup> The New York Times, *Insurgents Wage Precise Attacks on Baghdad Fuel*, 21 February 2005, <http://www.globalpolicy.org/security/issues/iraq/resist/2005/0221precise.htm>.

<sup>781</sup> The Washington Post, *Power Grid In Iraq Far From Fixed*, 1 May 2005, p. 4, [http://www.washingtonpost.com/wp-dyn/content/article/2005/04/30/AR2005043001121\\_4.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/04/30/AR2005043001121_4.html).

<sup>782</sup> See fn. 90.

<sup>783</sup> Several Turkish truck drivers carrying kerosene have been killed by insurgents. Turkey, a major exporter of gasoline and kerosene to Iraq, has repeatedly urged its citizens to avoid travelling to Iraq; see for example BBC, *Turkish drivers pull out of Iraq*, 3 August 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3530246.stm](http://news.bbc.co.uk/2/hi/middle_east/3530246.stm); China Daily, *Iraqi Gov't Declares State of Emergency*, 8 November 2004, <http://www.china.org.cn/english/international/111433.htm>.

<sup>784</sup> 98 percent of the urban and 93 percent of the rural households obtain electricity from the electrical networks.

<sup>785</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, pp.16-18, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

As 85-90 percent of the power grid was damaged or destroyed during the 1991 Gulf War. Iraq's estimated pre-2003 electricity output stood at only 4,000 megawatts/day (of which 2,500 megawatts were used for Baghdad),<sup>786</sup> already insufficient to meet the needs.<sup>787</sup> By July 2005, power output had only been restored to slightly higher levels than before the war, with 4,583 megawatts of capacity providing an average of 12 hours of electricity per day.<sup>788</sup> While this is far from being sufficient, power demand is now much higher because of the use of household appliances that have become available in the markets since the fall of the former regime. The available electricity continues to be well below the target of 6,000 megawatts a month that officials set as a goal in July 2004<sup>789</sup> and is far from the projected needs for 2005 and 2006 of 8,000 and 10,000 megawatts respectively in peak season.<sup>790</sup>

In the past electricity was distributed in an uneven manner, favouring Baghdad at the cost of the South, which often had to manage with less than six hours of power per day as compared to Baghdad that received 20 hours daily. Today, electricity is distributed more equally.<sup>791</sup> A survey done in February 2005 by the US military in Baghdad, Mahmoudiyah, Istiqlal and Taji revealed that 96 percent of the interviewed persons were not satisfied with the electricity supply in their neighbourhood.<sup>792</sup> Especially in the hot summer months, when demand reaches levels of more than 8,000 megawatts a day, Iraqis suffer from the intermittent services and, as a result of lack of both electricity and water, increased health problems such as dehydration.<sup>793</sup> In late July, daily supply in Baghdad dropped to 5 hours a day with increased blackouts. In the Governorate of Basrah, electricity is available 8 hours/day in Basrah city and 5 hours/day outside the city. The situation is similar in most parts of the South. In Northern Iraq, electricity is on 18 to 20 hours a day with breaks usually in the mornings and at lunchtime.<sup>794</sup>

### c) Fuel

For various reasons, Iraq's oil production and capacity to convert crude oil to fuel remains at a low level.<sup>795</sup> As a result, Iraq faces difficulties meeting needs for gasoline, diesel and kerosene. Despite fuel imports, the Iraqi Government is unable to keep up with surging demand. It is estimated that 1.5 million new cars are in Iraq since the fall of the former regime, and generators are now heavily utilized. Queues outside gas stations are a common occurrence. Because it is heavily subsidized, fuel is very cheap; due to persistent shortages however, many turn to the black market (where prices are several times higher) to meet their needs for gasoline, diesel and kerosene. In Baghdad the fixed price for one litre of gasoline is 20 ID while on the black market it would sell for 200-1,000 ID, depending on the security situation and the availability of gasoline. In the Governorate of Sulaymaniyah, one litre of gasoline costs 50 ID while on the black market it would be sold for around 300 ID. In the Governorate of Erbil prices range

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<sup>786</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 25, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>787</sup> US Department of Energy, Energy Information Administration, *Country Analysis Briefs, Iraq*, June 2005, <http://www.eia.doe.gov/emeu/cabs/iraq.html>.

<sup>788</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 25, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>789</sup> Ibid.

<sup>790</sup> See Dr. Aiham Alsammarae, Minister of Electricity, *Iraq's Electrical System: Status & Future Plan*, Presentation held at 'Electric Power 2005' in Chicago, 7 April 2005, <http://www.export.gov/iraq/pdf/electrical.pdf>.

<sup>791</sup> IRIN, *IRAQ: Poor power supply infrastructure threatens lives*, 8 June 2005, [http://www.irinnews.org/report.asp?ReportID=47534&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47534&SelectRegion=Middle_East).

<sup>792</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 32, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>793</sup> IRIN, *IRAQ: Poor power supply infrastructure threatens lives*, 8 June 2005, [http://www.irinnews.org/report.asp?ReportID=47534&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47534&SelectRegion=Middle_East).

<sup>794</sup> Information from UNHCR Iraq, July 2005.

<sup>795</sup> See also the section 'III. Economic situation'.

between 300 and more than 1,000 ID, depending on the availability.<sup>796</sup> In most parts of the country, amounts of gasoline are rationed.<sup>797</sup> After the fuel shortage reached a critical point in late 2004/early 2005, the authorities introduced a number of measures to ease the situation, including a stricter regime of surveillance and punishment of persons who sell fuel on the black market or at a higher price than the fixed rate.<sup>798</sup> In addition, more efforts are being made to crackdown on fuel smuggling, in particular in the South.

Every year in summer and autumn, the Iraqi Ministry of Oil and the State Oil Marketing Organization begin building up stocks of kerosene, the main source of heating, to meet winter needs. However, with the continued low production of light fuels by Iraqi refineries, imports will be needed to ensure adequate supplies of kerosene during the coming winter season. In Northern Iraq, kerosene has been rationed. In the Governorates of Erbil and Dohuk, distribution of kerosene is limited to 200 litres twice a year at the subsidized price of 2,500 ID per 200 litres. In the Governorate of Sulaymaniyah, kerosene is distributed only once a year (200 litres) at the price of 2,500 ID. As 200 litres do usually not cover a family's needs during the long and harsh wintertime in Northern Iraq, many are obliged to buy additional kerosene on the black market. In the end of July 2005, the black market price was as high as 62,000 ID for 200 litres of kerosene.<sup>799</sup>

#### **d) Particular problems of refugees, returnees and IDPs**

Electricity is a major problem for IDPs and returnees living in public buildings and camps/settlements. In the Governorate of Ninewa, electricity has been identified as a major problem for IDPs residing in Sinjar, Tal Afar and Mosul. The whole community of Sinjar lives in a camp where electricity is completely unavailable.<sup>800</sup> Increases in kerosene costs have affected poor families the most, as it is they who cannot afford required amounts of kerosene for heating.

### **IV. Legal safety**

#### **1. Overall situation**

Under the rule of the former regime, legal safety was virtually absent from Iraq. Political, economic, social and cultural rights were severely restricted. (Perceived) political opponents and members of religious and ethnic groups were discriminated against, imprisoned, tortured and often executed without due process of law. Iraqi citizens were arbitrarily deprived of their nationality and their properties were damaged, destroyed and illegally expropriated. These gross human rights violations led to the imprisonment, death or displacement of thousands of persons.

Since the fall of the former regime, the Iraqi authorities have made significant efforts to reform the judiciary, to bring legislation in compliance with international law standards, to redress previous human rights violations and to establish the rule of law and respect for human rights.

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<sup>796</sup> Information from UNHCR Iraq, July 2005.

<sup>797</sup> In Baghdad, the amount available is 50 litres for small cars, 100 litres for transport vehicles and 300 litres for cargo trucks every two days; in the Governorate of Erbil, distribution of gasoline for small cars is rationed to 40 litres every six days (at the price of 2,250 ID); in the Governorate of Dohuk, gasoline is rationed only when there is a lack of it, i.e. 30 litres for small cars every two days, while transport and cargo vehicles receive 1,000 litres per month, though it varies in the different district; in the Governorate of Sulaymaniyah, private cars receive 40 litres every two weeks, taxis 30 litres every two days, land cruisers, buses and pick-ups 40 litres per week and cargo vehicles 200 litres per week; in the South, no rationing system is in place.

<sup>798</sup> IRIN, *IRAQ: Government tackles fuel shortage in capital*, 22 February 2005,

[http://www.irinnews.org/report.asp?ReportID=45702&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=45702&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>799</sup> Information from UNHCR Iraq, July 2005.

<sup>800</sup> IOM, IDP Monitoring, *Ninewa Profile*, April 2005, p. 5.

There is still a long way to go and the ongoing insecurity, the weakness of law enforcement structures and the prevailing environment of corruption and lack of human rights awareness after years of conflict and violence are major factors undermining these efforts.

This chapter provides the necessary background to assess the availability of legal safety in Iraq. It looks at following issues:

- What are the applicable (international and domestic) laws in Iraq guaranteeing the rights of Iraqis as well as refugees?
- What is the set-up of the Iraqi judiciary and what institutions/mechanisms are in place to ensure that previous human rights violations are addressed and new human rights violations are prevented? What obstacles have to be overcome to adequately address human rights violations?
- What is the current human rights situation in Iraq as regards access to documentation, economic and social rights, restitution of property rights/compensation, (re)acquisition of nationality, freedom of movement, the right to life, personal security and physical integrity, rights essential for the development of a democratic society such as the freedom of assembly, the right to form political parties, the right to vote as well as freedom of expression, thought and conscience.

## 2. Current legal framework

### a) UN Security Council Resolution 1546

UN Security Council Resolution 1546 includes a human rights mandate for the Special Representative of the Secretary-General and the UN Assistance Mission for Iraq (UNAMI) to:

*promote the protection of human rights, national reconciliation, and judicial and legal reform in order to strengthen the rule of law in Iraq.*<sup>801</sup>

The UNAMI Human Rights Office (HRO) and the Office of the High Commissioner for Human Rights (OHCHR) are the lead agencies in ensuring implementation of human rights activities in Iraq as foreseen in Security Council resolution 1546. UNAMI's mandate was extended for twelve months by UN Security Council Resolution 1557 on 12 August 2004.<sup>802</sup>

UN Cluster C (Good Governance and Human Development),<sup>803</sup> which includes UNDP (cluster manager), OHCHR (deputy cluster manager represented through the UNAMI Human Rights Office), UNIFEM, UNICEF, UNEP, UN-Habitat, ILO, UNESCO and UNOPS, developed a Human Rights Programme for Iraq entitled '*Building and Strengthening the National Human Rights Protection System in Iraq*', which is to be implemented between December 2004 and 2006.<sup>804</sup> It serves as a planning tool for the UN to address past human rights violations, the current situation of human rights in Iraq, and to establish or strengthen Iraqi institutions working to protect human rights. Support provided by the UN covers nine different groups of projects, including capacity-building for the Ministries of Human Rights and Justice, the establishment of a National Commission for Human Rights as foreseen in Article 50 TAL, strengthening civil society, assisting in law reform to bring Iraqi legislation in conformity with international human rights standards, and supporting the development of a national strategy on options for

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<sup>801</sup> Para 7 b (iii) UN Security Council Resolution 1546.

<sup>802</sup> UN Security Council, *Resolution 1557 (2004)*, 12 August 2004, [http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1557%20\(2004\)&Lang=E&Area=UNDOC](http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1557%20(2004)&Lang=E&Area=UNDOC).

<sup>803</sup> Formerly Cluster 9.

<sup>804</sup> UN Cluster 9, *Building and Strengthening the National Human Rights Protection System in Iraq*, December 2004.

transitional justice. Human rights education, the media's role and the situation of women and children are topics covered by a number of other concrete activities.

## **b) Constitution**

Chapter 2 of the TAL it sets out the basic rights of all the people of Iraq (in order of appearance):

- Guarantees related to citizenship (no arbitrary withdrawal, right to carry more than one nationality, right to reclaim Iraqi citizenship if it was withdrawn for political, religious, racial or sectarian reasons) (Article 11);
- Equality before the law with no regard to gender, sect, opinion, belief, nationality, religion, or origin (Article 12);
- Right to life, liberty and security of the person (Article 12);
- Right of free expression (Article 13[B]);
- Right of free peaceable assembly and the right to join associations freely, as well as the right to form and join unions and political parties freely, in accordance with the law (Article 13[C]);
- Freedom of movement and right to travel and return to Iraq freely (Article 13[D]);
- Right to demonstrate and strike peaceably in accordance with the law (Article 13[E]);
- Freedom of thought, conscience, and religious belief and practice (Article 13[F]);
- Prohibition of slavery and the slave trade, forced labour, and involuntary servitude (Article 13[G]);
- Right to privacy (Article 13[H]);
- Right to security, education, healthcare and social security (Article 14);
- Procedural guarantees, including freedom from arbitrary arrest and detention, right to a fair, speedy and open trial, public hearing, etc. (Article 15);
- Prohibition of torture in all its forms, physical or mental, as well as cruel, inhuman or degrading treatment (Article 15[J]);
- Right to property (Article 16);
- Principle of *non-refoulement* for political refugees (Article 19);
- Right to stand for election and cast his ballot secretly in free, open, fair, competitive, and periodic elections. No Iraqi may be discriminated against for purposes of voting in elections on the basis of gender, religion, sect, race, belief, ethnic origin, language, wealth, or literacy (Article 20);
- Right to develop the institutions of civil society (Article 21).

Article 23 TAL states that the Iraqi people enjoy all the rights befitting a free people possessed of their human dignity, including the rights stipulated in international treaties and agreements, instruments of international law that Iraq has signed, acceded to or which are deemed binding upon it, and the law of nations.

## **c) Applicability of international treaties**

### Human rights law

- *The International Covenant on Civil and Political Rights* (23 March 1976);
- *The International Covenant on Economic, Social and Cultural Rights* (3 January 1976);
- *The International Convention for the Elimination of All Forms of Racial Discrimination* (13 February 1970);
- *The Convention on the Elimination of All Forms of Discrimination against Women* (12 September 1986);
- *The Convention on the Rights of the Child* (15 July 1994).



Iraq is not party to the *1951 Convention* and its *1967 Protocol*, the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*. Article 25(A) TAL provides the basis for signing international treaties by the ITG and efforts are underway to accede to other instruments.

### Humanitarian law

With the handover of sovereignty from the CPA to the then-IIG on 28 June 2004, the presence and the military operations of the MNF became grounded in the consent of the Iraqi authorities. The ICRC maintains that Iraq is no longer in a situation of international armed conflict between the US-led Coalition and the state of Iraq, a conflict encompassed by the 1949 Geneva Conventions. The ongoing hostilities between the MNF/ISF and the armed insurgency are qualified by the ICRC as a non-international armed conflict. All parties to the conflict are therefore bound to apply the minimal humanitarian guarantees contained in Article 3 of the four Geneva Conventions as well as customary law applicable to non-international armed conflicts.<sup>805</sup>

Of particular importance are guarantees with regard to persons deprived of their freedom in connection with ongoing non-international armed conflict.<sup>806</sup>

### **d) Other relevant national legislation**

Iraq's legal framework today contains various layers of provisions, including laws written during the Ba'athist era and a substantial set of Regulations,<sup>807</sup> Orders<sup>808</sup> and Memoranda<sup>809</sup> issued by the CPA.<sup>810</sup> While all laws have full authority,<sup>811</sup> some do not have full legitimacy or are not in compliance with international human rights standards (e.g. arbitrary decrees issued by the former Revolutionary Command Council, RCC). In addition, many laws have not been substantially reformed since the 1960s. In 2004, the Ministry of Justice announced the creation of a Law Reform Commission, tasked with reviewing all current laws with the aim of bringing Iraqi legislation in conformity with international human rights standards. It will be the task of the Iraqi lawmakers to sort through Iraq's legal framework in an authoritative manner, however. Given the TNA's many pressing issues and its short existence – new elections are to be held in December 2005 – it is expected that much will be deferred until after the Permanent Constitution is written and a full-term National Assembly has been elected.

### Penal Law

The two main sources of criminal law are the *Law on Criminal Proceedings* (Law No. 23 of 1971) – which details the procedures to be followed for the investigation of offences, the collection of evidence, trials and appeals – and the *Penal Code* (Law No. 111 of 1969) which lists offences and applicable sentences. In addition, a number of laws and orders of the RCC may also be applied.

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<sup>805</sup> ICRC, *Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.ch/Web/Eng/siteeng0.nsf/iwplList322/89060107D77D7299C1256EE7005200E8>.

<sup>806</sup> See also the section on 'Arrest and detention'.

<sup>807</sup> *Regulations* are instruments that define the institutions and authorities of the CPA.

<sup>808</sup> *Orders* are binding instructions or directives to the Iraqi people that create penal consequences or have a direct bearing on the way Iraqis are regulated, including changes to Iraqi law.

<sup>809</sup> *Memoranda* expand on Orders or Regulations by creating or adjusting procedures applicable to an Order or Regulation.

<sup>810</sup> All in all, the CPA issued 12 Regulations, 100 Orders and 17 Memoranda. They can be found under: <http://www.iraqcoalition.org/regulations/>.

<sup>811</sup> According to CPA Regulation No. 1, Section 2, all laws in force as of 16 April 2003 shall continue to apply unless suspended or replaced by the CPA. In addition, Article 3(B) TAL states that any legal provision that conflicts with this law shall be null and void.

The Penal laws of the former Iraqi regime remain in effect, though they exist in slightly different versions in the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk. These Governorates introduced a number of changes to the Iraqi *Penal Code* and the *Law on Criminal Proceedings* after obtaining *de facto* autonomy in 1991. These changes include, *inter alia*, the introduction of certain procedural guarantees such as the right to a defence, the right to silence and the prohibition of torture. They also offer other guarantees that improve the legal protection of women; for example, ‘honour killings’ are dealt with as straightforward murder. The Governorate of Sulaymaniyah has gone further and prohibited polygamy.<sup>812</sup>

The CPA has undertaken a review of the *Penal Code* and the *Law on Criminal Proceedings* in order to assess their compatibility with international human rights standards. The 1969 Iraqi *Penal Code* was amended by CPA Order No. 7,<sup>813</sup> repealing a number of provisions that had been introduced by the Ba’athist regime that listed acts detrimental to the political goals of the state as crimes. To charge an individual with certain types of offences such as publication offences, offences against the external or internal security of the state, offences against public authorities and ‘insulting a public official’, the written permission of the CPA Administrator was required.<sup>814</sup> The same Order also suspended the use of the death penalty and prohibited torture and cruel, degrading or inhuman treatment or punishment.<sup>815</sup> CPA Order No. 31<sup>816</sup> further modified the *Penal Code* by introducing higher penalties for kidnapping, rape and indecent assault as well as offences involving damage to public utilities or oil infrastructure and theft of means of transportation such as automobiles, trucks, motorcycles, tractors, aircraft, ships, boats or barges.

CPA Memorandum No. 3 amended the 1971 *Law on Criminal Proceedings*, introducing new procedural rights such as the right to be silent, the right to legal counsel, the right against self-incrimination, the right to be informed of these rights and the exclusion of evidence obtained by torture.<sup>817</sup> It further provides the legal basis for arrests of ‘criminal detainees’ and ‘security internees’ by the MNF and provides minimum guarantees for their treatment.<sup>818</sup> Depending on their status, these persons are accorded varying rights.

Despite these efforts, there remains a need to modernize the Penal laws taking into consideration latest legal developments as well as to bring it in full conformity with international human rights standards.

#### Legislation concerning refugees, IDPs and returnees and stateless persons

On 30 June 2004, the responsibility for the protection of refugees, IDPs, returnees and stateless persons was transferred from the CPA to the MoDM, which itself was established in August 2003 by CPA Order No. 50.<sup>819</sup> MoDM’s Statute was revised in late 2004 with the support of the Coordination Group of Capacity-Building (comprised of UNHCR and IOM) in an attempt to clearly define its persons of concern and the role of MoDM to effectively deliver its mandate.

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<sup>812</sup> Article 62 of the Penal Code as applicable in the Governorate of Sulaymaniyah.

<sup>813</sup> CPA, Order No. 7, *Penal Code*, Section 2 Para 1, 10 June 2003, [http://www.iraqcoalition.org/regulations/20030610\\_CPAORD\\_7\\_Penal\\_Code.pdf](http://www.iraqcoalition.org/regulations/20030610_CPAORD_7_Penal_Code.pdf).

<sup>814</sup> *Ibid.*, Section 2, para 2.

<sup>815</sup> *Ibid.*, Section 3, paras 1 and 2.

<sup>816</sup> CPA, Order No. 31, *Modifications Of Penal Code and Criminal Proceedings Law*, 10 September 2003, [http://www.iraqcoalition.org/regulations/20030921\\_CPAORD31.pdf](http://www.iraqcoalition.org/regulations/20030921_CPAORD31.pdf).

<sup>817</sup> CPA, Memorandum No. 3 (revised), *Criminal Procedures*, 27 June 2004, [http://www.iraqcoalition.org/regulations/20040627\\_CPAMEMO\\_3\\_Criminal\\_Procedures\\_Rev\\_.pdf](http://www.iraqcoalition.org/regulations/20040627_CPAMEMO_3_Criminal_Procedures_Rev_.pdf).

<sup>818</sup> See section on ‘Arrest and detention – Iraqi domestic law’ – ‘CPA Memorandum No. 3’.

<sup>819</sup> CPA, Order No. 50, *Creation of Ministry of Displacement and Migration*, 11 January 2004, [http://www.iraqcoalition.org/regulations/20040112\\_CPAORD50\\_MODM.pdf](http://www.iraqcoalition.org/regulations/20040112_CPAORD50_MODM.pdf).

The Draft *Law on the Ministry of Migration and Refugee Affairs* still needs to be adopted and published.

Iraq does not have any particular legislation dealing with the situation of **IDPs** and their rights. Being Iraqi nationals, their rights are guaranteed by the generally applicable laws and regulations. However, and given the extent of the IDP problem in Iraq, MoDM included the full definition contained in the *UN Guiding Principles on Internal Displacement*<sup>820</sup> in the Draft *Law on the Ministry of Migration and Refugee Affairs*. It goes further to state that:

*Coordinating, facilitating and supporting the monitoring, protection and assistance of the following categories, and the pursuit of solutions for them, according to the principles of prevailing international laws and practices, including the UN Guiding Principles on Internal Displacement, and taking into account the national interest and internal considerations:*

a) *Iraqi displaced persons.*

Therefore, the protection of IDPs is governed by human rights law standards and principles, including the provisions enshrined in the *UN Guiding Principles on Internal Displacement*.

The protection of **refugees** is governed by the 1971 *Political Refugee Act* (Law No. 51 of 1971, hereafter *Refugee Act*), the 1978 *Law on Foreigners Residence* (Law No. 118 as amended by Law No. 2 of 1980), provisions from human rights treaties of relevance for the protection of all individuals (including refugees) and by revised CPA Order No. 16 of 13 June 2004 on the *Temporary Control of Iraqi Borders, Ports and Airports* (see below for more details).

The 1971 *Refugee Act* was approved by the then-RCC and superseded Iraq's 1959 *Refugee Law*. According to Article 1(3) of the 1971 *Refugee Act*, a refugee is: 'Every person who seeks asylum in Iraq for political or military reasons.' In comparison to the 1951 Convention, it represents a rather narrow definition which does not recognize fear from persecution based on other Convention grounds, such as religion, race, nationality or membership of a particular social group. By virtue of this law, recognition of refugee status was the responsibility of the Permanent Committee for the Political Refugee Affairs, a body created by the 1971 *Refugee Act*. After the fall of the former regime, the Permanent Committee no longer met, not least because its Head was dismissed. However, there is no official information available as to whether the Permanent Committee for the Political Refugee Affairs was officially dissolved. Since MoDM is now the competent body to deal with the protection of refugees, it would also be responsible for granting refugee status.

The principle of *non-refoulement* is guaranteed in Article 4 of the 1971 *Refugee Act* and reconfirmed by the TAL (Article 19). While Article 4(1) of the 1971 *Refugee Act* stipulates that 'under no circumstances shall a refugee be handed over to his state,' Article 4(2) stipulates that 'if the application of an asylum-seeker is rejected, the person may be deported to a country other than his country of origin or as would be found appropriate by the concerned authorities and with the approval of the Minister' (i.e. Minister of Interior). From the reading of this provision it appears that with the approval of the Minister, the rejected asylum-seeker could also be deported to her or his country of origin. The revised CPA Order No. 16 governing the *Temporary Control of Iraqi Borders, Ports and Airports*<sup>821</sup> does not contain any provision guaranteeing the respect

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<sup>820</sup> *Guiding Principles on Internal Displacement*, 11 February 1998, <http://www.unhcr.ch/html/menu2/7/b/principles.htm>.

<sup>821</sup> CPA, Order No. 16, *Temporary Control of Iraqi Borders, Ports and Airports (Revised/Amended)*, 13 June 2004, [http://www.iraqcoalition.org/regulations/20040613\\_CPAORD\\_16\\_Temporary\\_Control\\_of\\_Iraqi\\_Borders\\_Ports\\_Airports\\_Rev\\_Amd.pdf](http://www.iraqcoalition.org/regulations/20040613_CPAORD_16_Temporary_Control_of_Iraqi_Borders_Ports_Airports_Rev_Amd.pdf).

of the principle of *non-refoulement*. However, it could be argued that since the 1971 *Refugee Act* continues to be applicable and because the principle of *non-refoulement* is part of customary law, the Iraqi authorities are bound to apply it.

Asylum-seekers who are Arab nationals and who were not granted status under the 1971 *Refugee Act* could still benefit from the 1978 *Law on Foreigners Residence* (in its amended form) provided they had a work contract or a statement of employment. According to this amended law, foreigners (with some exceptions) are granted residence status for the period of five years. This law is not applicable to Arab and foreign students above 18 years of age, Palestinians under the protection of the Iraqi Government, Members of the Liberation Parties that the Government hosts on its territory, Political Refugees or Members of Diplomatic Missions. At this stage, it cannot be confirmed whether these provisions are being applied.

#### Legislation concerning the recovery of nationality and the prevention of statelessness

Today's national legal framework is governed by the provisions of the TAL, in particular Article 11, which provides for the recovery of nationality for various groups of stateless persons as well as for the drafting of a new nationality law. It is expected that key questions related to statelessness and the recovery of nationality may be re-discussed during the preparations for the Permanent Constitution.

The TAL provides for the recovery of nationality in the following cases:

***De jure* recovery of nationality:** By Article 11(e) TAL, Decision No. 666 was cancelled with retroactive effect and all those who were deprived of nationality and crossed out of the citizenship registries are to be reinstated and deemed not to have ever lost Iraqi citizenship. Given the fact that the TAL is only a transitional document, at this stage persons deprived of their nationality by Decision No. 666 receive only an Interim Civil Status Identity Card from the Civil Status Office after having provided proof of their former Iraqi nationality (e.g. through the presentation of old Iraqi IDs, birth registration certificates or after the authorities check the nationality registries in cooperation with the Nationality Directorate within the Ministry of Interior). Because the central authorities have not been providing sufficient numbers of certificate forms to the different governorates, the issuance of these documents has been delayed. The issue is currently being looked at by MoDM.

**Individual recovery of nationality:** According to Article 11(d) TAL, any Iraqi whose Iraqi nationality was withdrawn for political, religious, racial or sectarian reasons has the right to reclaim her or his nationality. However, given the lack of any procedures for doing so, this provision is currently not being implemented.

**Dual citizenship and *de jure* recovery of nationality:** Article 11(c) TAL provides the basis for many former Iraqi citizens to reacquire their Iraqi nationality if it was withdrawn because the person acquired another citizenship. While dual citizenship is now possible, this issue may be raised again in future constitutional debate.

Article 11 TAL provides that the 'National Assembly must issue laws pertaining to citizenship and naturalization consistent with the provisions of this Law'. Accordingly, a new nationality law was drafted in 2003. However, given the fact that several issues are highly contentious (e.g. double nationality), discussion of the draft has been suspended until the Permanent Constitution is passed, a platform which would provide a stronger legal basis for such debates. When the

draft *Nationality Act* is adopted, UNHCR (via MoDM) will provide expert and legal advice to ensure that all provisions related to statelessness are consistent with fundamental principles of international law. In particular, UNHCR will endeavour that existing cases of statelessness are addressed and that no new cases of statelessness will be created in future.<sup>822</sup>

### Legislation concerning property restitution and compensation

The Iraq Property Claims Commission (IPCC) was established by the IGC in January 2004 to restore citizens' property rights that were unjustly and arbitrarily expropriated by the former Ba'athist regime. The TAL calls for the IPCC to be an independent national commission.<sup>823</sup>

The former IGC played a lead role in drafting the statute that established the IPCC and its mandate. The Statute came into force on 14 January 2004 pursuant to CPA Regulation No. 8,<sup>824</sup> and was amended on 24 June 2005 pursuant to CPA Regulation No. 12,<sup>825</sup> of which Annex A contains a revised version of the Statute<sup>826</sup> and Annex B contains the Instructions for Operation.<sup>827</sup> They entered into force as Iraqi law in July 2004 when they were published in the Iraqi Official Gazette.<sup>828</sup>

### **e) National human rights protection and monitoring mechanisms**

Iraq has to overcome the legacy of severe and systematic violations of human rights committed by the former Ba'ath Party regime and find ways to build a society based on the rule of law and respect for human dignity. On one hand, Iraq needs mechanisms to address past human rights violations; on the other it needs the means to prevent their recurrence. While reform of the judiciary is ongoing, a number of quasi-judicial mechanisms and human rights bodies have been planned and are either in the process of being established or have already begun functioning. Among them are the Iraqi Special Tribunal (IST), the IPCC, the National Commission for Human Rights, the Reparations Programme for Victims of the Previous Regime and the National Centre for Missing and Disappeared Persons (NCMDP). The Ministry of Human Rights plays a crucial role in creating an environment conducive for the respect of human rights by monitoring the human rights situation and ensuring that human rights violations are adequately addressed.

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<sup>822</sup> In 1974, the UN General Assembly asked UNHCR to provide limited legal assistance and in 1996 mandated the agency to broaden its role by promoting the avoidance and reduction of statelessness on a global scale. The same Resolution calls upon States to adopt nationality legislation with a view of reducing Statelessness, in line with principles of international law in particular by preventing arbitrary deprivation of nationality and requested UNHCR to actively promote the accessions to the Statelessness Conventions; see UN General Assembly, *Resolution 3274 (XXIX)*, 10 December 1974, <http://www.unhcr.org/cgi-bin/texis/vtx/excom/opendoc.pdf?tbl=EXCOM&id=3dc8dca44>; UN General Assembly, *Resolution 50/152*, 9 February 1996, <http://www.unhcr.org/cgi-bin/texis/vtx/excom/opendoc.pdf?tbl=EXCOM&id=42bc05372>. A number of Executive Committee Conclusions deal with the issue of Statelessness, in particular ExCom Conclusion No. 78, *Prevention and Reduction of Statelessness and the Protection of Stateless Persons*, 1995, <http://www.unhcr.org/cgi-bin/texis/vtx/excom/opendoc.htm?tbl=EXCOM&id=3ae68c443f>.

<sup>823</sup> Article 49(A) TAL.

<sup>824</sup> CPA, Regulation No. 8, *Delegation of Authority Regarding Establishment of a Property Claims Commission (Amended per Reg 12)*, 14 January 2004, [http://www.iraqcoalition.org/regulations/20040114\\_CPAREG\\_8\\_Property\\_Claims\\_Commission\\_and\\_Appendix\\_.pdf](http://www.iraqcoalition.org/regulations/20040114_CPAREG_8_Property_Claims_Commission_and_Appendix_.pdf).

<sup>825</sup> CPA, Regulation No. 12, *Iraq Property Claims Commission*, 24 June 2004, [http://www.iraqcoalition.org/regulations/20040624\\_CPAREG\\_12\\_Iraq\\_Property\\_Claims\\_Commission\\_with\\_Annex\\_A\\_and\\_B.pdf](http://www.iraqcoalition.org/regulations/20040624_CPAREG_12_Iraq_Property_Claims_Commission_with_Annex_A_and_B.pdf).

<sup>826</sup> Official Gazette of Iraq, No. 3985, July 2004, *Annex A Establishment of the Iraq Property Claims Commission (as amended and restated)*, pp. 9-14, <http://www.ipcciraq.org/downloadable%20files/IPCC%20Statute%20English.pdf>.

<sup>827</sup> Ibid., *Annex B Iraq Property Claims Commission, Instructions for Operation*, pp. 15-32.

<sup>828</sup> For further details on the IPCC, refer to the section on 'Iraq Property Claims Commission'.



Under Ba'athist rule, the judiciary was seriously marginalized by both the control exercised by the executive branch and the presence of military and special courts that operated outside the regular judicial system. All senior judges were Ba'ath Party members and most legal officials were at least nominal members as well. All major crimes against state security were tried in the Revolutionary Courts, which had the jurisdiction to try crimes against state security including espionage, treason, smuggling and trade in narcotics. Court sessions were held *in camera* and the right to defend oneself was severely restricted. During the 1970s, the RCC established *ad hoc* tribunals to try large numbers of people en masse and rendered swift and harsh sentences (for example after attempted coups in 1970, 1973 and 1979).<sup>829</sup> In addition, the regular judicial system was weakened by the regime's encouragement of the use of tribal courts in order to garner support from tribal leaders.<sup>830</sup> Accordingly, there was little chance of recourse to the courts for the protection of human rights, as the judicial system itself was an instrument used by the former regime to violate citizens' rights and reinforce its power. Furthermore, a culture of corruption permeated the justice system and judges, prosecutors and lawyers were isolated from legal developments outside Iraq.

An independent judiciary is prerequisite for the protection of human rights. That being said, the institutional reforms necessary for creating a culture of respect for human rights, due process and the basic tenets of the rule of law need time. In the aftermath of the fall of the former regime in 2003, looting resulted in the destruction of court houses and court infrastructure, legal records and documentation. Judicial activity came to a halt all over Iraq until the end of June 2003. A Legal Needs Assessment Mission carried out by OHCHR staff members and others in August 2003 came to the conclusion that during the last 30 years the Iraqi legal system had become 'chronically dysfunctional', with endemic levels of corruption, torture and other abuses.<sup>831</sup>

The need for institutional reform has been identified and first steps have been taken. The Revolutionary, Special and National Security Courts have been abolished by CPA Order No. 2.<sup>832</sup> The CPA further introduced preliminary reforms such as the establishment of the Judicial Review Committee, which has undertaken the necessary vetting of judges and prosecutors,<sup>833</sup> and the re-establishment of the Council of Judges, which supervises the judicial and prosecutorial system and investigates allegations of professional misconduct and incompetence.<sup>834</sup> The TAL enshrines the independence of the judiciary from the executive branch, including the Ministry of Justice.<sup>835</sup>

The reform process has not yet come to an end and the ongoing insecurity is delaying the process. High numbers of arrests are overstressing the resources of the justice system, a problem further exacerbated by the lack of trained staff<sup>836</sup> and lack of equipment such as computers. Iraq now has only 740 judges, all of whom labour under difficult security conditions

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<sup>829</sup> Country Studies, *Iraq Criminal Justice System*, <http://www.country-studies.com/iraq/criminal-justice-system.html>.

<sup>830</sup> See also the section on 'Tribal justice'.

<sup>831</sup> UNAMI/OHCHR, *Building and Strengthening the National Human Rights Protection System in Iraq*, December 2004, p. 50.

<sup>832</sup> CPA, Order No. 2, *Dissolution of Entities*, Annex, 23 August 2003, <http://www.iraqcoalition.org/regulations/index.html#Regulations>.

<sup>833</sup> See also the section on 'Judicial Review Committee'.

<sup>834</sup> See also the section on 'Council of Judges'.

<sup>835</sup> Article 43(A) TAL.

<sup>836</sup> Ahmed Kazem Al-Aaraji, Vice Chief Judge Baghdad/Al-Rasafa Court of Appeal, *Obstacles and Problems: Courthouse Infrastructures, Damaged Case Files, Accumulated Caseloads and Slow Conduct of Trials*, presented at World Bank-UNDP Conference on Iraq's legal system, October 2004, <http://www1.worldbank.org/publicsector/legal/iraq/2.doc>.

and several of whom have been killed. In Basrah for example, every judge has armed guards.<sup>837</sup> Because of these issues, there are still few avenues of recourse for the legal protection of rights.

Iraq's civil court system has the following structure:<sup>838</sup>

- **Criminal Courts:** Investigative Courts are responsible for conducting investigations of suspected offences. They can also make final decisions in minor offences ('infractions').<sup>839</sup> If an investigating judge decides that there is sufficient evidence to refer the case to trial, it will be referred to one of several other courts. The Misdemeanour Court hears cases involving misdemeanours entailing penalties of five years or less;<sup>840</sup> the Felony Court hears more serious felony cases, appeals of decisions to transfer cases and appeals in infraction cases;<sup>841</sup> and the Juvenile Court deals with offenders up to the age of 18. The Appeal Court has jurisdiction over appeals from the Misdemeanour Court and certain juvenile cases.
- **Civil Courts:** The Magistrate's Courts have jurisdiction over claims that do not exceed 50,000 ID in value and leased property suits. Courts of First Instance deal with claims valued at over 50,000 ID involving individuals and corporations and disputes with the government's administrative bodies. Personal Status Courts have jurisdiction over matters relating to the personal status of Muslims, including family and inheritance cases. They apply the *Personal Status Law* (Law No. 188 of 1959), though they may refer to Sharia law if a legal question is not addressed by the law. The family matters of non-Muslims are adjudicated by the Personal Matters Court, which seeks advice from the relevant religious authorities. Decisions of the Magistrate's Courts, the First Instance Courts and the Personal Status Courts can be appealed to the Governorate Court of Appeal (if the value of the claims is less than 1,000 ID) or the Court of Cassation (if the value of the claim exceeds 1,000 ID). Decisions of the Personal Matters Court have to be appealed directly to the Court of Cassation, irrespective of the amount involved. Also appeals of administrative disputes are sent directly to the Court of Cassation.
- **Courts of Appeal:** Appeals against decisions from civil or criminal courts are usually handled by one of 18 Governorate Courts of Appeal.
- **Central Criminal Court of Iraq (CCCI).**<sup>842</sup>
- **Court of Cassation;** Iraq's highest court hears appeals from the lower civil and criminal courts). In criminal matters, it hears appeals from the CCCI, the Misdemeanour Court and certain juvenile cases.
- **Federal Supreme Court:** This court is to be established according to Article 44 TAL and will deal with questions of jurisdiction (federal/regional governments, governorate/municipal/local administrations) and verify the consistency of laws and regulations with the TAL. To date, the necessary laws for the creation of the Federal Supreme Court have not been issued.

In Northern Iraq, the judicial system underwent a number of changes after the area obtained a status of *de facto* autonomy in 1991. Given the split of the three Northern Governorates into two separate administrations in the mid 1990s (Erbil and Dohuk on one hand and Sulaymaniyah on the other hand), two distinct judicial systems with different laws have emerged. Separate Cassation Courts have been established in both the PUK-controlled area (located in

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<sup>837</sup> BBC, *Never-ending task of Iraq's judges*, 20 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4700179.stm](http://news.bbc.co.uk/2/hi/middle_east/4700179.stm).

<sup>838</sup> Article 46(A) TAL.

<sup>839</sup> 'Infractions' are offences commanding either a fine of up to 50,000 ID or detention from 24 hours to 3 months; see Article 27 Penal Code.

<sup>840</sup> 'Misdemeanours' are offences commanding a sentence of imprisonment between 3 months and five years or a fine of over 50,000 ID; see Article 26 Penal Code.

<sup>841</sup> 'Felonies' are offences commanding a sentence of imprisonment over 5 years; see Article 25 Penal Code.

<sup>842</sup> See also the section on 'Central Criminal Court of Iraq'.

Sulaymaniyah) as well as in the KDP-controlled area (located in Erbil). Although before 1991 there was one Court of Appeal for the Northern areas located in Erbil, the division of the two administrations made it necessary to establish a separate Court of Appeal in Sulaymaniyah. In the Governorates of Erbil and Dohuk, civil matters such as marriage and divorce, heritage, alimony and child custody are dealt with by the Civil Courts. These courts usually apply the *Personal Status Law* (Law No. 188 of 1959, as amended in the area), though they may refer to Sharia law (Shafiite School of jurisprudence), if a legal question is not addressed by the law. For other religious groups, their own laws will be applied, if available. In the Governorate of Sulaymaniyah, the Civil Courts apply the Sharia law (Shafiite or Hanafi School) in personal status matters, while the *Personal Status Law* is applied only to non-Muslims (in addition to their own laws). The TAL provides that courts in the KRG-administered area continue to function and to issue final decisions, unless they conflict with the TAL or any federal law.<sup>843</sup>

In addition, there exist separate Labour Courts (both in the KRG-administered areas and in the rest of Iraq). Soldiers are tried by Military Courts unless the Ministry of Defence permits that a case be adjudicated by the regular courts. In KRG-administered areas, members of the Peshmerga are tried by special Peshmerga Courts.

In criminal cases, Iraq employs the ‘inquisitorial system’ in which a judicial investigator (in cooperation with the police) questions witnesses, gathers evidence and surveys the crime scene. Based on the judicial investigator’s report, an investigative judge decides whether to open a formal investigation, issues arrest warrants and orders the continued custody of suspects. The judge must refer the case to the competent court if sufficient evidence has been gathered. The judge tries the case on behalf of the government; there is no jury.

### Tribal justice

Because Iraq is a largely tribal society with at least three-quarters of the Iraqi people belonging to one of the country’s 150 tribes, people often rely on community leaders to resolve disputes instead of going to court.<sup>844</sup> Under the former regime a complex power-sharing arrangement was established between the tribes and the ruling Ba’ath party. The tribes provided loyalty, protection and support and the regime restored tribal identity, provided economic advantages and delegated them authority for maintaining local law and order.<sup>845</sup> The *Law on Criminal Proceedings* leaves space for the use of tribal justice or other forms of extra-judicial procedures (e.g. religious courts) in three main areas:

- Offences giving rise exclusively to a private right of action (offences for which criminal proceedings may only be initiated upon the complaint of the aggrieved party);<sup>846</sup>
- Conciliation prior to verdict leading to the suspension of legal action;<sup>847</sup>
- Subsequent pardon on request of the victim.<sup>848</sup>

These provisions also continue to be applicable in the three Northern Governorates of Erbil,

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<sup>843</sup> Article 26(B) TAL.

<sup>844</sup> Global Security, *Tribal Structures*, updated 22 June 2005, <http://www.globalsecurity.org/military/world/iraq/tribes.htm>.

<sup>845</sup> Allan Noble, *Review: Paul McGeough - ‘Mission Impossible: the Sheikhs, the US, and the Future of Iraq’*, 23 July 2004, [http://mc2.vicnet.net.au/home/anarcho/web/mission\\_impossible.html](http://mc2.vicnet.net.au/home/anarcho/web/mission_impossible.html).

<sup>846</sup> Article 3 of the *Law on Criminal Proceedings* provides an exhaustive catalogue of such offences: adultery, slander, less serious forms of criminal damage of private property and violation of the sanctity of property. Furthermore, certain crimes (such as theft, rape, breach of trust or acquisition of items by these means), if committed by a spouse or relative of the victim, also fall into this category.

<sup>847</sup> Part 3 Section 5, *Law on Criminal Proceedings*.

<sup>848</sup> Part 6 Chapter 6, *Law on Criminal Proceedings*.

Dohuk and Sulaymaniyah. In addition, cases where conciliation or pardon is not permitted (e.g. murder) are at times referred to tribal justice in breach of the *Law on Criminal Proceedings*.

With the new Iraqi authorities failing to establish the rule of law, the tribes have gained increased power and relevance in the daily lives of ordinary Iraqis. Many people prefer to rely on tribal leaders to resolve disputes rather than going to court. In Northern Iraq, the ruling parties actively support the tribes in return for political loyalty. Issues usually dealt with by tribal courts are marriage/divorce cases, property, pasture or water disputes and so-called blood disputes that involve the killing of a tribal member by another tribe. Though tribal court decisions are not legally binding, most involved adhere to them since exclusion from the tribe could be the consequence of not obeying such a decision.<sup>849</sup>

The tribal justice system is based on values such as honour and shame, forgiveness and compensation. In many instances, tribes may not accept the decision of a regular court and instead seek the decision of a tribal court. In the case of blood disputes, the punishment of the perpetrator by a court may actually not solve the case as, according to tribal rules, only the payment of compensation or revenge killing can restore justice. Another reason why people may prefer to resort to tribal justice is the failure of regular courts to resolve disputes in a timely and effective manner.<sup>850</sup>

Whereas tribal justice is a system commonly-used in dealing with inter-tribal feuds, it has also provided justification for killings of US soldiers and suspected collaborators. According to Paul McGeough, author of 'Mission Impossible - The Sheikhs, the US and the future of Iraq', much of the violence against the US and persons considered to be collaborating with the 'occupation' is a result of tribal justice and revenge killings.<sup>851</sup> On 1 August 2003, the Washington Post reported on a particularly acute example of tribal justice: the killing of an Iraqi 'collaborator' by his father and brother in the attempt to avoid a string of revenge killings dictated by tribal tradition.<sup>852</sup> Tribal justice is also seen as sanctioning 'honour killings', forced marriages and other forms of tribal customs, seriously violating the rights of women and girls.<sup>853 854</sup> While most cases are resolved through the payment of money, other forms of compensation such as arranged marriages are used, although to a lesser extent. This practice is known as 'exchange-for-blood marriage', in which one or two women of a tribe are given to the male relatives of another tribe as compensation for the killing of one of that tribe's members.<sup>855</sup>

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<sup>849</sup> Christian.Iraq.com, *Keeping Faith With Tribal Justice*, 24 June 2005, <http://www.christianiraq.com/news/2005/06/24/keeping-faith-with-tribal-justice/>; BBC, *Tribal justice takes hold in Iraq*, 2 February 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3449869.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3449869.stm); The Christian Science Monitor, *Iraqi tribe leaders find new clout*, 17 June 2003, <http://www.csmonitor.com/2003/0617/p06s01-woiq.html>.

<sup>850</sup> Information from UNHCR Iraq, July 2005.

<sup>851</sup> Allan Noble, *Review: Paul McGeough - 'Mission Impossible: the Sheikhs, the US, and the Future of Iraq'*, 23 July 2004, [http://mc2.vicnet.net.au/home/anarcho/web/mission\\_impossible.html](http://mc2.vicnet.net.au/home/anarcho/web/mission_impossible.html); also see The Age, *How to lose friends and alienate people in Iraq*, 12 June 2004, <http://www.theage.com.au/news/world/how-to-lose-friends-and-alienate-people/2004/06/09/1086749773134.html>; San Francisco Chronicle, *Iraqi families want retribution for deaths; some charge U.S. soldiers unjustly shoot, kill civilians*, 24 November 2003, <http://sfgate.com/cgi-bin/article.cgi?file=/c/a/2003/11/24/MNGL939AVQ1.DTL&type=printable>.

<sup>852</sup> The Washington Post, *For an Iraqi Family, 'No Other Choice'*, 1 August 2003, <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A10829-2003Jul31&notFound=true>.

<sup>853</sup> See Amnesty International, *Iraq: Decades of suffering, Now women deserve better*, 22 February 2005, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>854</sup> See also the section on the 'Current situation of women'.

<sup>855</sup> UNHCR Iraq, July 2005; see also BBC, *Tribal justice takes hold in Iraq*, 2 February 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3449869.stm](http://news.bbc.co.uk/2/hi/middle_east/3449869.stm).

### The Judicial Review Committee

Under CPA Order No. 15<sup>856</sup>, the CPA established the Judicial Review Committee. The Committee is tasked to investigate and gather information on the suitability of judges and prosecutors to hold office and has the power 'to remove judges and prosecutors from office, confirm their continued holding of office, appoint replacements for judges and prosecutors removed from office and resolve the claims of judges and prosecutors who assert that they were improperly removed from office'.<sup>857</sup> CPA Ambassador Bremer told a news conference that the 'committee will review every judge and prosecutor in Iraq for membership in the Ba'ath Party, complicity in human rights violations and corruption'.<sup>858</sup> The Committee started by vetting the judges assigned to the newly established CCCI (see below), and according to DFID the reviewing process was completed by early 2004 with a dismissal rate of 25 percent.<sup>859</sup> Coalition officials say that many judges had to be given the 'benefit of the doubt' as there was no evidence to prove previous misbehaviour.<sup>860</sup> Nevertheless, the vetting process was essential to changing the perception of the judiciary as being merely a tool of the former regime. With the handover of sovereignty, the Judicial Review Committee was abolished. All judicial appointments to, and removals from, Federal Courts are being dealt with pursuant to Chapter 6 of the TAL.<sup>861</sup>

### The Council of Judges / Higher Juridical Council

By CPA Order No. 35,<sup>862</sup> the Council of Judges, which existed previously under the *Judicial Organization Law* (Law No. 160 of 1979), was re-established. It 'is charged with the supervision of judicial and prosecutorial systems of Iraq'.<sup>863</sup> The Council of Judges investigates allegations of professional misconduct and incompetence involving members of the judiciary and public prosecutors and takes appropriate disciplinary measures. It further appoints, promotes and transfers judges and prosecutors.<sup>864</sup> The TAL in Article 45 reaffirmed the role of the Council of Judges. According to the US Department of State, the Council of Judges has convened a disciplinary hearing against a Baghdad judge accused of dismissing criminal cases due to external influence. It further reported that the Council of Judges was 'very powerful and there were allegations that the Executive Branch influenced the COJ'.<sup>865</sup> Under CPA Order No. 100 and pursuant to Article 45 TAL, the Higher Juridical Council assumed the role of the Council of Judges after the handover of sovereignty.<sup>866</sup>

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<sup>856</sup> CPA, Order No. 15, *Establishment of the Judicial Review Committee*, 23 June 2003, [http://www.iraqcoalition.org/regulations/20030623\\_CPAORD\\_15\\_Establishment\\_of\\_the\\_Judicial\\_Review\\_Committee.pdf](http://www.iraqcoalition.org/regulations/20030623_CPAORD_15_Establishment_of_the_Judicial_Review_Committee.pdf).

<sup>857</sup> *Ibid.*, Section 4, para 1.

<sup>858</sup> Reuters, *U.S. plans new Iraqi criminal court, purge of judges*, 17 June 2003, <http://www.chron.com/cs/CDA/ssistory.mpl/special/iraq/1956423>.

<sup>859</sup> UK Department for International Development, *DFID Iraq Update*, No. 77, 8 March 2004, pp. 1-2, <http://www.dfid.gov.uk/news/files/pr-iraqupdate77.pdf>.

<sup>860</sup> The Scotsman, *Wheels of justice turn tentatively in Baghdad*, 26 June 2004, <http://news.scotsman.com/topics.cfm?tid=404&id=732082004>.

<sup>861</sup> CPA, Order No. 100, *Transition of Laws, Regulations, Orders, and Directives Issued by the Coalition Provisional Authority*, 28 June 2004, Section 3(6), [http://www.iraqcoalition.org/regulations/20040628\\_CPAORD\\_100\\_Transition\\_of\\_Laws\\_Regulations\\_Orders\\_and\\_Directives.pdf](http://www.iraqcoalition.org/regulations/20040628_CPAORD_100_Transition_of_Laws_Regulations_Orders_and_Directives.pdf).

<sup>862</sup> CPA, Order No. 35, *Re-establishment of the Council of Judges*, 13 September 2003, [http://www.iraqcoalition.org/regulations/20030921\\_CPAORD35.pdf](http://www.iraqcoalition.org/regulations/20030921_CPAORD35.pdf).

<sup>863</sup> *Ibid.*, Section 1.

<sup>864</sup> *Ibid.*, Section 3.

<sup>865</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>866</sup> CPA, Order No. 100, *Transition of Laws, Regulations, Orders, and Directives Issued by the Coalition Provisional Authority*, 28 June 2004, Section 3(13), [http://www.iraqcoalition.org/regulations/20040628\\_CPAORD\\_100\\_Transition\\_of\\_Laws\\_Regulations\\_Orders\\_and\\_Directives.pdf](http://www.iraqcoalition.org/regulations/20040628_CPAORD_100_Transition_of_Laws_Regulations_Orders_and_Directives.pdf).



### The Central Criminal Court of Iraq

With CPA Order No. 13,<sup>867</sup> the CCCI was established. The CCCI is meant to help crack down on criminals undermining Iraq's security and stability. CPA Administrator Bremer told a news conference that 'one of the main reasons for my establishing this court is so that we can try people, in particular senior Ba'athists ... who may have committed crimes against the Coalition, who are trying to destabilize the situation here, and so we can do it rather quickly'.<sup>868</sup> The CCCI's jurisdiction involves nationwide investigative and trial jurisdiction over felonies such as terrorism, organized crime, governmental corruption, acts intended to destabilize democratic institutions or processes and violence based on race, nationality, ethnicity or religion. The CCCI also hears cases where a determination is made that a criminal defendant may not be able to obtain a fair trial in a local court.<sup>869</sup> Furthermore, during a declared State of Emergency, it deals with offences outlined in the *Order for Safeguarding National Security*.<sup>870</sup> The relevant Article 7(1) reads as follows:

*The Central Criminal Court of Iraq shall assume the review of serious crimes committed during the period of the state of emergency, and which are referred by a judge of jurisdiction including crimes of murder, robbery, rape, kidnapping, destruction, bombing or burning or damaging of public or private property, and possession of military weapons and their ammunition, or the manufacturing, transportation, smuggling or trading of such weapons.*

The CCCI comprises an Investigative Court and a Felony Court. Appeals are made to the Court of Cassation. Any criminal court in Iraq may refer a case to the CCCI. Alternatively, the CCCI can also decide at its own discretion to take jurisdiction of a case. The TAL reaffirms the existence of the CCCI.<sup>871</sup>

### Judicial and quasi-judicial redress mechanisms

As outlined earlier, Iraq's judicial system is still undergoing much needed reforms.<sup>872</sup> Insecurity in the country is further hampering this process, with high numbers of arrests overstressing a justice system that already struggles because of a lack of trained staff.<sup>873</sup> Existing mechanisms to investigate and prosecute allegations of torture remain weak and do not yet ensure that investigations are carried out promptly and impartially. The establishment of the proposed National Commission for Human Rights would be a good step in the right direction.<sup>874</sup> Finally, there are still few avenues of recourse for the legal protection of rights by the regular court system (e.g. compensation for demolished houses due to conflict, compensation after undue arrest/detention).

### The Iraqi Special Tribunal

The *Statute of the Iraqi Special Tribunal* was adopted by the IGC on 10 December 2003.<sup>875</sup> It

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<sup>867</sup> CPA, Order No. 13 (revised, amended), *The Central Criminal Court of Iraq*, 22 April 2004, [http://www.iraqcoalition.org/regulations/20040422\\_CPAORD\\_13\\_Revised\\_Amended.pdf](http://www.iraqcoalition.org/regulations/20040422_CPAORD_13_Revised_Amended.pdf).

<sup>868</sup> Reuters, *U.S. plans new Iraqi criminal court, purge of judges*, 17 June 2003, <http://www.chron.com/cs/CDA/ssistory.mpl/special/iraq/1956423>.

<sup>869</sup> CPA Order No. 13, Section 18(2).

<sup>870</sup> See also the section on 'Emergency laws'.

<sup>871</sup> Article 46(A) TAL.

<sup>872</sup> See the section on 'National human rights protection and monitoring mechanisms'.

<sup>873</sup> Ahmed Kazem Al-Aaraji/Vice Chief Judge Baghdad/Al-Rasafa Court of Appeal, *Obstacles and Problems: Courthouse Infrastructures, Damaged Case Files, Accumulated Caseloads and Slow Conduct of Trials*, presented at World Bank-UNDP Conference on Iraq's legal system, October 2004, <http://www1.worldbank.org/publicsector/legal/iraq/2.doc>.

<sup>874</sup> See also the section on 'The proposed National Commission for Human Rights'.

<sup>875</sup> *The Statute of the Iraqi Special Tribunal*, 10 December 2003, <http://hrccr.law.columbia.edu/hottopics/statute/>.

was established under Iraqi national law to try Iraqi nationals or residents accused of genocide, crimes against humanity, war crimes or other serious crimes committed between 17 July 1968 (the date the Ba'ath Party seized power) and 1 May 2003 (the date the Coalition declared that major combat operations in Iraq were over). The TAL reaffirmed the Tribunal's *Statute*.<sup>876</sup> Charges against senior members of the former regime are likely to include atrocities committed against several ethnic groups within Iraq, such as the violent repression of Kurds during the 1988 *Anfal* campaign. Crimes committed against the Shiites will likely also come to the fore, such as the violent repression that followed the revolt against the former regime in 1991 in which villages were shelled and destroyed and ancient marshes drained, resulting in thousands of deaths, forced displacements and the destruction of communities of Marsh Arabs.

The IST has declared that it will adhere to standards of international law in compliance with the sovereign law of Iraq. Still, international human rights law groups<sup>877</sup> oppose the IST, questioning whether its statute fully complies with international fair trial standards and recent developments in international criminal law. These groups also worry about the availability of the death penalty, the lack of explicit guarantees against using confessions extracted under torture, a lack of experience in managing complex criminal trials and trials involving serious crimes and the non-admission of international experts to serve as prosecutors. Human Rights Watch raised a number of concerns with the *Rules of Procedure and Evidence* as they do not take account of significant developments in international criminal law, such as:

- **Burden of proof:** There is no requirement that guilt be proven 'beyond a reasonable doubt' as it is required by the International Criminal Court and the UN Criminal Tribunals for the former Yugoslavia and Rwanda, and as outlined in the comments of the Human Rights Committee on the ICCPR. Existing Iraqi law, which will supplement the *Statute* and *Rules of Procedure and Evidence*, only requires that the Tribunal be 'satisfied' of guilt by the evidence presented;
- **Trials *in absentia*:** According to Rule 56 of the *Rules of Procedure and Evidence*, trials *in absentia* pursuant to Iraqi law are allowed, for example if the defendant has not yet been arrested. Again, in comparison with the rules of procedure and evidence used by the ICC and the UN special tribunals, this provision falls short from guaranteeing the defendant's right for a fair trial;
- **Right to counsel and right to remain silent not fully guaranteed:** According to Rule 46, these rights are not guaranteed before a detainee is questioned by a tribunal investigative judge.<sup>878</sup>

The UN barred UN representatives of the International Criminal Tribunal for the former Yugoslavia from participating in a training session for Iraqi tribunal judges as it noted its 'serious doubts regarding the capability of the IST to meet the relevant international standards'.<sup>879</sup>

On 17 July 2005, former President Saddam Hussein, his brother-in-law Barzan Ibrahim Al-Hassan, former Vice-President Taha Yassin Ramadan and former top judge Awad Badar Al-Bender were formally charged with the killings of Shiite Muslims in Dujail, the town in which the former President survived an assassination attempt in 1982. The Iraqi Government said it

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<sup>876</sup> Article 48 TAL.

<sup>877</sup> Human Rights Watch, *Memorandum to the Iraqi Governing Council on 'The Statute of the Iraqi Special Tribunal'*, December 2003, <http://hrw.org/backgrounder/mena/iraq121703.htm>.

<sup>878</sup> Ibid., *Briefing Paper, The Iraqi Special Tribunal, Rules of Procedure and Evidence Missing Key Protections*, 22 April 2005, <http://hrw.org/english/docs/2005/04/22/iraq10533.htm>.

<sup>879</sup> UN News Centre, *UN not considering support for Iraqi tribunal - spokesman*, 22 October 2004, <http://www.un.org/apps/news/story.asp?NewsID=12315&Cr=&Cr1=//www.usdoj.gov/eoir/sibpages/buf/bufmain.htm>.

plans to bring only 12 charges against the former leader out of a possible 500 of which he is accused, saying it would be 'more than enough to give him the maximum sentence applicable'. The Dujail case is said to have been chosen as it is one in which the investigation has progressed the most and Saddam Hussein's personal culpability may be easier to prove in a smaller case, thereby leading to a swift conviction and possible death sentence. Critics say that such swift justice would mean that the larger-scale crimes would never be properly dealt with in court. The first trial is expected to start as early as September 2005.<sup>880</sup>

If only key figures of the former regime are prosecuted by the IST, the establishment of an Iraqi truth and reconciliation commission may have to be considered to complement criminal accountability measures.<sup>881</sup>

### The Iraq Property Claims Commission

The IPCC consists of a National Secretariat which oversees all operational and management activities, Regional Secretariats and local offices in each Governorate of Iraq which receive claims and prepare them for adjudication (currently 30), Regional Commissions in each Governorate which issue first instance decisions (currently 38) and an Appellate Division in Baghdad which issues second instance decisions.

The IPCC process is open to all persons or their heirs who have been wrongfully deprived of real property (e.g. house, apartment or land) or an interest in real property (e.g. right to use land) because of actions taken by or attributed to former Iraqi Governments between 17 July 1968 and 9 April 2003. Claims can also be made by people who lost real property or an interest in real property between 18 March 2003 and 30 June 2005 as a result of their ethnicity, religion or sect, or for purposes of ethnic cleansing, or by individuals who had been previously dispossessed of their property as a result of the former regime's policy of property confiscation.<sup>882</sup> The deadline to file claims was initially 30 June 2005, but it was subsequently extended to 30 June 2007.

The IPCC Statute envisages that certain persons who lose possession of real property as a consequence of an IPCC decision may also receive compensation, assistance with resettlement and/or new property from the state.<sup>883</sup>

The IPCC *Statute* and *Instructions for Operation* encourage parties to voluntarily settle claims.<sup>884</sup> If this is not possible or the parties choose not to voluntarily settle, Regional Commissions decide the claim and appropriate remedy by majority vote of their three members.<sup>885</sup> These decisions can be appealed within 60 days after the date of the decision on the grounds of new evidence or manifest error.<sup>886</sup> Decisions are final and binding on the parties and

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<sup>880</sup> The Washington Post, *Iraqi Panel Files Case Against Hussein*, 18 July 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/17/AR2005071700247.html>; BBC, *Saddam Hussein formally charged*, 17 July 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4690669.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4690669.stm); Reuters, *Iraq tribunal formally charges Saddam Hussein*, 17 July 2005, <http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/07/17/world/iraqtribunalformallychargessaddamhussein.html>; IRIN, *IRAQ: Focus on forthcoming trial of Saddam Hussein*, 28 June 2005, [http://www.irinnews.org/report.asp?ReportID=47858&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47858&SelectRegion=Middle_East); BBC, *Saddam 'to face just 12 charges'*, 5 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4611121.stm](http://news.bbc.co.uk/2/hi/middle_east/4611121.stm).

<sup>881</sup> Commission of Human Rights, *Report of the High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights: The Present Situation of Human Rights in Iraq*, 9 June 2004, p. 40, <http://daccessdds.un.org/doc/UNDOC/GEN/G04/146/40/PDF/G0414640.pdf?OpenElement>.

<sup>882</sup> Article 9 IPCC Statute.

<sup>883</sup> Article 10 IPCC Statute.

<sup>884</sup> Article 1 IPCC Statute and Article 42 Instructions for Operation.

<sup>885</sup> Article 49 Instructions for Operation.

<sup>886</sup> Article 7(A) IPCC Statute, Articles 54, 55 Instructions for Operation.

enforceable by competent authorities either when a first instance decision is not appealed within the applicable deadline or the Appellate Division issues a decision.<sup>887</sup> Final orders requiring the current occupant to return the property can be enforced after 60 days if the occupant does not leave the property voluntarily.<sup>888</sup> The IPCC *Statute* envisages that certain persons who lose possession of real property as a consequence of an IPCC decision may receive compensation, assistance with resettlement and/or new property from the state,<sup>889</sup> but the implementation of these provisions remains uncertain.

By the end of July 2005, 126,693 claims had been received. Adjudication of claims started in October 2004 and by 27 July 2005 a total of 8,554 claims had been decided (6,985 claims against the government, 1,569 claims against individuals). A total of 1,851 appeals have been decided with 1,188 claims certified and 663 claims rejected. Decisions have ordered the return of real property and/or compensation to be paid to claimants.<sup>890</sup>

### Human rights bodies/institutions

#### *The Iraqi Ministry of Human Rights*

The Iraqi Ministry of Human Rights was established in September 2003 by the IGC. It was given the mandate of addressing past human rights atrocities and safeguarding the human rights and fundamental freedoms of all persons within the territory of Iraq in the future, by such measures as:

- Helping to establish conditions conducive to the protection of human rights and fundamental freedoms in Iraq and prevent human rights violations in Iraq;
- Making formal recommendations for measures to prevent human rights violations;
- Assisting all people in Iraqi society to heal the wounds of past atrocities;
- Serving as focal point for relations with international human rights bodies; and
- Providing advice to lawmakers on whether proposed legislation corresponds with international human rights law.<sup>891</sup>

Abdul Basit Turki was named the first Minister for Human Rights on 1 September 2003. He was succeeded by Bakhtiar Amin, who was officially appointed by the IIG in June 2004. Prime Minister Ibrahim Al-Jaafari designated Hashim Al-Shible, a Sunni, to become the Human Rights Minister in the ITG. Al-Shible rejected the post however, saying that he had not been consulted prior to the nomination and had no desire to be part of a government in which Ministers were appointed on sectarian grounds rather than based on competence.<sup>892</sup> The post is currently vacant; the acting Minister is Nermin Othman, who holds the post of Minister of Environment. The Ministry employs 250 people and has offices in Baghdad (including at Abu Ghraib Prison) and Basrah and plans to open offices in five other cities.<sup>893</sup> The Kurdish administrations in the three Northern Governorates have independent Ministries of Human Rights in Erbil and Sulaymaniyah.

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<sup>887</sup> Articles 7(B), 7(D) and 7(E) IPCC Statute, Articles 53, 61, 62 Instructions for Operation.

<sup>888</sup> Article 7(F) IPCC Statute, Article 64 Instructions for Operation.

<sup>889</sup> Article 10 IPCC Statute.

<sup>890</sup> IPCC, *Finalized/Settled Claims*, 27 July 2005.

<sup>891</sup> Commission on Human Rights, *Report of the High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights: The Present Situation of Human Rights in Iraq*, 9 June 2004, p. 60, <http://daccessdds.un.org/doc/UNDOC/GEN/G04/146/40/PDF/G0414640.pdf?OpenElement>.

<sup>892</sup> BBC, *Iraq fills crucial cabinet post*, 8 May 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4527685.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4527685.stm).

<sup>893</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

### *The Iraqi Ministry of Justice*

The mission of the Ministry of Justice is to institute rule of law in Iraq and restore non-judicial Ministry functions. It has, *inter alia*, responsibility for all Iraqi courts, prosecutors, judicial and prosecutorial training, publishing laws the Legal Gazette and all detention and prisons facilities<sup>894</sup>. Following the end of the war in April 2003, most Ministry buildings, the Judicial Training Institute and most courthouses had suffered extensive damage from looting and were non-functional. The current Minister of Justice is Abdul Hussein Shandal.

### *The proposed National Commission for Human Rights*

Article 50 TAL provides for the establishment of a National Commission for Human Rights to carry out the commitments of the Law and to examine complaints pertaining to violations of human rights. The commission is to include an ombudsman's office dealing with complaints regarding powers of investigation, including examinations of allegations of conduct by governmental authorities that is considered arbitrary or contrary to law.<sup>895</sup> It is hoped that the creation of a National Commission for Human Rights will be enshrined in the Permanent Constitution.

### *Reparations Programme for Victims of the Previous Regime*

While criminal prosecution tends to focus more on the role of the accused person in the perpetration of crimes, the needs of victims and society as a whole for compensation and justice also need to be addressed. This is especially true given the fact that the criminal justice mechanism will hardly be capable of dealing with each human rights violation committed by the former regime over its more than three decades of rule.

By CPA Order No. 90 of 29 May 2004, the CPA established a Special Task Force on Compensating Victims of the Previous Regime.<sup>896</sup> The Task Force has the responsibility of making recommendations regarding the types of injustices that merit compensation, eligibility requirements for compensation, and the levels of and mechanism for compensation.<sup>897</sup> An endowment of US \$25 million was set aside from oil income to be used to compensate victims and their families.<sup>898</sup> By 1 August 2004, the Task Force was requested to submit its findings and recommendations to the IIG.<sup>899</sup> UNHCR is not aware of whether this report has been submitted or if any follow-up actions have been taken.

### *National Centre for Missing and Disappeared Persons*

After consultation with forensic, scientific and legal experts, the Government of Iraq, by Decree No. 18 of 20 January 2005, formally established a National Centre for Missing and Disappeared Persons in Iraq, requesting that UNAMI/HRO and the Ministry of Human Rights undertake the realization of the project. Draft laws have been prepared by the Ministry of Human Rights covering the establishment of the NCMDP as well as the protection of mass graves; these are

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<sup>894</sup> CPA, Order No. 10, *Management of Detention and Prison Facilities*, 8 June 2003, [http://www.iraqcoalition.org/regulations/20030605\\_CPAORD10\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.iraqcoalition.org/regulations/20030605_CPAORD10_Management_of_Detention_and_Prison_Facilities.pdf); Under the former regime, prisons fell under the responsibility of the Ministry of Labor and Social Affairs, detention facilities under the responsibility of the Ministry of Interior.

<sup>895</sup> Possible functions of the commission as proposed by the Commission of Human Rights, *Report of the High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights: The Present Situation of Human Rights in Iraq*, 9 June 2004, p. 38, <http://daccessdds.un.org/doc/UNDOC/GEN/G04/146/40/PDF/G0414640.pdf?OpenElement>.

<sup>896</sup> CPA, Order No. 90, *Special Task Force for Compensating Victims of the Previous Regime*, 29 May 2004, [http://www.iraqcoalition.org/regulations/20040529\\_CPAORD90\\_Special\\_Task\\_Force\\_for\\_Compensating\\_Victims\\_of\\_the\\_Previous\\_Regime.pdf](http://www.iraqcoalition.org/regulations/20040529_CPAORD90_Special_Task_Force_for_Compensating_Victims_of_the_Previous_Regime.pdf).

<sup>897</sup> *Ibid.*, Section 2(1).

<sup>898</sup> *Ibid.*, Section 3.

<sup>899</sup> *Ibid.*, Section 2(2).



pending adoption by the TNA.<sup>900</sup> The NCMDP will be tasked with assisting families to find out what happened to their disappeared relatives. This will hopefully allow for the identification of disappeared persons and provide certainty to families.<sup>901</sup> In the words of Bakhtiar Amin, former Minister of Human Rights, providing answers about missing loved ones is part of ‘rebuilding a sane society’.<sup>902</sup>

#### *Centre for the Rehabilitation of Victims of Torture*

UNAMI/HRO supports the Iraqi Government in establishing a Centre for the Rehabilitation of Victims of Torture. The aim of this Centre is to strengthen the capacity of health and legal professionals to deliver multi-disciplinary care for victims of torture and to set-up a rehabilitation and training centre with a hub in Basrah.<sup>903</sup>

### **3. Current human rights situation**

During the rule of the former Ba’ath party, the people of Iraq witnessed widespread violations of human rights, such as arbitrary detention, torture and summary executions. Massacres, political persecution and forced changes of the country’s demographic set-up led to the death and displacement of a considerable portion of the people. Hundreds of thousands of Iraqis were forced to flee within Iraq and to other countries, over a million were killed and countless more wounded and traumatized, whole villages and livelihoods destroyed. Years of wars and international economic sanctions against Iraq brought deprivation to the population in violation of their economic, social and cultural rights.

Since the removal of the former regime, Iraqis have sought the restoration of their fundamental rights. While legal provisions for the protection of human rights have been incorporated in the TAL, legal reform has begun and institutions for the protection of human rights and the rule of law have been established, there is still a long way to go to build a functioning legal system, to ensure enforcement of law in compliance with international human rights standards, to educate Iraqis, and in particular the ISF, judges and prosecutors, to respect each individual’s rights and freedoms and to promote reconciliation after years of suppression by the former regime.

In many ways, Iraqis today enjoy in many ways more freedom than they did during the former regime’s rule: no legal restrictions are imposed on the people’s freedom of expression, freedom of religion or freedom of assembly, all key conditions for the development of a pluralistic and democratic society. Practically, however, many of these rights are seriously impeded by the current security situation and the consequent ‘state of emergency’, which seems to lead to cases of arbitrary arrests, unlawful detention, mistreatment and torture at the hands of the ISF in the name of ‘state security’. On the other hand, the exercise of fundamental rights is seriously affected by the campaign of terror and fear conducted by various insurgent groups, inflicting great pain on the Iraqi population through killings, kidnappings and indiscriminate attacks. Deliberate threats and attacks against politicians, religious figures, journalists, professors and others for their alleged support for the political process or the presence of foreign forces, undermine their role to create a free society. Women of all religious groups suffer from the increasing pressure exercised on them by Islamist groups.<sup>904</sup>

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<sup>900</sup> UNAMI/HRO, Fact Sheet Amman Donor’s Conference, *The Human Rights Office*, 29 June 2005.

<sup>901</sup> Spiegel Online, *The Bitter Search for Truth in the Desert Sand*, 20 May 2005,

<http://service.spiegel.de/cache/international/0,1518,356577,00.html>.

<sup>902</sup> BBC, *Iraq centre to trace disappeared*, 16 January 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4179193.stm](http://news.bbc.co.uk/2/hi/middle_east/4179193.stm).

<sup>903</sup> UNAMI/HRO, Fact Sheet Amman Donor’s Conference, *The Human Rights Office*, 29 June 2005.

<sup>904</sup> See also the section on the ‘Current situation of women’.

## a) Access to documentation

### General situation

Since July 2004, the Iraqi authorities (Directorate of Travel and Nationality/Ministry of Interior) started to issue new *passports* to Iraqi citizens to replace those formerly issued by the CPA.<sup>905</sup> The passports are issued for free with only a small fee of 2,500 ID (approximately US \$1.5) to be paid for the application. The issuance of passports is a lengthy process and accordingly payment of bribes is common in order to speed up the proceedings.<sup>906</sup> In the three Northern Governorates, passports are issued by the Directorate of Passport and Residence/Ministry of Interior (Governorate of Sulaymaniyah) and the Directorate of Passports (Governorates of Erbil and Dohuk), respectively. The application fee amounts to 25,000 ID (approximately US \$17). It has been reported that blank Iraqi passports are widely available and can be bought for US \$200-300.

Other documents, which are widely common, are the *Iraqi Nationality Certificate* as well as the *Iraqi Civil Status ID*, both of which are issued by the Directorate of Travel and Nationality/Ministry of Interior. In Northern Iraq, these documents are issued by Directorate of Nationality and Civil Status/Ministry of Interior (Governorate of Sulaymaniyah) and the Directorate of Nationality and Civil Identification (Governorates of Erbil and Dohuk). These documents are the main identification documents and requested for any kind of interaction with the authorities, such as an application for a food ration card, school registration, and the issuance of death and birth certificates. Another document used at times is the *Residence Address Card*, which certifies the holder's address (e.g. requested to buy real estate, car or mobile phone, submit a job application or in court cases). Instead of the Residence Address Card, one can also obtain a one-time document certifying a person's residence from the local mayor (*mukhtar*). In the three Northern Governorates, only one-time documents certifying a person's residence are available.

The *food ration card*, which allows its holder to obtain the monthly food ration through the PDS, is issued by the Ministry of Trade and is also widely accepted as identification document. In the three Northern Governorates, the food ration card is issued by the Directorate of Food/Ministry of Trade (Governorate of Sulaymaniyah) and the General Company for the Trade of Food Items/Ministry of Finance and Economy (Governorates of Erbil and Dohuk).

*Birth certificates* are usually obtained in public hospitals or health centres. A copy of the birth certificate has to be sent to the PDS centre to include the newborn on the family's food ration card. *Death certificates* are issued by public hospitals indicating the time, date and reasons of the death. Deaths occurring outside a hospital need to be approved by the Civil Status Court that issues a certificate proving the death. A copy of the death certificate is to be sent to the PDS centre to exclude the deceased from the family's food ration card. In the three Northern Governorates, birth/death certificates need to be sent to the Directorate of Food (Governorate of Sulaymaniyah) and the General Company for the Trade of Food (Governorates of Erbil and Dohuk) for (de)registration of a person in the PDS.

### Particular problems faced by refugees, returnees and IDPs

Returnees often face difficulties in obtaining necessary the documentation upon return, though there are regional differences with the authorities in the three Northern Governorates having efficient mechanisms in place, supported by legal advice centres operated by the authorities.

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<sup>905</sup> Radio Free Europe/Radio Liberty, *Iraq begins issuing new passports*, 15 July 2004, <http://www.rferl.org/reports/iraq-report/2004/07/26-150704.asp>.

<sup>906</sup> Ibid., *Corruption running rampant in new state institutions*, 15 October 2004, <http://www.rferl.org/reports/iraq-report/2004/10/38-151004.asp>.

Returnees may face difficulties to afford the costs related to transportation and application fees to obtain necessary documentation, in particular as several visits in a given Directorate may be required. Also in the South, independently-run Legal Aid and Information Centres (LAICs) play a crucial role in facilitating the process of obtaining necessary documentation; however, in view of large numbers of returnees in Southern Iraq, the existing network of LAICs is insufficient. UNHCR Returnee Monitoring showed that lack of documentation is the basis for a series of other problems such as access to food rations, education and employment, thereby seriously hampering the reintegration process of returnees. Foreign spouses of returnees, mainly from Iran, at times face problems obtaining the necessary documentation (e.g. residency permit, food ration card) as it takes considerable time and effort to register the marriage, in particular in the South and Centre. This leaves foreign spouses and children with no access to public services.

Newly displaced persons may face delays in registering with the PDS centre in the place of displacement as the food ration card allows food rations only in a particular location. The transfer of food ration cards is often delayed by bureaucratic procedures, sometimes leaving families without food for months. It has been reported that the Ministry of Trade has now addressed this issue.

The Al-Anbar Governorate authorities issued *refugee ID cards* to Iranian refugees in the Al-Tash Camp. Other refugees still hold ID documents issued by the former regime, however, many have expired and there is currently no possibility of prolonging them. Other refugees as well as asylum-seekers are provided with *refugee/asylum-seeker certificates* by UNHCR which are respected by both authorities as well as PDS centres as valid documentation (though UNHCR is aware of refugees that were requested to provide a valid residence permit in order to obtain the food ration card). Many Ahwazi refugees lack proper identification documents, preventing them from enrolling their children in Iraqi schools. UNHCR is currently looking into their situation to see how they can best be assisted.

Article 8 of the 1971 *Refugee Law* exempts recognized refugees from the application of the *Residence Law for Aliens* in Iraq. However, instructions were reportedly issued requiring Syrian, Palestinian and Iranian Arab (Ahwazi) refugees to report to the Residence Directorate in order to obtain residence permits with a validity of only three to six months to regularize their stay in Iraq. These refugee groups have also been asked to present a proof of employment. Since refugees have either been dismissed from work or are afraid to report to work in light of the increasingly intolerant and dangerous environment, many refugees cannot comply with this request. At the same time, late reporting to the Directorate results in the imposition of fines.<sup>907</sup>

## **b) Access to economic and social rights**

### Access to food

All Iraqis as well as refugees and stateless persons are entitled to monthly food rations through the PDS, which was set up in the early 1990s by the former regime after UN sanctions were imposed following Iraq's invasion of Kuwait. Under the Oil for Food Programme, some of Iraq's oil revenues were used to ensure an uninterrupted supply of foodstuff to the PDS. Since September 2004, the Ministry of Trade has been fully responsible for importing and distributing food under the PDS.<sup>908</sup>

### Access to shelter (in case of homelessness)

It appears that there are no provisions regulating access to social housing in case of

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<sup>907</sup> For further details on the particular problems faced by stateless persons, see section '(Re)acquisition of nationality'.

<sup>908</sup> For further details, see the section on 'Food'.

homelessness. Therefore, it is not surprising that many homeless persons have been occupying public buildings. Given the fact that many of these public buildings need to be restored to their original functions, the current occupants will be subject to evictions.<sup>909</sup> The UN has repeatedly reminded the Iraqi authorities that when implementing evictions, international humanitarian and human rights laws need to be taken into account.<sup>910 911</sup>

For further information on shelter and housing, please refer to pp. 95.

#### Access to health care and social security

Article 14 TAL stipulates that every person has the right to health care and social security.

Prior to 2003, Iraq had two social security schemes, one for government employees (including military and semi-governmental agencies) and one for private sector employees. Under the *Civil Service Law for Government Employees* (Law No. 24 of 1960), public-sector employees are eligible for retirement at the age of 60 if they have invested 15 years in the public service; alternatively men can retire at the age of 55 with 30 years invested while women can retire at 50 with 25 years invested.

After the fall of the former regime, the CPA and the Iraqi Ministry of Finance have started to reform the existing pension scheme, including the increase of pension payments for pensioners as of 1 January 2004. While under the former regime pensioners received between 15,000 – 24,000 ID every three months, pensions were increased in early 2004 to a minimum of 95,000 ID and a maximum of 125,000 ID per quarter.<sup>912</sup> According to the Pension and Insurance Department in Basrah, pensioners currently receive between 75,000 – 150,000 ID every two months.<sup>913</sup> Members of entities dissolved by CPA Order No. 2 such as the Iraqi Army, the security and intelligence apparatus, the Ministries of Defence, Information and Military Affairs are not entitled to pension payments if they were senior Ba'ath Party members as outlined in CPA Order No. 1.<sup>914</sup>

There are reports that veterans' pensions and military stipends have been paid to former security service personnel. Under current legislation, Iraqis that have returned to Iraq post-2003 do not qualify for military stipends. Returnees formerly serving in Iraqi military posts demonstrated in Basrah during 2003 and 2004 to be recognized for military stipends.

The *Pension and Social Security Law for Workers* (Law No. 39 of 1971) covers private-sector employees of enterprises with five or more workers (except for agricultural employees, temporary employees, domestic servants and family labor). It provides for old-age pension at the age of 60 (men) and 55 (women) after 20 years of contributions or at any age with 30 years (men) or 25 years (women) of contributions. Furthermore, it guarantees a disability pension in

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<sup>909</sup> Previously, evictions were regulated by CPA Order No. 6, *Eviction of Persons Illegally Occupying Public Buildings*, 28 June 2003,

[http://www.iraqcoalition.org/regulations/20030608\\_CPAORD\\_6\\_Eviction\\_of\\_Persons\\_Illegally\\_Occupying\\_Public\\_Buildings.pdf](http://www.iraqcoalition.org/regulations/20030608_CPAORD_6_Eviction_of_Persons_Illegally_Occupying_Public_Buildings.pdf). As this Order was rescinded by CPA Order No. 100, evictions will be carried out on the basis of RCC Orders No. 36 of 2 April 1994 and No. 145 of 27 June 2001.

<sup>910</sup> See UN Cluster F/UNCT, Draft *Strategic Plan on Assistance and Durable Solutions for IDPs in Iraq, Annex 4, Guidance on evictions from public buildings*, June 2005.

<sup>911</sup> Regarding the Kurdish authorities' efforts to provide alternative housing to persons occupying public buildings, please see the section on 'Shelter / housing – Particular problems faced by refugees, returnees and IDPs'.

<sup>912</sup> See CPA, *Policy on Payment of Public Sector Pensions and Benefits for the First Quarter 2004*, 23 January 2004, <http://www.iraqcoalition.org/budget/1-4pensions.html>.

<sup>913</sup> Information received from UNHCR Iraq.

<sup>914</sup> Sections 3.5 and 3.6 of CPA Order No. 2, *Dissolution of Entities with Annex A*, 23 August 2003, [http://www.iraqcoalition.org/regulations/20030823\\_CPAORD\\_2\\_Dissolution\\_of\\_Entities\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20030823_CPAORD_2_Dissolution_of_Entities_with_Annex_A.pdf).

case of permanent or long-term loss of at least 35 percent of the working capacity and survivor pension (if the deceased was a pensioner or met the contribution conditions for the old-age pension). The law also covers sickness, maternity and work injury benefits. These programmes are administered by the Labor and Social Security Institute under the general supervision of MoLSA.<sup>915</sup>

Years of conflict and repression left a high number of households without an income earner and many children without parents, while wars and mines/UXO resulted in physical and psychological disabilities. The *Law of Social Welfare* (Law No. 126 of 1980) provides for a monthly salary to poor families, including to older persons with no income, widows or divorced women with children, orphans and persons with disabilities. While the national welfare system was relatively well-functioning in the 1970s and 80s, at which time the destitute received a monthly cash allowance which amounted to the equivalent of roughly US \$175, the system practically collapsed in 1990 as the former regime could no longer secure the budget for the social welfare system at previous levels. In 1995, social welfare beneficiaries, all civil servants in active service, military, police, civil servants and military pensioners and war veterans with over 60 percent disability (a total of 3.5 million people) were receiving a monthly allowance of 2,000 ID (the equivalent of US \$1). In 1999, the cash allowance for the destitute amounted to 2,250 ID (the equivalent of US \$1.2). In 1994, facing the incapacity to cope with the rapidly increasing number of the destitute, MoLSA officially ceased to register new cases. This was another signal of growing poverty and the inability of the former regime to continue to provide a social safety net.<sup>916</sup> Before the 2003 conflict, MoLSA provided social welfare benefits to about 68,000 widows, orphans and disabled Iraqis – a fraction of the actual number legitimate beneficiaries.<sup>917</sup>

Like many government buildings in Iraq, the MoLSA's administrative facilities were burned and looted shortly after the 2003 conflict. After initial renovations, MoLSA started to register persons in need for social welfare benefits. It submits lists of names to the Ministry of Finance for approval. By October 2004, some 100,000 families receive about 30,000 ID (about US \$20) per month.<sup>918</sup> The Social Welfare Department in Basrah informed UNHCR that in July 2005 it was paying 50,000 ID (around US \$33) per month.<sup>919</sup> MoLSA runs a number of orphanages, day-care centres, nursing homes, homes for the deaf and blind, facilities for mentally/physically disabled and rehabilitation centres.<sup>920</sup> Still, more efforts are required to identify all those in need, to complement financial assistance with training and employment services and to change and amend Iraq's social laws to address the current situation and needs.

The pension and public welfare system has been the cause of demonstrations since 2003.<sup>921</sup> UNHCR Returnee Monitoring revealed that returnees face additional constraints accessing pensions and benefits due to lost documentation, time spent abroad during which they defaulted

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<sup>915</sup> U.S. Social Security Administration, *Social Security Programs Throughout the World, Iraq*, 2002, <http://www.ssa.gov/policy/docs/progdsc/ssptw/2002-2003/asia/iraq.pdf>.

<sup>916</sup> UN Agencies, *Special Topics on Social Conditions in Iraq, An Overview Submitted by the UN System to the Security Council Panel on Humanitarian Issues*, 24 March 1999, <http://www.casi.org.uk/info/undocs/spec-top.html>.

<sup>917</sup> US Department of Labor/Bureau of Labor Statistics, *Monthly Labor Review, Reinserting labor into the Iraqi Ministry of Labor and Social Affairs*, June 2005, p. 53, <http://www.bls.gov/opub/mlr/2005/06/intlrpt.pdf>.

<sup>918</sup> IRIN, *IRAQ: Interview with Minister for Labour and Social Affairs*, 4 October 2004, [http://www.irinnews.org/report.asp?ReportID=43472&SelectRegion=Iraq\\_Crisis&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=43472&SelectRegion=Iraq_Crisis&SelectCountry=IRAQ).

<sup>919</sup> Information received from MoLSA/Department of Social Welfare, July 2005.

<sup>920</sup> See Office of Reconstruction and Humanitarian Assistance, *Ministry of Labor and Social Affairs Fact Sheet*, 19 May 2003, [http://www.cpa-iraq.org/factsheets/05192003\\_Labor\\_Social\\_Affairs.html](http://www.cpa-iraq.org/factsheets/05192003_Labor_Social_Affairs.html).

<sup>921</sup> See for example, IWPR, *Iraqi Crisis Report No. 52, Pensioners Left Behind in Wage Boom*, 8 March 2004, [http://www.iwpr.net/index.pl?archive/irq/irq\\_52\\_3\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_52_3_eng.txt).



on pension payments, and because the former regime cancelled the benefits of Iraqis and their families who fled Iraq.

In the three Northern Governorates, the same laws are applicable. While pension and welfare benefits have been raised in the rest of Iraq, they continue to be at a very low level in the Kurdish-administered areas. In the Governorate of Dohuk for example, some 10,000 destitute families receive 30,000 ID (around US \$20) per month. Plans to increase welfare benefits to 50,000 ID have not yet been implemented. Due to lack of funding, not all persons in need receive social welfare and access may at times depend on political/personal links rather than actual needs. There are a number of institutions providing care and assistance to orphans, widows and persons with disabilities.

In conclusion, despite efforts to reform the pension and welfare system in Iraq a large number of needy persons continue to live with insufficient or no assistance from the government, leaving them dependent on family structures and charity.

Access to primary and secondary health care is guaranteed to a large extent in all Iraq, though the dilapidated state of the health care system is seriously undermining the full enjoyment of this right.<sup>922</sup>

#### Access to education

Article 14 TAL guarantees that each individual has the right to education. Article 11 of the 1971 *Refugee Act* provides for refugees' equal access to schooling.

Effective access to education may however be hindered by a number of social pressures and traditions such as the need for children to provide part of their family's income or the reluctance to send girls to school. Furthermore, the prevailing insecurity in the country hampers access to education with schools being temporarily closed in affected areas. The general deterioration of Iraq's school system further impedes the quality of education.<sup>923</sup>

#### Access to employment

The TAL does not include the right to work. Refugees are entitled to work (under Article 11[b] of the 1971 *Refugee Act*), however given the unstable security situation and the difficult economic conditions in Iraq, Iraqis and refugees alike suffer from unemployment.<sup>924</sup>

Though Iraq is a signatory to the *Convention on the Rights of the Child* and *ILO Convention 182 on the Worst Forms of Child Labour*, there is a need to enshrine both in Iraqi law and to put in place effective measures to prosecute those who abuse children. The CPA by Order No. 89<sup>925</sup> amended the Iraqi *Labour Law* (Law No. 71 of 1987) and introduced, *inter alia*, a minimum working age of 15.<sup>926</sup> It also listed types of work that children below the age of 16 are not allowed to perform as such work is 'likely to harm their health, safety and morals'.<sup>927</sup> Furthermore, children below the age of 18 are not allowed to work more than seven hours per day.<sup>928</sup> Penalties for violation of these provisions are imprisonment for between 10 days and three months or fines up to 12 times the monthly minimum wage. In April 2005 the Iraqi

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<sup>922</sup> See also the section on 'Health services'.

<sup>923</sup> See also the section on 'Education'.

<sup>924</sup> See also the section on 'Employment'.

<sup>925</sup> CPA, Order No. 89, *Amendments to the Labor Code - Law No. 71 of 1987*, 30 May 2004,

[http://www.iraqcoalition.org/regulations/20040530\\_CPAORD89\\_Amendments\\_to\\_the\\_Labor\\_Code-Law\\_No.pdf](http://www.iraqcoalition.org/regulations/20040530_CPAORD89_Amendments_to_the_Labor_Code-Law_No.pdf).

<sup>926</sup> *Iraqi Labour Law*, Article 90.

<sup>927</sup> *Ibid.*, Article 91.

<sup>928</sup> *Ibid.*, Article 93.

authorities further reduced the minimum employment age for children to 14 years with penalties ranging from US \$100 to \$300 in cases of violation. Persistent offenders may have their businesses closed down. In addition, working children may receive a payment of US \$50 and continued support from the government in order to ensure that they do not return to work.<sup>929</sup>

### **c) Restitution of property rights or compensation**

While it is a major achievement that IPCC offices have been established throughout Iraq and adjudication has commenced, there are still a number of issues that need to be addressed in order to have a fully operational property restitution mechanism, accessible to all, that provides fair and just decisions while ensuring the rights of the legitimate rights holders and secondary occupants.

A comprehensive out-of-country intake process has not yet been put in place. There is concern that many people, particularly claimants living outside Iraq as well as in rural areas, were not informed about the IPCC and procedures for filing claims before the 30 June 2005 deadline. The extension of the deadline to submit claims until 30 June 2007 has been highly welcomed.

In addition, many property restitution cases are outside the scope of the IPCC and need to be addressed by the ordinary courts, for example where property was lost due to actions which cannot be attributed to the former regime. Cases where real property was damaged or destroyed do not fall under the jurisdiction of the IPCC, thereby excluding, for example, claims related to the destruction of villages in Northern Iraq as part of the *Anfal* campaign<sup>930</sup> or the bulldozing, shelling and burning of villages in the marshes as part of the drainage programme throughout the 1990s.<sup>931</sup>

The main purpose of the IPCC is to ensure that persons who were unjustly deprived of property rights by the former regime are reinstated in their property rights. However, in certain circumstances (e.g. if the property is now being used for a public or charitable purpose or if a house was destroyed and a new building has been constructed in its place ) it may not always be possible to return property rights to a former owner or right holder and other remedies may be appropriate (e.g. compensation or in-kind compensation such as another plot of land).

While legitimate property rights holders have a right to return to their homes and lands, it is important that this right is implemented in a manner that does not cause additional human rights violations. In cases where the current occupant is forced to return a property to the original rights holder, adequate measures must ensure that fair compensation is paid for accumulated rights and homelessness is avoided; this could be achieved through the provision of temporary alternative accommodation, reconstruction assistance or allocation of land/housing. To date, compensation guidelines and arrangements to avoid homelessness have not been set in place by the national authorities.

There is also concern that the unresolved nationality law complicates the reinstatement of property rights of those who have not yet reacquired their nationality, since only Iraqi nationals (with some exceptions) can own property or have a right of use.

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<sup>929</sup> IRIN, *IRAQ: Focus on child labour*, 9 May 2005,

[http://www.irinnews.org/report.asp?ReportID=47022&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47022&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>930</sup> According to Human Rights Watch, the Iraqi government destroyed between 3,000 and 4,000 Kurdish villages and towns as part of the 'Anfal' campaign during the late 1980s; see Human Rights Watch, *Claims in conflict: Reversing Ethnic Cleansing in Northern Iraq*, p. 9, August 2004,

<http://www.hrw.org/reports/2004/iraq0804/iraq0804.pdf>.

<sup>931</sup> Ibid., *The Iraqi Government Assault on the Marsh Arabs*, January 2003, <http://www.hrw.org/background/mena/marsharabs1.pdf>.

Another constraint negatively impacting the restitution and return process is the politicization of property issues, in particular in formerly ‘arabized’ areas. IDPs returning from Northern Iraq to Kirkuk are allocated a piece of land (200m<sup>2</sup>) in Kirkuk Governorate by the Kirkuk authorities with the assistance of the Kurdish authorities. In addition, they receive non-food items such as tents, house goods and kitchen appliances.<sup>932</sup> There is a need for clear legal guidance by the Iraqi authorities with regard to land allocation in order to avoid future problems.

The non-resolution of land, housing and property issues presents a serious obstacle to the return of refugees and IDPs and is a major cause for ethnic/religious tensions.

#### **d) (Re)acquisition of nationality**

As discussed earlier,<sup>933</sup> the TAL provides the legal basis for remedying arbitrary and discriminatory measures that deprived many Iraqis of their nationality. However, given the many sensitivities involved and the fact that the TAL is only a transitional document, actual implementation is being kept on hold until the Permanent Constitution, which will provide a stronger legal basis, is in place. Persons that would *de jure* recover their nationality because of the retroactive cancelling of Decision No. 666<sup>934</sup> have, at this stage only received Interim Civil Status Identity Cards from the Civil Status Offices after having provided proof of their former Iraqi nationality (e.g. through the presentation of old Iraqi IDs, birth registration certificates or after the authorities’ checking of the nationality registries in coordination with the Nationality Directorate within the Ministry of Interior). Furthermore, because the central authorities have not been providing sufficient blank certificates to the different governorates, the issuance of these documents is delayed. Iraqis whose Iraqi nationality was withdrawn for political, religious, racial or sectarian reasons and who have, according to Article 11(d) TAL the right to reclaim their nationality, are currently not able to do so due to the lack of any procedures in this regard.

Stateless persons originating from the three Northern Governorates have to provide documents showing their first degree relatives’ Iraqi nationality in order to recover their nationality. As it is well known that Faili Kurds have often been stripped of all documentation and may therefore not be able to present the requested documents, local authorities have established mechanisms to review such cases. In the PUK-area, a committee comprised of representatives of the Governor’s Office, the Ministry of Interior and prominent Faili Kurds has been established, while in the KDP-administered areas an interview at the Ministry of Interior will be conducted. Based on these interviews, a stateless person will be reinstated with his/her nationality if Iraqi origin can be confirmed.<sup>935</sup>

In the context of the 30 January 2005 elections, UNHCR has received reports according to which refugees (e.g. Iranian Kurds, Syrian Kurds) were granted nationality by the KRG authorities even though these persons did not necessarily meet all the criteria stipulated in the Citizenship Acts.<sup>936</sup> While it is the prerogative of every State to grant nationality, it is of concern that a situation is being created where there is a likelihood that such persons might become stateless in future (meaning that their former citizenship has been withdrawn because of the acquisition of Iraqi citizenship and their current Iraqi citizenship may be withdrawn because

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<sup>932</sup> Information from UNHCR Iraq, July 2005.

<sup>933</sup> See also the section on ‘Legislation concerning the recovery of nationality and the prevention of statelessness’.

<sup>934</sup> Article 11(E) TAL.

<sup>935</sup> Information from UNHCR Iraq, July 2005.

<sup>936</sup> As basis of the grant of citizenship, the KRG authorities applied Article 8(2) of the 1963 *Iraqi Nationality Law* (Law No. 43) which reads: *The cabinet, according to the proposition of the Minister of Interior, may approve the naturalization of an alien who is utilitarian to the country and whose existence in Iraq is required by the common interest.*

they did not meet all the criteria).

#### **e) Freedom of movement and freedom to choose one's place of residence**

Most legal restrictions on freedom of movement disappeared as a result of the fall of the former regime. According to Article 13(4) of the TAL, 'each Iraqi has the right of free movement in all parts of Iraq and the right to travel abroad and return freely'. There are no legal restrictions on freedom of movement; however, Iraqis are affected by the prevailing insecurity in the country (fighting, ambushes, highway robbery, roadside bombs, mines/UXO), closure of roads, airports and borders as well as frequent checkpoints on the roads that severely restrict freedom of movement.

Under the emergency laws<sup>937</sup> and subject to judicial review, the Prime Minister has the power to restrict freedom of movement by imposing curfews or cordoning off certain areas. In several cities and towns curfews are in place, restricting people's freedom of movement, mainly during the night. Fallujah is only accessible to residents holding the necessary ID cards.<sup>938</sup>

Women's freedom of movement is further limited due to the specific harassment and threats against them. This has increased the pressure on women to have a male family member to accompany them. The US Department of State reported that some authorities have continued to require women to have the approval of their husband, father or brother to obtain a passport. This has been strongly denied by government officials, however.<sup>939</sup>

Even though there are no legal restrictions as regards choosing one's place of residence in the country, there are a number of practical restrictions mostly based on political and security considerations.<sup>940</sup>

As many refugees experienced harassment, physical attacks, arbitrary detention and increasing difficulties resulting from their uncertain legal status in Iraq, their freedom of movement is limited and has forced them to stay at home in order to avoid risks.

#### **f) Right to life, personal security and physical integrity**

The right to life, liberty and security of the person is stipulated in Article 12 TAL. It further states that 'no one may be deprived of his life or liberty, except in accordance with legal procedures. All are equal before the courts.' The TAL guarantees the right to seek compensation if any of these rights are violated by any government official.<sup>941</sup>

#### Protection of civilians during armed conflict

The human rights situation in Iraq remains grave due to armed attacks by insurgents and counterinsurgency attacks by the MNF/ISF. All sides to the conflict have been implicated in serious violations of the laws of armed conflict, including war crimes (e.g. the killing of civilians, the killing of incapacitated Iraqi combatants, the use of torture or other forms of inhuman, humiliating or degrading treatment, the use of civilian objects such as schools or hospitals for military purposes, the abduction and execution of civilians, etc.). The High Commissioner for Human Rights expressed his concern over the situation of civilians in

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<sup>937</sup> See also the section on 'Emergency laws'.

<sup>938</sup> See also the section on 'Western Iraq (Al-Anbar Governorate)'.

<sup>939</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>940</sup> With regard to relocation to Northern Iraq by persons not originating from there, see UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, Annex VII 'Internal Flight or Relocation Alternative within the Iraqi Context'.

<sup>941</sup> Article 22 TAL.

Fallujah in November 2004 and called on parties in the fighting to take every possible precaution to protect civilians. The statement reads:

*The High Commissioner is deeply concerned about the situation of civilians caught up in the ongoing fighting in Falluja. There have been a number of reports during the current confrontation alleging violations of the rules of war designed to protect civilians and combatants. The High Commissioner is particularly worried over poor access by civilians still in the city to the delivery of humanitarian aid and about the lack of information regarding the number of civilian casualties.*<sup>942</sup>

A similar statement was released in early May 2004 after the first major assault on Fallujah. The Special Rapporteur on the Right to Health of the United Nations Commission on Human Rights, Paul Hunt, wrote to the CPA recommending that it establish an independent and impartial enquiry into the health situation of the civilian population of Fallujah, as credible reports estimated that out of 750 civilian deaths, 90 percent were non-combatants. In his letter, he also listed a number of serious allegations against the MNF, including the use of indiscriminate force, resulting in civilian deaths and casualties; blocking civilians from entering Fallujah's main hospital; preventing medical staff from either working at the hospital or redeploying medical supplies to an improvised health facility; occupying the hospital; firing upon ambulances.<sup>943</sup> The insurgents have also repeatedly been accused of committing war crimes as they increase their attacks against 'soft targets', thereby causing the death of large numbers of civilians.<sup>944</sup>

In a recent press release, the ICRC expressed its concern about the recent escalation of violence resulting in very high numbers of civilian casualties. It stated 'in several attacks, including car bombs in Baghdad and in other places in Iraq, scores of civilians were killed. At the same time, fighting such as in Al-Qaim at the far west of Iraq, obliged hundreds of others, including women, children and older persons, to flee their home and take refuge in surrounding areas. The ICRC urges all those involved in the fighting to respect the basic rules of international humanitarian law that are applicable in Iraq, including in particular rules contained in Article 3 common to the Geneva Conventions of 1949 and in customary international law'.<sup>945</sup>

There are continuing reports about excessive use of force at checkpoints and during searches by the MNF/ISF. In his report pursuant to paragraph 30 of Resolution 1546, UN Secretary General Kofi Annan noted that the failure to investigate such abuses and adequately compensate those whose rights have been violated, 'increases political disaffection and remains a challenge to promoting a culture of accountability and respect for the rule of law'.<sup>946</sup> Human Rights Watch, which had accused the US forces already in 2003 of the excessive use of force at checkpoints, says that two years later the US had not yet implemented the needed safety precautions to avoid further unnecessary deaths of civilians.<sup>947</sup> The US military has repeatedly declined to disclose

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<sup>942</sup> UNHCHR, Press Briefing Note, *Situation of Civilians in Falluja*, 16 November 2004,

<http://www.unhchr.ch/hurricane/hurricane.nsf/0/7472316E3570A216C1256F4E0046EDC6?opendocument>.

<sup>943</sup> Ibid., Press Release, *Special Rapporteur on Right to Health calls for independent enquiry into humanitarian crisis in Falluja*, 3 May 2004,

<http://www.unhchr.ch/hurricane/hurricane.nsf/0/3D0396AD61D1C68CC1256E8900520F72?opendocument>.

<sup>944</sup> Human Rights Watch, Press Release, *Insurgents must stop targeting civilians*, 6 August 2004,

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/MHII-63L3H8?OpenDocument&rc=3&emid=ACOS-635P5D>.

<sup>945</sup> ICRC, Press Release, *ICRC concerned about the plight of civilians in Iraq*, 16 May 2005,

<http://www.icrc.org/Web/Eng/siteeng0.nsf/html/6CFE8F?OpenDocument>.

<sup>946</sup> UN Security Council, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, 7 June 2005, <http://www.reliefweb.int/library/documents/2005/unsq-irq-07jun.pdf>.

<sup>947</sup> Human Rights Watch, *Iraq: U.S. Checkpoints Continue to Kill*, 5 May 2005,

<http://hrw.org/english/docs/2005/05/04/iraq10578.htm>; *ibid.*, *Hearts and Minds: Post-war Civilian Deaths in Baghdad Caused by U.S. Forces*, 17 October 2003, <http://www.hrw.org/reports/2003/iraq1003/iraq1003.pdf>.



the number of civilians killed in checkpoint incidents. The Iraqi Police state that between 1 May and 12 July 2005, 33 unarmed civilians were killed and 45 injured in Baghdad alone. As members of the MNF are immune from legal proceedings under Iraqi law, such cases have to be investigated by the US military. While the US military says that all shootings involving US personnel and resulting in civilian death are being investigated, US Brig. Gen. Don Alston, spokesperson for the MNF in Iraq, said that he was not aware of any soldier disciplined for killing a civilian at a checkpoint or in traffic, adding that findings were rarely made public.<sup>948</sup>

The MNF have repeatedly been criticized for not keeping and releasing a count of Iraqi civilians killed during the invasion and its aftermath. A major difficulty in obtaining reliable figures is that Iraqis are not only killed by military or insurgent activities but also as a result of criminality,<sup>949</sup> militia fighting, private vendettas and tribal conflicts. There are various estimates of the number of deaths. The Iraqi Ministry of Health established that during the last six months of 2004 (1 July 2004 to 1 January 2005) 3,274 people died and 12,657 were injured as a result of military and insurgent activity (these figures may include killed or injured combatants). These figures were based on records from Iraqi public hospitals.<sup>950</sup> According to estimates of the Ministry of Interior, 8,175 Iraqis died and 15,517 were wounded at the hands of the insurgency in the ten-month period from July 2004-May 2005.<sup>951</sup> The former Human Rights Minister Bakhtiar Amin estimated that the insurgency and criminal gangs had killed 6,000 Iraqi civilians in the past two years and wounded 16,000 more. The figures are based on records kept by the health, human rights, interior and other ministries.<sup>952</sup> Iraq Body Count, a respected website run by academics and peace activists and based on reports from at least two public media sources, estimates that between 22,787 and 25,814 civilians have been killed since the beginning of the conflict (by 1 July 2005).<sup>953</sup> A report published by Iraq Body Count in July 2005 shows that Baghdad accounted for almost half of the persons killed, with significant numbers in Fallujah, Nassariyah, Kerbala, Najaf, Mosul, Basrah, Kirkuk, Hilla, Tikrit, Baqouba and Samarra. Tikrit and Fallujah have the highest casualty rates when compared to the cities' population (in Tikrit one in every 90 inhabitants was killed, in Fallujah one in every 137). In addition, 42,500 civilians were reported wounded between March 2003 and March 2005.<sup>954</sup>

A household survey done by US scientists and published by *The Lancet* in October 2004 put war-related deaths at about 100,000 since the invasion, saying that violence had become the primary cause of death in today's Iraq and was mostly caused by coalition air strikes. This figure has been dismissed by the British Government and the Iraqi Ministry of Health. An overview of the various casualty statistics available has been compiled by the Brookings Institution and is updated twice a week.<sup>955</sup>

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<sup>948</sup> Los Angeles Times, *Shots to the Heart of Iraq*, 25 July 2005, <http://www.commondreams.org/headlines05/0725-01.htm>.

<sup>949</sup> At times criminal gangs carry out their activities under the guise of insurgency, kidnapping Iraqis and foreigners for ransom while making the abductions appear politically motivated. In many cases, criminals and insurgents work hand-in-hand.

<sup>950</sup> BBC, *Iraq Health Ministry Figures*, 30 January 2005, <http://news.bbc.co.uk/1/hi/programmes/panorama/4217413.stm>.

<sup>951</sup> The New York Times, *Iraqi death toll exceeded 800 a month, data shows*, 15 July 2005, <http://www.iht.com/articles/2005/07/14/news/casualties.php>.

<sup>952</sup> Reuters, *Iraq insurgency has killed 6,000 civilians - govt*, 5 April 2005, <http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/04/05/topnews/iraqinsurgencyhaskilled6000civilian.s.html>.

<sup>953</sup> Iraq Body Count, *The Iraq Body Count Database*, updated 1 July 2005, <http://www.iraqbodycount.net/database/>.

<sup>954</sup> Ibid., *A Dossier of Civilian Casualties 2003-2005*, July 2005, [http://reports.iraqbodycount.org/a\\_dossier\\_of\\_civilian\\_casualties\\_2003-2005.pdf](http://reports.iraqbodycount.org/a_dossier_of_civilian_casualties_2003-2005.pdf).

<sup>955</sup> The Brookings Institution, *Iraq Index*, [www.brookings.edu/iraqindex](http://www.brookings.edu/iraqindex).

Although the US allows Iraqis to seek compensation for material damage, death or injury under the *Foreign Claims Act*, the burden of proof lies with the claimant, who has to show that the damage, death or injury was caused in a 'non-combat' situation' due to wrongful action or negligence on the part of the US forces. An investigation by the Dayton Daily News in October 2004 analyzed 4,611 civil claims in Iraq against the US military and found that three out of four were denied. The average payment for a civilian death was US \$4,421. In some cases, Iraqis received US \$2,500 sympathy payments without going through the claims procedure.<sup>956</sup>

### Death penalty

As part of the declared intention to crack down on violent crime, the IIG reintroduced the death penalty, which had been suspended by the CPA<sup>957</sup>. IIG Order 3 of 2004, passed on 8 August 2004, provides capital punishment for certain crimes affecting internal state security, public safety, attacks on means of transportation, premeditated murder, drug trafficking, and abduction. On 16 May 2005, Prime Minister Ibrahim Al-Ja'afari announced that the death sentence would be retained and that the ITG would be prepared to use it as a way to control ongoing violence and insurgency in the country. International human rights organizations and some local religious leaders criticized the decision.<sup>958</sup> In May 2005, the first capital murder trial against suspected insurgents took place in Al-Kut at which three alleged members of Ansar Al-Sunna were sentenced to death for killing policemen. State TV aired a videotape from the trial in an aim show that it was fighting back against insurgents.<sup>959</sup> More cases of capital punishment followed since then.<sup>960</sup> It is expected that the issue of the death penalty will cause serious debate between the coalition members, in particular when it comes to the question of what would be a just punishment for former President Saddam Hussein and his aides. While leading members of the Shiite UIA have been adamant about retaining the death penalty to ensure that Saddam Hussein is executed if convicted of war crimes and crimes against humanity in a trial expected later in 2005, President Jalal Talabani expressed reservations, saying that he was sticking to his long-standing personal opposition to the death penalty and would not sign an execution order if a court imposed the death penalty on the former President.<sup>961</sup>

In the areas governed by the KRG, it is expected that the death penalty will also be imposed based on the Iraqi *Penal Code*. Nechirvan Barzani, the Prime Minister of the KRG in Erbil, announced that, provided a court issues a death penalty, it would be implemented on 'a large number of terrorists' that were arrested in Erbil.<sup>962</sup>

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<sup>956</sup> Reuters, *U.S. Seen as Unaccountable in Iraqi Civilian Deaths*, 4 May 2005, <http://www.commondreams.org/headlines05/0504-04.htm>; The Associated Press/Reuters, *US denies most Iraqi compensation*, 26 October 2004, <http://www.smh.com.au/articles/2004/10/25/1098667694138.html?oneclick=true>; The Associated Press, *Report: Army denies most Iraqi payment claims*, 24 October 2004, <http://www.msnbc.msn.com/id/6323083/>.

<sup>957</sup> CPA, Regulation No. 7, *Penal Code*, Section 3(1), 10 June 2003,

[http://www.iraqcoalition.org/regulations/20030610\\_CPAORD\\_7\\_Penal\\_Code.pdf](http://www.iraqcoalition.org/regulations/20030610_CPAORD_7_Penal_Code.pdf).

<sup>958</sup> IRIN, *IRAQ: Response to death penalty being used to control violence*, 23 May 2005,

[http://www.irinnews.org/report.asp?ReportID=47230&SelectRegion=Middle\\_East&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=47230&SelectRegion=Middle_East&SelectCountry=IRAQ).

<sup>959</sup> The Washington Post, *Bombings Across Iraq Kill More Than 50 People*, 24 May 2005,

[http://www.washingtonpost.com/wp-dyn/content/article/2005/05/23/AR2005052300391\\_2.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/05/23/AR2005052300391_2.html).

<sup>960</sup> BBC, *Three Iraqis sentenced to death*, 1 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4600789.stm](http://news.bbc.co.uk/2/hi/middle_east/4600789.stm).

<sup>961</sup> The Washington Times, *Iraqi party demands death penalty for Saddam*, 19 April 2005,

<http://www.washtimes.com/world/20050419-120221-8093r.htm>.

<sup>962</sup> Kurdistan Observer, *Nechirvan Barzani Says Security Forces Arrest Terrorists in Arbil*, 27 June 2005, <http://home.cogeco.ca/~kobserver/27-6-05-nechirvan-says-arrest-terrorists.htm>.

### Extra-judicial killings, disappearances

During the rule of the Ba'ath Party, many thousands of persons disappeared, many of whom are still missing. Human rights organizations estimate that as many as 1.3 million persons were missing from the country as a result of wars, executions and defection, although no exact statistics were kept of the crimes.<sup>963</sup> The discovery of mass graves shows the dimension of disappearances and killings. By May 2005 more than 300 mass graves have been excavated in Iraq. According to Iraqi officials, they may contain the remains of as many as 500,000 persons.<sup>964</sup> Not all mass graves have yet been opened and examined, due to the prevailing insecurity and the lack of qualified forensic workers and DNA laboratories. Among them is one of the largest graves, which was found near Basrah and is believed to contain as many as 5,000 bodies, possibly Iraqi soldiers who joined a failed uprising against the former regime after the 1991 Gulf War. Another grave found near Samawah in Southern Iraq appears to contain the bodies of 2,000 members of the Kurdish Barzani clan who disappeared in 1983. Investigators have also found the remains of Kuwaiti citizens that disappeared during the Gulf War.

Forensic evidence gathered from some graves may play a crucial role in the trials of former President Saddam Hussein and other key figures of the Ba'athist Government. Other graves have been looted or opened by relatives after the fall of the former regime, making it difficult to identify the victims.<sup>965</sup> Professional teams from the Regime Crime Liaison Office of the US Embassy, which assists the IST to prepare the case against former senior government officials, is in charge of the excavation of mass graves. The planned NCMDP,<sup>966</sup> which would not only be responsible of excavating and exhuming bodies but would also provide assistance to the victims' families, has yet to be set up.<sup>967</sup>

More recently, there are reports of unlawful killings at the hands of Iraqi law enforcement agencies. Many of the cases seem to have an underlying sectarian background and there are fears that sectarian hatred between Sunnis and Shiites is further fuelled by such incidents.

The US State Department reports several incidents of possibly politically or personally motivated killings in 2004:

*In early December, Basrah police reported that officers in the Internal Affairs Unit were involved in the killings of 10 members of the Ba'ath Party. Basrah police also reported that the same Internal Affairs Unit officers were involved in the killings of a mother and daughter accused of engaging in prostitution. The Basrah Chief of Intelligence was removed from his position as a result of the accusations; however, he retained command of the Internal Affairs Unit. An MOI investigation into the Basrah allegations was ongoing at year's end. Other instances reflected arbitrary actions by government agents. For example, on 16 October 2004, Baghdad police arrested, interrogated, and killed 12 kidnappers of 3 police officers.*<sup>968</sup>

Former Prime Minister Iyad Allawi admitted that that the three members of the Shiite Badr Brigade whose corpses were found on 13 February 2005 had been tortured and killed by the

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<sup>963</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>964</sup> Spiegel Online, *The Bitter Search for Truth in the Desert Sand*, 20 May 2005, <http://service.spiegel.de/cache/international/0,1518,356577,00.html>.

<sup>965</sup> The New York Times, *Widespread mass graves unearthed in Iraq's south*, 15 April 2005, [http://www.signonsandiego.com/uniontrib/20050415/news\\_1n15graves.html](http://www.signonsandiego.com/uniontrib/20050415/news_1n15graves.html).

<sup>966</sup> See also the section on 'National Centre for Missing and Disappeared Persons'.

<sup>967</sup> Spiegel Online, *The Bitter Search for Truth in the Desert Sand*, 20 May 2005, <http://service.spiegel.de/cache/international/0,1518,356577,00.html>.

<sup>968</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

Iraqi police. Iyad Allawi said that he had initiated the arrest of six police officers and a high-level investigation, and in addition to the payment of compensation to the victims' families. Shiite parties accused the IIG of recruiting former Ba'athists who would use their position to continue to mistreat Shiites.<sup>969</sup>

Since the Shiite parties gained power in the 30 January elections, accusations are being raised by Sunnis against Shiite militias and the Shiite-dominated ISF, in particular the Interior Ministry police commandos, stating that they are summarily executing Sunni Muslims.<sup>970</sup> In less than one week, investigations by Knight Ridder Newspapers recorded 30 cases of Sunni Muslim men all killed in a similar manner: with their hands tied or handcuffed behind their backs, their eyes blindfolded and bearing signs of torture, mostly killed with a single bullet to their heads. Eyewitnesses say that the Sunni men were apprehended by men driving Toyota Land Cruisers with police markings, wearing police commando uniforms and holding sophisticated police equipment. The Ministry of Interior denies allegations that the Sunnis were executed by police forces and US officials say police uniforms could be easily bought in the market. It remains unclear whether such cases of torture and executions are being done at the hands of Iraqi Special Police Commandos or insurgents posing as police.<sup>971</sup> On 11 July 2005, ten Sunni men, all members of the Al-Zobaa tribe, whose most prominent member is Sheik Harith Al-Dhari, leader of the AMS, reportedly suffocated after being locked in an unventilated van for several hours by police commandos.<sup>972</sup>

Insurgent and criminal groups are held responsible for the kidnapping and disappearance of large numbers of Iraqis as well as foreigners. According to the US State Department, 'hundreds, if not thousands, of individuals disappeared without a trace. The widespread and ongoing nature of these disappearances precluded the availability of reliable statistics'.<sup>973</sup> Insurgent groups have also summarily executed scores of members of the ISF in violation of international humanitarian law which prohibits the killing of persons that have been taken prisoner or do not actively participate in the hostilities (see common Article 3 of the Geneva Conventions).<sup>974</sup>

Extra-judicial killings may also take place among tribes as part of 'revenge killings'.<sup>975</sup>

#### Torture and cruel, inhuman or degrading treatment or punishment

The use of torture is prohibited both in international humanitarian law and human rights law; this prohibition has also been enshrined in Iraqi domestic law. The TAL prohibits torture in all its forms, physical or mental, as well as cruel, inhuman or degrading treatment and excludes the use of confessions made under compulsion, torture or threat.<sup>976</sup> The Iraqi *Law on Criminal Proceedings* (as amended by the CPA) further prohibits the use of methods to 'influence the

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<sup>969</sup> The Boston Globe, *In Iraq, 3 deaths spur calls to revamp police*, 1 April 2005, <http://www.iht.com/articles/2005/03/31/news/police.php>.

<sup>970</sup> See for example, Times Online, *Corpses are found by the dozen as police join death spree*, 15 July 2005, <http://www.timesonline.co.uk/article/0,,7374-1694716,00.html>; Sapa/Agence France-Presse, *Sectarian tensions rise in Iraq*, 19 May 2005, [http://www.mg.co.za/articlePage.aspx?articleid=238784&area=/breaking\\_news/breaking\\_news\\_international\\_news/](http://www.mg.co.za/articlePage.aspx?articleid=238784&area=/breaking_news/breaking_news_international_news/).

<sup>971</sup> Knight Ridder Newspapers, *Sunni men in Baghdad targeted by attackers in police uniforms*, 27 June 2005, [http://www.realcities.com/mld/kwashington/news/special\\_packages/iraq/11999387.htm](http://www.realcities.com/mld/kwashington/news/special_packages/iraq/11999387.htm).

<sup>972</sup> Ibid., *Iraqi commandos accused in deaths of 10 Sunni Muslim tribesmen*, 11 July 2005, <http://www.realcities.com/mld/kwashington/12108072.htm>.

<sup>973</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>974</sup> Amnesty International, *Iraq - In cold blood: abuses by armed groups*, 25 July 2005, <http://web.amnesty.org/library/Index/ENGMDE140092005>.

<sup>975</sup> See also the section on 'Tribal justice'.

<sup>976</sup> Article 15(J) TAL.



accused to extract a confession'<sup>977</sup> and officials found guilty of torture or ill-treatment of detainees are punishable by imprisonment.<sup>978</sup>

### *Torture and ill-treatment by the MNF*

Since the end of the war in May 2003, human rights organizations have issued several reports detailing allegations of gross human rights violations by the MNF in Iraq, including torture, ill-treatment and deaths in custody, amounting to grave breaches of the Geneva Conventions. The photographs from Abu Ghraib prison of torture and other mistreatment of detainees, made public in April 2004, provided the most graphic evidence of abuse; further investigations revealed that abuses against detainees were not limited to Abu Ghraib. In its February 2004 report which leaked to the public,<sup>979</sup> the ICRC found that 'methods of physical and psychological coercion were used by the military intelligence in a systematic way to gain confessions and extract information'. The methods cited by the ICRC included hooding, remaining in painful positions for prolonged periods, sleep, food and water deprivation as well as prolonged exposure to the sun during the hottest time of day while hooded.<sup>980</sup>

The classified investigative military report of Maj. Gen. Antonio Taguba confirmed these findings.<sup>981</sup> Taguba reported that 'numerous incidents of sadistic, blatant, and wanton criminal abuses' were inflicted on several detainees. Taguba's report concluded 'several US Army soldiers have committed egregious acts and grave breaches of international law at Abu Ghraib and Camp Bucca, Iraq' and senior officers failed in their obligations to prevent the abuse. Taguba also documented cases involving women<sup>982</sup> and children.<sup>983 984</sup>

The US military says that it has introduced a number of changes designed to prevent future abuses, including guidelines outlining acceptable interrogation methods, enhancing oversight and requiring that all reports from the ICRC be forwarded immediately to the Pentagon's Joint Staff and to military lawyers.<sup>985</sup> Members of the MNF in Iraq enjoy immunity from Iraqi criminal and civil law and are only subject to the jurisdiction of their home countries.<sup>986</sup> Several low-ranking US soldiers have been charged or convicted for abusing Iraqi prisoners since the publication of photographs depicting torture and ill-treatment at Abu Ghraib Prison. To date, no senior officers or officials who authorized the use of certain interrogation practices have been prosecuted however.<sup>987</sup> The US administration characterizes the Abu Ghraib abuse as isolated

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<sup>977</sup> *Law on Criminal Proceedings*, Article 218.

<sup>978</sup> *Penal Code*, Article 333.

<sup>979</sup> ICRC, *Iraq: ICRC explains position over detention report and treatment of prisoners*, 8 May 2004, <http://www.icrc.org/web/eng/siteeng0.nsf/iwpList265/7EE8626890D74F76C1256E8D005D3861>.

<sup>980</sup> ICRC, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation*, February 2004,

[http://www.globalsecurity.org/military/library/report/2004/icrc\\_report\\_iraq\\_feb2004.pdf](http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.pdf).

<sup>981</sup> 'Taguba Report', *Hearing article 15-6 Investigation of the 800th Military Police Brigade*, 4 April, 2004,

<http://www.globalsecurity.org/intell/library/reports/2004/800-mp-bde.htm>.

<sup>982</sup> See also the section on the 'Current situation of women'.

<sup>983</sup> See also the section on 'Children and adolescents'.

<sup>984</sup> To see all official documents related to prisoner abuse by the US military in Iraq that were handed over to the ACLU on the basis of a court order under the Freedom of Information Act, see ACLU, *Government Documents on Torture*, <http://action.aclu.org/torturefoia/>.

<sup>985</sup> USA Today, *U.S. works to repair damage of Abu Ghraib*, 27 April 2005,

[http://www.usatoday.com/news/world/iraq/2005-04-27-abu-ghraib-changes\\_x.htm](http://www.usatoday.com/news/world/iraq/2005-04-27-abu-ghraib-changes_x.htm).

<sup>986</sup> CPA, Order No. 17, *Status of the Coalition Provisional Authorities, MNF-Iraq, Certain Missions and Personnel in Iraq*, 27 June 2004, Section 2(1),

[http://www.iraqcoalition.org/regulations/20040627\\_CPAORD\\_17\\_Status\\_of\\_Coalition\\_Rev\\_with\\_Annex\\_A.pdf](http://www.iraqcoalition.org/regulations/20040627_CPAORD_17_Status_of_Coalition_Rev_with_Annex_A.pdf)

<sup>987</sup> Amnesty International, *USA/ Iraq: Abuses without accountability a year after Abu Ghraib*, 28 April 2005, <http://web.amnesty.org/library/Index/ENGAMR510642005?open&of=ENG-IRQ>. ACLU and Human Rights First



incidents uncharacteristic of US actions in Iraq. This view is widely disputed, including by the ICRC which found that such abuses were 'systematic'.<sup>988</sup> Furthermore, a copy of an internal FBI document, obtained among many others by the American Civil Liberties Union (ACLU) on the basis of a court order, refers to an Executive Order of the US President that sanctioned the use of extraordinary interrogation tactics including sleep deprivation, stress positions, the use of military dogs, and 'sensory deprivation through the use of hoods, etc.'.<sup>989</sup> A number of British soldiers are also facing trial for inhumane treatment of Iraqi prisoners.<sup>990</sup>

According to data provided by the US Government to the Associated Press, at least 108 people have died in US custody in Iraq and Afghanistan, out of which roughly one quarter are being investigated as possible abuses by US personnel.<sup>991</sup>

The fact that only a small proportion of detainees face criminal charges, while the remainder are in legal limbo with limited access to family and legal counsel poses a risk of further abuse.<sup>992</sup>

### *Torture and ill-treatment by the ISF*

There are increasing reports about torture and ill-treatment of detainees (both alleged national security suspects as well as suspected common criminals) at the hands of the ISF, in particular the Ministry of Interior's police commandos. Torture and ill-treatment reportedly occurs mainly in unofficial detention facilities run by the Ministry of Interior, but also in prisons and detention facilities under the control of the ICS of the Ministry of Justice.

According to Human Rights Watch, torture and ill-treatment of detainees by the ISF is commonplace. In interviews with 90 detainees, conducted between August and October 2004, 72 claimed that they had been beaten or mistreated. Abuses included beatings with cables and hosepipes, electric shocks, food and water deprivation. Such practices affected persons arrested on grounds of both security and criminal activities. In the government's reaction to the report, Human Rights Minister Bakhtiar Amin acknowledged that abuses have taken place and said that it will take time for Iraqi forces to change their behaviour after decades of dictatorship under Saddam Hussein.<sup>993</sup>

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filed a lawsuit charging US Defence Secretary Donald Rumsfeld with direct responsibility for the torture and abuse of detainees in US military custody. ACLU has also filed three similar complaints against Colonel Thomas Pappas, Brigadier General Janis Karpinski and Lt. General Ricardo Sanchez on behalf of the torture victims who were detained in Iraq, see ACLU, *One Year After Release of Notorious Abu Ghraib Photos, Government Fails to Hold Senior Military Leaders Accountable*, ACLU Says, 27 April 2005, <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=18128&c=206>.

<sup>988</sup> ICRC, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation*, February 2004,

[http://www.globalsecurity.org/military/library/report/2004/icrc\\_report\\_iraq\\_feb2004.pdf](http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.pdf).

<sup>989</sup> ACLU, *Bush Approved Torture Techniques*, 20 December 2004, <http://207.44.245.159/article7524.htm>.

<sup>990</sup> Times Online, *British troops face war crime charges over Iraq prisoners*, 20 July 2005,

<http://www.timesonline.co.uk/article/0,,7374-1701353,00.html>; The Scotsman, *More UK soldiers face Iraq charges*, 27 February 2005, <http://news.scotsman.com/topics.cfm?tid=1247&id=221002005>; The Associated Press, *Blair Condemns Abuse of Prisoners in Iraq*, 20 January 2005, <http://www.newsmax.com/archives/articles/2005/1/19/230006.shtml>.

<sup>991</sup> The Associated Press, *Report: 108 Died In U.S. Custody*, 16 March 2005,

<http://www.cbsnews.com/stories/2005/03/16/terror/main680658.shtml>; *ibid.*, *Prisoner Deaths in U.S. Custody*, 16 March 2005, <http://www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2005/03/16/national/w113007S95.DTL>.

<sup>992</sup> See also the section on 'Persons in detention under control of the US military'.

<sup>993</sup> Radio Free Europe/Radio Liberty, *Iraq: Human Rights Watch Says Torture Still Routine In Jails*, 25 January 2005, <http://www.rferl.org/featuresarticle/2005/01/8051cc69-e6ac-4b33-9f0e-3b5e5c6aca1c.html>.

Britain's Observer newspaper revealed that the Ministry of Interior's police commandos are involved in widespread human rights abuses, including torture and extra-judicial killings.<sup>994</sup> The newspaper has evidence that suspects were subjected to serious abuses such as 'burnings, strangulation, the breaking of limbs and - in one case - the apparent use of an electric drill to perform a knee-capping'. What Human Rights Watch's calls 'a parallel system of detentions', run by the Ministry of Interior and beyond the reach of the Ministry of Justice,<sup>995</sup> the Observer calls a 'ghost network' of secret detention facilities across Iraq, where torture is commonplace. The Observer says that these detention centres 'exist beyond all accountability to international human rights monitors, NGOs and even human rights officials of the new Iraqi government'.<sup>996</sup> It further reported that funds provided by the US and UK Governments to build the Iraqi Police have ended up in the hands of the Special Police Commandos. It lists a number of such unofficial detention facilities including the Al-Hadoud prison in the Karkh district, a basement of a clinic in the Shoula district, the Wolf Brigade's headquarters at Nissor Square, the Muthanna Airbase and the old National Security Headquarters (all in Baghdad). It claims that there are also facilities outside Baghdad, for example in the KRG-administered areas, in Samarra, Kerbala and Najaf as well as Basrah. Just before the release of the newspaper report, Saad Sultan, an official in Iraq's Ministry of Human Rights who monitors the treatment of Iraqis in prisons and detention centres, confirmed the existence of Ministry of Interior unofficial detention centres despite stating that they only question those held in Iraqi prisons. Two investigations undertaken by the Ministry of Human Rights found 32 and 67 detainees respectively, in Ministry of Interior facilities. According to Saad Sultan, the majority of the detainees had been tortured with their hands cuffed behind their backs, blindfolded and beaten with cords or subjected to electrical shocks.<sup>997</sup>

Some of the cases recorded by the Observer seem to confirm previous allegations of Sunni leaders that the ISF was torturing and executing Sunni religious leaders.<sup>998</sup> One of the cases documented by the Observer reporter was that of Hassan Al-Nuaimi, a Sunni cleric and member of the AMS who was seized by police commandos in Baghdad and found dead with severe traces of torture in May 2005.<sup>999</sup> At a press conference following the publication of the Observer report, ITG spokesman Laith Kubba admitted the veracity of report, saying 'These things happen. We know that'. He emphasized that the use of torture and extra-judicial killings were not government policy or approved by the ITG and explained that decades of violence had brutalized Iraqi society. The Ministry of Interior flatly denied all allegations telling Reuters 'It is all false'. A US official in Baghdad said that some allegations against the Shiite-dominated police appeared to be true and may be related to sectarian rivalries.<sup>1000</sup> The UK Ministry of Defence stated that it has been aware of the allegations of abuse since April 2005 and had raised its concerns with the ITG, which said it was investigating. A spokesman of the UK Foreign Office added 'We are aware and deeply concerned by reports of detainee abuse by Iraqi police

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<sup>994</sup> The information is based on the review of morgue evidence of men whose families allege were killed after being detained in police commando custody. The reporter also interviewed men who claimed to have been tortured by the Wolf Brigade and spoke with Western and Iraqi officials.

<sup>995</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 6-7, <http://hrw.org/reports/2005/iraq0105/>.

<sup>996</sup> The Observer, *UK aid funds Iraqi torture units*, 3 July 2005, <http://observer.guardian.co.uk/international/story/0,6903,1520186,00.html>.

<sup>997</sup> Knight Ridder Newspapers, *Sunni men in Baghdad targeted by attackers in police uniforms*, 27 June 2005, [http://www.realcities.com/mld/kwashington/news/special\\_packages/iraq/11999387.htm](http://www.realcities.com/mld/kwashington/news/special_packages/iraq/11999387.htm).

<sup>998</sup> See also the section on 'Extra-judicial killings, disappearances'.

<sup>999</sup> The Observer, *Revealed: grim world of new Iraqi torture camps*, 3 July 2005, <http://observer.guardian.co.uk/international/story/0,6903,1520136,00.html>.

<sup>1000</sup> Reuters, *Iraqi govt admits abuses by security forces*, 4 July 2005, <http://www.abc.net.au/news/newsitems/200507/s1405971.htm>.

officers and of men in police uniforms committing serious crimes'.<sup>1001</sup>

Among the cases recorded earlier by Human Rights Watch are ten followers of Muqtada Al-Sadr who were among the hundreds arrested by the Iraqi police, the Emergency Response Units, the Iraqi National Guard as well as by US Marines in the wake of the uprising in Najaf in summer 2004. Most were held by the Criminal Intelligence Directorate, the Major Crimes Directorate in Baghdad, the Emergency Response Unit (in Baghdad), the Najaf Police Directorate or the Crime Combat Office (in Najaf). Some of them were released after a few days without being charged, while others were referred to the CCCI. They reported kicking, beatings with cables, use of electric shocks to sensitive parts of the body and the pouring of cold water over their bodies. Two of them reported that they had to sign 'confessions' under torture. During their detention, their families were not informed of their whereabouts and they were not able to contact a lawyer. After being referred to an investigative judge, they were released due to lack of evidence. Human Rights Watch also reported a number of arrests of persons accused of having links with the Mehdi Army, including persons traveling to Najaf for religious purposes, delivering humanitarian aid and participants of a demonstration against the fighting in Najaf in Al-Kut.<sup>1002</sup>

Human Rights Watch also interviewed 55 persons accused of serious criminal acts. Most of them were transferred to their first court hearing only after several weeks. Torture and ill-treatment appeared again to be a routine part of interrogations, and Human Rights Watch confirmed that visible traces of external trauma on various parts of their bodies (including fresh bruises, lacerations and recent scarring) were consistent with their accounts of having been repeatedly beaten. Detainees seen with a dislocated shoulder, difficulties walking unassisted, an impaired ability to speak or broken teeth may also have been subjected to different forms of torture and ill-treatment.<sup>1003</sup>

Amnesty International reports torture at the hands of the Intelligence Directorate, which it believes is controlled by the Badr Organization.<sup>1004</sup>

Long pre-trial periods<sup>1005</sup> are a major factor contributing to the non-detection of torture and ill-treatment as physical evidence is likely to disappear before a medical examination can be ordered by the investigative judge. In some cases, detainees do not wish to be referred to a medical examination either because they do not want their pre-trial detention to be prolonged or because they received threats from the concerned police officials (this is particularly the case when detainees are returned to a pre-trial facility after the judicial hearing even though they should in principle be transferred to the authority of the ICS). For the same reason, detainees that were subjected to torture may not file a formal complaint against the alleged perpetrators.<sup>1006</sup>

Iraq's use of the popular TV show *Terrorism in the Grip of Justice* in fighting the insurgency has also raised serious concerns as some of the suspects shown making public confessions bear visible signs such as cuts and bruises. The Iraqi Ministry of Human Rights has filed complaints

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<sup>1001</sup> Ibid., *UK concerned over Iraq torture reports*, 4 July 2005, <http://www.dawn.com/2005/07/04/top9.htm>.

<sup>1002</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 26, <http://hrw.org/reports/2005/iraq0105/>.

<sup>1003</sup> Ibid., pp. 39-42.

<sup>1004</sup> Amnesty International, *Iraq: Fear of torture/incommunicado detention*, 19 May 2005, <http://web.amnesty.org/library/Index/ENGMDE140132005?open&of=ENG-IRQ>.

<sup>1005</sup> See also the section on 'Persons in detention under control of the ISF'.

<sup>1006</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 74, <http://hrw.org/reports/2005/iraq0105/>.

with the Ministry of Interior and asked the Higher Judicial Council to review the show's legality.<sup>1007</sup> The programme is shown on the state-run Al-Iraqiyah TV channel and is featured by Abu Walid, the commander of the Wolf Brigade.<sup>1008</sup>

According to Human Rights Watch, only in rare cases are investigations initiated that result in the punishment of those held responsible, and even when they do the punishment meted out often consists only of fines.<sup>1009</sup> The US State Department reports that according to one government official, hundreds of abuse cases were pending at the end of 2004, but that several policemen had been arrested and both criminal and administrative punishments were imposed where allegations of torture were substantiated.<sup>1010</sup>

Cases of torture also reportedly take place in prisons and detention facilities under the control of the ICS. Even though the ICS Internal Affairs Division says that it conducted investigations into all detected or reported cases between July and December 2004 and undertook necessary corrective measures, less than ten cases were actually investigated and reports state that hundreds of alleged abuse cases remained pending.<sup>1011</sup>

#### *Torture and ill-treatment by the Kurdish security forces*

In the *Asayish* and *Parastin/Dazgay Zaniary* detention facilities where detainees are held incommunicado and without judicial review of their detention for prolonged periods of time, the use of torture and ill-treatment cannot be excluded.<sup>1012</sup>

#### *Torture and ill-treatment by insurgent groups*

In addition, there are numerous reports and evidence that insurgents employ multiple forms of torture and inhumane treatment against their victims, including beatings, electric shocks and mock executions.<sup>1013</sup> During raids of insurgent hotspots such as Fallujah or Karabilah, the MNF/ISF has discovered several 'torture houses, fully equipped and sometimes even with victims in them.'<sup>1014</sup>

#### Arrest and detention

Arrest and detention are guided by a range of applicable laws. Depending on the status of the detainee, international humanitarian law may be applicable in addition to relevant Iraqi law.

#### *International humanitarian law*

As outlined earlier,<sup>1015</sup> Iraq was in a state of international conflict after the US-led invasion in March 2003. Persons arrested were protected by the Third (*Convention relative to the Treatment*

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<sup>1007</sup> The Christian Science Monitor, *Iraqi reality-TV hit takes fear factor to another level*, 7 June 2005, <http://www.csmonitor.com/2005/0607/p01s03-woiq.htm>.

<sup>1008</sup> BBC, *Profile: Iraq's Wolf Brigade*, 9 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4083326.stm](http://news.bbc.co.uk/2/hi/middle_east/4083326.stm).

<sup>1009</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 76, <http://hrw.org/reports/2005/iraq0105/>.

<sup>1010</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1011</sup> Ibid.

<sup>1012</sup> See for example, Amnesty International, Urgent Action, *Iraq: Incommunicado detention/fear of torture*, *Rebwar Arif*, 9 May 2005, <http://web.amnesty.org/library/Index/ENGMDE140102005?open&of=ENG-IRQ>; Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, pp. 32-36.

<sup>1013</sup> Amnesty International, *Iraq - In cold blood: abuses by armed groups*, 25 July 2005, <http://web.amnesty.org/library/Index/ENGMDE140092005>.

<sup>1014</sup> See for example, The New York Times, *U.S. marines uncover torture cell in Iraq*, 20 June 2005, <http://www.iht.com/articles/2005/06/19/news/torture.php>.

<sup>1015</sup> See also the section on '2. Current legal framework – Applicability of international treaties – Humanitarian law'.

of *Prisoners of War*) or the Fourth (*Convention relative to the Protection of Civilian Persons in Time of War*) Geneva Convention of 1949. With the handover of sovereignty and the presence of the MNF at the request of the Iraqi Government, the legal situation has changed and Iraq is considered to be in a situation of non-international armed conflict between the MNF/ISF and the insurgency. Therefore, persons deprived of their freedom in relation to the hostilities are no longer protected by the Geneva Conventions in their entirety.

The legal regime applicable to persons arrested since the handover of sovereignty on 28 June 2004 is as follows:

- Persons arrested in *connection with the ongoing non-international armed conflict*, be it by the MNF or by the ISF, are protected by common Article 3 of the Geneva Conventions and relevant customary international law. In addition, other applicable international law as well as relevant Iraqi law also applies on them;
- Persons arrested by the ISF for *reasons unrelated to the ongoing non-international conflict* are protected by Iraqi law as well as applicable human rights law (but no longer by international humanitarian law).<sup>1016</sup>

#### *International human rights law*

Iraq is a party to the *International Covenant on Civil and Political Rights*; the *International Covenant on Economic, Social and Cultural Rights*; the *Convention on the Rights of the Child*; the *International Convention on the Elimination of All Forms of Racial Discrimination*; and the *Convention on the Elimination of All Forms of Discrimination against Women*. These treaties include a number of provisions guaranteeing detainees' rights.

As regards persons held by the MNF or the ISF in connection with armed hostilities, all parties to the conflict are also under an obligation to respect the provisions of the human rights treaties to which they are a party as well as those to which Iraq is a party.

#### *Iraqi domestic law*

The *TAL* enshrines the freedom from arbitrary arrest, unlawful detention and unfair trials.<sup>1017</sup> It also guarantees that detainees 'have the right of recourse to a court to determine the legality of [their] arrest or detention without delay and to order [their] release if this occurred in an illegal manner'.<sup>1018</sup>

Under the 1971 *Law on Criminal Proceedings*, as amended by the CPA, an individual suspected of a crime may be arrested only on a judicial warrant<sup>1019</sup> except when the police observe a crime taking place or have reasonable grounds to suspect such acts.<sup>1020</sup> The law provides that, in any case, detainees must see an investigating judge within 24 hours.<sup>1021</sup> The investigative judge can extend the period of detention for up to fifteen days after each review, however the total period cannot exceed six months after which authorization for further extension has to be obtained from the responsible criminal court.<sup>1022</sup>

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<sup>1016</sup> Regarding the legal status of persons arrested prior to the handover of sovereignty, please see ICRC, *Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority*, 5 August 2004, <http://www.icrc.ch/Web/Eng/siteeng0.nsf/iwpList322/89060107D77D7299C1256EE7005200E8>.

<sup>1017</sup> Article 15(B) and (C) *TAL*.

<sup>1018</sup> Article 15(G) *TAL*.

<sup>1019</sup> Article 92 *Law on Criminal Proceedings*.

<sup>1020</sup> Article 102(a) *Law on Criminal Proceedings*.

<sup>1021</sup> Article 123 *Law on Criminal Proceedings*.

<sup>1022</sup> Article 109(a) and (c) *Law on Criminal Proceedings*.



CPA Memorandum No. 2<sup>1023</sup> sets out basic standards for the operation of all detention and prison facilities, including conditions of detention, medical services, discipline and punishment, complaints by prisoners and inspection of facilities. However, these standards only apply to the prison system that falls under the authority of the Iraqi Ministry of Justice. They do not apply to facilities controlled by the Ministry of Interior nor do they apply to detention facilities under the control of the MNF, thereby providing them with fewer safeguards.

CPA Memorandum No. 3 amended the 1971 Iraqi *Law on Criminal Proceedings*, introducing new procedural rights such as the right to be silent, the right to legal counsel, the right against self-incrimination, the right to be informed of these rights and the exclusion of evidence obtained by torture.<sup>1024</sup> There are no provisions in the Memorandum that address the consequences of violation of those rights however, except in the case of coerced confessions. The Memorandum further provides the legal basis for arrests of ‘criminal detainees’ and ‘security internees’ by the MNF and provides minimum guarantees for their treatment. Criminal detainees should be handed over to the Iraqi authorities as soon as ‘reasonably practicable’. The Iraqi authorities can also request the MNF to hold a criminal detainee in one of its facilities for security or capacity reasons. Criminal suspects held by the MNF have the right to remain silent, to consult a legal counsel and to be ‘promptly informed’ of the criminal charges brought against them; their cases must be judicially reviewed no later than 90 days after their arrival in the detention facility.<sup>1025</sup> For so-called security internees held in accordance with UN Security Council Resolution 1546, a different process applies: a security internee’s internment will be reviewed no later than seven days after induction into the MNF internment facility after which the detention is to be periodically reviewed no later than six months from the date of induction into the internment facility. Security internees can be held for up to 18 months (12 months for juveniles), but in special cases this could be extended further.<sup>1026</sup>

In addition, the US military has issued regulations regarding the treatment of persons held in US facilities, the *Detainee visitation rules and guidelines*. During the first 60 days of internment, ‘security detainees’ are not eligible to receive visits. After this period, they are authorized four visits per month by their close family members or lawyers.<sup>1027</sup>

After the preliminary interrogation, the US military enters the information on all detainees into a central database, including the detainee’s name, identification number, date and place of arrest, military unit which carried out the arrest, place of detention and, charges.

#### Persons in detention under control of the ISF

Despite these guarantees, suspected offenders are often arrested without judicial warrants, detained without charge, held for prolonged periods of time before referral to an investigative judge and denied contact with family and legal counsel. Human Rights Watch observed:

*Serious and widespread human rights violations by Iraqi police against national security suspects, including insurgents, and suspected common criminals since late 2003. As of mid-2004, Iraqi intelligence forces also committed serious violations, principally against members of*

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<sup>1023</sup> CPA, Memorandum No. 2, *Management of Detention and Prison Facilities*, 8 June 2003, [http://www.iraqcoalition.org/regulations/20030608\\_CPAMEMO\\_2\\_Management\\_of\\_Detention\\_and\\_Prison\\_Facilities.pdf](http://www.iraqcoalition.org/regulations/20030608_CPAMEMO_2_Management_of_Detention_and_Prison_Facilities.pdf).

<sup>1024</sup> CPA, Memorandum No. 3 (revised), *Criminal Procedures*, 27 June 2004,

[http://www.iraqcoalition.org/regulations/20040627\\_CPAMEMO\\_3\\_Criminal\\_Procedures\\_Rev\\_.pdf](http://www.iraqcoalition.org/regulations/20040627_CPAMEMO_3_Criminal_Procedures_Rev_.pdf).

<sup>1025</sup> Ibid., Section 5(1).

<sup>1026</sup> Ibid., Section 6.

<sup>1027</sup> Multi-National Force – Iraq, Release A050709a, *Detainee visitation rules and guidelines*, 9 July 2005, <http://www.mnf-iraq.com/Releases/July/050709a.htm>.

*political parties deemed to constitute a threat to state security.*<sup>1028</sup>

The Working Group on Arbitrary Detention of the United Nations Commission on Human Rights reported that the majority of persons in detention in Iraq have been arrested during public demonstrations, at checkpoints and in house raids, in the latter case often without search or arrest warrant. They are being considered ‘security detainees’ or ‘suspected of anti-Coalition activities’.<sup>1029</sup> According to the US State Department, ‘there was a widespread perception that police made false arrests to extort money’.<sup>1030</sup> Others are allegedly arrested at random in mass arrests for the sole purpose of showing to the public that the ISF are active in rounding-up criminals. Most are released after weeks or months without ever being charged or having their detention reviewed by a judge.<sup>1031</sup> Mass raids often take place at the direct order of the Ministry of Interior and without arrest warrants issued by the competent judicial authorities.<sup>1032</sup> Given the high number of arrests without an arrest warrant, judicial authorities are often not aware of persons being held in detention, thereby increasing the risk of torture and ill-treatment. Though investigative judges have the authority to undertake inspection visits in detention facilities, this is rarely the case given the current security situation and the large caseload.<sup>1033</sup> Though the law provides that after a detainee’s appearance in court he/she should be transferred to a detention facility under the authority of the ICS to await trial, those being held by one of the Ministry of Interior’s agencies are in practice often returned to that same authority.<sup>1034</sup>

It is of concern that the INIS<sup>1035</sup> is reportedly also carrying out arrests and holding detainees in a separate area within the Major Crimes Directorate’s detention facility in Al-Amiriyah/Baghdad even though it does not have powers to arrest or detain persons.<sup>1036</sup>

There are also reports of the excessive use of force against Iraqis as well as foreigners, particularly those of Arab origin (including refugees), for example during arrests or house searches. This includes the looting and burning of houses of alleged insurgents as well as theft of valuables belonging to detainees.<sup>1037</sup> Many detainees reported that they faced beatings at the time of their arrest and were tightly handcuffed or blindfolded.<sup>1038</sup> Defense counsels and family

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<sup>1028</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, <http://hrw.org/reports/2005/iraq0105/>.

<sup>1029</sup> UNHCHR, Press Release, *UN Rights Expert calls on Coalition authorities to allow Iraqi detainees to challenge lawfulness of detention*, 5 May 2004, <http://www.un.org/News/Press/docs/2004/hr4742.doc.htm>.

<sup>1030</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1031</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 42-43, <http://hrw.org/reports/2005/iraq0105/>; regarding mass arrests conducted during Operation ‘Lightning’ in May/June 2005, see Financial Times, *Sunnis feel full force of Lightning strike*, 29 June 2005, [http://www.occupationwatch.org/headlines/archives/2005/06/sunnis\\_feel\\_ful.html](http://www.occupationwatch.org/headlines/archives/2005/06/sunnis_feel_ful.html).

<sup>1032</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 43.

<sup>1033</sup> *Ibid.*, p. 73.

<sup>1034</sup> *Ibid.*, p. 74.

<sup>1035</sup> See also the section on ‘Iraqi National Intelligence Service’.

<sup>1036</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, pp. 35. Human Rights Watch received unverified information that by mid October 2004 some 96 detainees were being held by the INIS, among them possibly persons linked to the Shiite parties SCIRI and Al-Dawa as part of property disputes between the INIS and the parties. In addition it was reported that three journalists that had critically reported about some INIS officials’ connection with former Ba’athists were being held; also see Agence France-Presse, *Sacking of Crusading Judge Fuels Concerns Over Iraq Rights Record*, 19 October 2004, <http://www.commondreams.org/headlines04/1019-09.htm>.

<sup>1037</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1038</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, p. 5, <http://hrw.org/reports/2005/iraq0105/>.

members are routinely denied access to detainees in pre-trial detention, with exceptions only being made by the use of illicit means such as bribes or high-profile connections. However, in most pre-detention facilities visited by Human Rights Watch, these rights were systematically denied.<sup>1039</sup>

Long pre-trial periods are common. Human Rights Watch says that many detainees have been held for weeks or even months without judicial review before being transferred to a court.<sup>1040</sup> Reportedly, some police officers did not present defendants to magistrates and held them in detention cells until their families paid bribes for their release. In the CCCI in Baghdad, the time between arrest and arraignment was often in excess of 30 days, despite the 24-hour requirement'.<sup>1041</sup>

Conditions in pre-trial facilities such as at the Criminal Intelligence Directorate and the Major Crimes Directorate<sup>1042</sup> are reportedly poor. Human Rights Watch reported conditions of little or no food and water, severe overcrowding with no room to lie down to sleep at night and unhygienic conditions with a lack of washing and toilet facilities. Some of the interviewed detainees reported that they took turns sleeping, while others slept standing up.<sup>1043</sup>

Perpetrators of such violations generally go unpunished. Though there are a number of mechanisms to bring such persons to justice, be they through administrative or legal proceedings, in practice detainees subjected to unlawful arrest and detention or torture and ill-treatment have little chance for redress. According to the US State Department, 'there were no publicized cases of criminal proceedings brought against members of the security forces in connection with alleged violations of these rights, nor were there publicly known measures adopted to prevent recurrence'.<sup>1044</sup> Human Rights Watch says that with rare exceptions, the Iraqi authorities have failed to hold offending officials responsible, while international police advisers 'turned a blind eye to these rampant abuses'. It lists a few cases in which police officers against whom an investigation was initiated by investigative judges were convicted and sentenced to pay a fine.<sup>1045</sup> The Ministry of Interior's Inspector General, who has the authority to investigate the conduct of law enforcement personnel and to refer matters for further action to administrative and prosecutorial agencies, has so far not taken any steps in this regard.<sup>1046</sup> Human Rights Watch also raised concern that despite the acknowledgment of former Interior Minister Falah Al-Naqib that police had carried out arrests without arrest warrants, no measures were adopted to prevent recurrence.<sup>1047</sup>

Reportedly, prison conditions have significantly improved but often do not yet meet international standards. The ICRC has access to prisons and detention facilities and the Ministry of Human Rights opened an office at the Abu Ghraib Prison. Overcrowding, lack of maintenance and medical care remain problems. At times, juveniles were confined with adult detainees.

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<sup>1039</sup> Ibid.

<sup>1040</sup> Ibid.

<sup>1041</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1042</sup> See also the section on 'Major Crimes Directorate and Criminal Intelligence Directorate'

<sup>1043</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, p. 42, <http://hrw.org/reports/2005/iraq0105/>.

<sup>1044</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1045</sup> Human Rights Watch, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, 25 January 2005, p. 76, <http://hrw.org/reports/2005/iraq0105/>.

<sup>1046</sup> Ibid., p. 73.

<sup>1047</sup> Ibid., pp. 6-7.

### Persons in detention under control of the Kurdish authorities

In the KRG-administered areas, cases of arbitrary arrest and detention without trial have been reported. In particular persons held by the security/intelligence agencies are at risk of detention without judicial review in accordance with the *Law on Criminal Proceedings* and are often held for prolonged periods of time.<sup>1048</sup>

The Washington Post reported, with reference to a confidential State Department cable addressed to the White House, Pentagon and US Embassy in Baghdad, that ‘extra-judicial detentions’ were part of a ‘concerted and widespread initiative’ by the Kurdish parties ‘to exercise authority in Kirkuk in an increasingly provocative manner’. This cable refers to a practice of the Kurdish-dominated security forces and the *Asayish*, the Kurdish security, to transfer hundreds of detainees from Kirkuk and Mosul to the KRG-administered areas without the ‘authority of local courts or the knowledge of Ministries of Interior or Defense in Baghdad’. While Kurdish authorities deny the unlawfulness of the transfers,<sup>1049</sup> US officials say that they had not been involved and the practice was stopped after their intervention. Nevertheless, the issue is likely to increase ethnic tensions in these cities, as Arabs and Turkmen claim that they have been deliberately abducted, unlawfully detained and at times tortured.<sup>1050</sup>

### Persons in detention under control of the US military

There are reports that MNF uses excessive force during house raids and arrests including the use of force against persons that do not resist as well as the confiscation and destruction of property.<sup>1051</sup>

It is of concern that detainees have no access to legal counsel or their families during preliminary interrogations at US military bases. Their arrest is not registered in the central database. Accordingly, families are often not aware of their whereabouts and human rights organisations cannot monitor their treatment. Referring to the large numbers of detainees held by the MNF in Iraq,<sup>1052</sup> UN Secretary General Kofi Annan said that ‘one of the major human rights challenges remains the detention of thousands of persons without due process’. He mentioned that ‘prolonged detention without access to lawyers and courts is prohibited under international law including during states of emergency’.<sup>1053</sup> The US rejected the accusations saying that all prisoners had access to due legal process and their rights under the Geneva Conventions.<sup>1054</sup>

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<sup>1048</sup> Human Rights Watch, World Report 2003, *Iraq and Iraqi Kurdistan*, <http://www.hrw.org/wr2k3/pdf/iraqandiraqikurdistan.pdf>; In May 2005, the Kurdish Press reported that Amnesty International requested information about the fate of five Kurds that had been arrested by the PUK intelligence service five years ago and that had not been heard of ever since; see UNAMI, Iraqi Media Monitoring, 12 May 2005, [http://www.globalsecurity.org/wmd/library/news/iraq/2005/05/imm-050512-unami.htm#\\_Toc103661589](http://www.globalsecurity.org/wmd/library/news/iraq/2005/05/imm-050512-unami.htm#_Toc103661589); also see Dr. Rebwar Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, pp. 32-36.

<sup>1049</sup> See Kurdistan Observer, *Respect for Human Rights in Iraqi Kurdistan*, 23 June 2005, <http://home.cogeco.ca/~kobserver/23-6-05-krq-respond-to-washington-post.htm>; The Associated Press, *Kurdish President Disputes Report of Arab, Turkomen Abuse*, 20 June 2005, <http://home.cogeco.ca/~kobserver/20-6-05-barzani-dispute-wshington-post-claims.htm>.

<sup>1050</sup> The Washington Post, *Kurdish Officials Sanction Abductions in Kirkuk*, 15 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/14/AR2005061401828.html>.

<sup>1051</sup> Amnesty International, *Iraq - In cold blood: abuses by armed groups*, 25 July 2005, <http://web.amnesty.org/library/Index/ENGMDE140092005>.

<sup>1052</sup> See also the section on ‘Prison and detention facilities under US authority’.

<sup>1053</sup> UN Security Council, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, 7 June 2005, p. 13, <http://www.reliefweb.int/library/documents/2005/unscl-07jun.pdf>.

<sup>1054</sup> Reuters, *US rejects UN critique of its Iraq prisoner policy*, 9 June 2005.



Once transferred to one of the major detention facilities at Camp Bucca or Abu Ghraib, the detainees are registered in a central database. There have been reports however of 'ghost detainees' that were deliberately not registered. US Defense Secretary Donald Rumsfeld admitted in 2004 that he had ordered the secret detention of a senior Ansar Al-Islam member without listing him in the database.<sup>1055</sup>

The Combined Review and Release Board (CRRB), created in August 2004, is tasked with reviewing the continued detention of all detainees held by the MNF. The CRRB is comprised of six Iraqis<sup>1056</sup> and three MNF members. It recommends in each case whether a detainee should be released or continue to be detained if he still poses a security threat. According to the US military, the CRRB reviews the case of each detainee within the first 90 days of detention and within 180 days after that.<sup>1057</sup> The final approval for all releases rests with the MNF's Deputy Commanding General for Detainee Operations, Maj. Gen. Geoffrey Miller, who makes a decision after consultation with the Iraqi Minister of Justice.<sup>1058</sup> The high numbers of detainees results in delays in the reviewing process, thereby seriously undermining detainees' rights to due process of law. According to the CRRB, a second panel was created in May 2005 'to cut the time detainees wait for board review in half'. By the end of June 2005, more than 2,700 detainees were approved for release since the CRRB was created nearly a year ago, while 6,500 were recommended to remain in detention.<sup>1059</sup> Cases that face criminal charges are referred to the CCCI for prosecution.<sup>1060</sup> By the end of June 2005, the CCCI had identified more than 1,700 detainees for prosecution.<sup>1061</sup>

Crowded conditions combined with more difficult inmates increase the risk of prison violence. Camp Bucca and Abu Ghraib have experienced several prison riots, causing considerable numbers of casualties.<sup>1062</sup>

A number of Syrian, Iranian and Palestinian refugees have faced arrest and arbitrary detention at the hands of the MNF/ISF, which has charged them of supporting the insurgency or general terrorism. UN human rights investigators accused the US of stalling on a request to visit foreign terror suspects at US-run detention facilities in Iraq.<sup>1063</sup>

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<sup>1055</sup> Amnesty International, *Report 2005 - Iraq*, <http://web.amnesty.org/report2005/irq-summary-eng>.

<sup>1056</sup> Two members each from the Ministries of Justice, Human Rights and Interior; see US Department of Defense, American Forces Information Service, *Review Board Sends 180 Security Detainees Home*, 30 September 2004, [http://www.defense.gov/news/Sep2004/n09302004\\_2004093005.html](http://www.defense.gov/news/Sep2004/n09302004_2004093005.html).

<sup>1057</sup> Reuters, *US rejects UN critique of its Iraq prisoner policy*, 9 June 2005.

<sup>1058</sup> US Department of Defense, US Central Command, News Release No. 04-08-48, *Detainee Release Board takes on Iraqi Partners*, 16 August 2004, [http://www.centcom.mil/CENTCOMNews/News\\_Release.asp?NewsRelease=20040848.txt](http://www.centcom.mil/CENTCOMNews/News_Release.asp?NewsRelease=20040848.txt).

<sup>1059</sup> The Associated Press, *Board Said to OK Iraq Detainees' Release*, 28 June 2005, <http://www.political-news.org/breaking/12683/board-said-to-ok-iraq-detainees-release.html>.

<sup>1060</sup> US Department of Defense, American Forces Press Service, *Iraq Detainee Board Reviews 300 Cases During First Week*, 29 August 2004, [http://www.defenselink.mil/news/Aug2004/n08292004\\_2004082903.html](http://www.defenselink.mil/news/Aug2004/n08292004_2004082903.html).

<sup>1061</sup> The Associated Press, *Board Said to OK Iraq Detainees' Release*, 28 June 2005, <http://www.political-news.org/breaking/12683/board-said-to-ok-iraq-detainees-release.html>.

<sup>1062</sup> See for example, The Associated Press, *Inmates, Guards Clash at Iraqi Prison*, 5 April 2005, <http://www.newsmax.com/archives/articles/2005/4/4/220804.shtml>; The Washington Post, *Prisoner Uprising In Iraq Exposes New Risk for U.S.*, 21 February 2005, <http://www.washingtonpost.com/wp-dyn/articles/A40411-2005Feb20.html>; Guardian Unlimited, *US forces kill two in Iraq jail riot*, 19 August 2004, <http://www.guardian.co.uk/Iraq/Story/0,2763,1286245,00.html>.

<sup>1063</sup> Reuters, *UN investigators say U.S. stalling on prison visits*, 23 June 2005, <http://www.abc.net.au/news/newsitems/200506/s1399448.htm>.



### Right to a fair trial and due process of law

The TAL guarantees ‘the right to a fair and public hearing by an independent and impartial tribunal’. The accused must be given notice of the charges brought against him without delay.<sup>1064</sup> The accused is innocent until guilt is proven. The accused is protected from self-incrimination, has the right to remain silent and to engage a legal counsel.<sup>1065</sup> Furthermore, the TAL guarantees the right to a fair, speedy and open trial.<sup>1066</sup>

In light of the findings summarized before, it raises concerns that a significant number of detainees are not informed of the charges brought against them and are denied the right to have their case reviewed by a competent judge in a timely manner.

Human Rights Watch noted that courts ensured legal representation for those defendants that were not willing or able to engage a lawyer on their own; however, it raised concerns that lawyers do not have prior access to defendants nor do they have the possibility to look at the evidence brought against their clients. In some cases, lawyers were not present at investigative hearings. Trials before the criminal courts are usually summary, lasting less than half an hour in most cases.<sup>1067</sup> Furthermore, they are marred by the acceptance of coerced confessions as evidence, even though CPA Memorandum 3 provides that confessions induced by torture are under no circumstances admissible.<sup>1068</sup> These flaws are of particular concern in trials which impose the death penalty. A recent trial in the CCCI, in which the death sentence was handed down for three Iraqis charged with assassinating a senior intelligence official in the Interior Ministry lasted barely two hours. The defendants had reportedly never met their lawyer, who in turn had only been appointed the night before the trial and had not seen the defendants’ files. The conviction was based on a confession which the defendants say was gained under torture. However, they were not allowed to undergo medical examination to determine whether the torture allegations were true.<sup>1069</sup>

The TV show *Terrorism in the Grip of Justice* has been criticized of undermining detainees’ rights to be considered innocent until guilt has been proven in a fair trial.<sup>1070</sup>

Human Rights Organisations raise a number of questions as to the fairness of trials conducted by the IST, including the fact that the *Statute* lacks important pre-trial guarantees such as the right to be informed of the charges, the right to remain silent or the right to be questioned in the presence of a lawyer. Furthermore, there are no guarantees against the use of confessions extracted under torture and the requirement that guilt be proven beyond a reasonable doubt.<sup>1071</sup> <sup>1072</sup> Saddam Hussein’s team of lawyers questions the legitimacy of the IST, saying that he would enjoy immunity and casting doubts on whether the former President would receive a fair trial as the IST is politically charged.<sup>1073</sup>

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<sup>1064</sup> Article 15(D) TAL.

<sup>1065</sup> Article 15(E) TAL.

<sup>1066</sup> Article 15(F) TAL.

<sup>1067</sup> Human Rights Watch, World Report 2005, *Iraq*, <http://hrw.org/english/docs/2005/01/13/iraq9805.htm>.

<sup>1068</sup> CPA Memorandum 3, Section 4(k).

<sup>1069</sup> See Los Angeles Times, *Justice tenous in Iraqi courts*, 6 June 2005, <http://www.spokesmanreview.com/breaking/story.asp?submitdate=20056611401>.

<sup>1070</sup> The Christian Science Monitor, *Iraqi reality-TV hit takes fear factor to another level*, 7 June 2005, <http://www.csmonitor.com/2005/0607/p01s03-woiq.htm>.

<sup>1071</sup> See for example, Human Rights Watch, *Iraq: Tribunal’s Flaws Raise Fair-Trial Concerns*, 17 December 2004, <http://hrw.org/english/docs/2004/12/16/iraq9907.htm>.

<sup>1072</sup> See also the section on ‘Iraqi Special Tribunal’.

<sup>1073</sup> The Associated Press, *Lawyer criticizes Iraq’s handling of Saddam Hussein, wants trial held elsewhere*, 19 July 2005; Times Online, *Saddam seeks trial outside Iraq*, 3 July 2005, <http://www.timesonline.co.uk/article/0,,2089-1678537,00.html>; The Associated Press, *Lawyer: No chance of fair trial*, 1 July 2005; BBC, *Defiant Saddam*

### **g) Freedom of assembly and formation of political parties / right to vote**

The former Iraqi *Penal Code* included a number of provisions which unreasonably restricted the right of peaceful assembly; by CPA Order No. 19 these provisions were suspended.<sup>1074</sup> The TAL provides for freedom of assembly and association as well as the right to form and join unions and political parties freely.<sup>1075</sup> Furthermore, the TAL provides Iraqi citizens with the right to change their government peacefully through periodic, free and fair elections based on universal suffrage.<sup>1076 1077</sup>

Although the Ba'ath Party was banned by CPA Order No. 1,<sup>1078</sup> political organizations representing a wide range of viewpoints can be formed without interference by the authorities and candidates were able to freely present themselves or be nominated by their political parties for the 30 January 2005 elections. The Iraqi Government did not restrict political opponents nor did it interfere with their right to organize, seek votes or publicize their views. Elections at the national and provincial level were held on 30 January 2005 and were generally considered to be in compliance with international standards despite the prevailing insecurity with intimidation of election staff and voters and reports about irregularities in certain areas.<sup>1079</sup>

Chaldo-Assyrians claim that ballot boxes never arrived at polling stations in several towns in the Governorate of Ninewa and prevented them from participating in the elections.<sup>1080</sup> They currently hold one ministerial post (Bassem Yusuf Butrus, Minister of Science and Technology). Iraq's political system is built to a large extent on sectarian identity and could therefore discriminate against persons that do not belong to a particular group or do not wish to be identified based on their religious or ethnic background.

Public protests occur on a regular basis to demand action on a variety of political, economic and social issues. Generally, the authorities do not intervene or restrict such demonstrations; however, there are reports of excessive use of force against demonstrators, for example when police opened fire on a crowd of demonstrators in the Southern city of Samawa on 27 June 2005, killing one protester and wounding six more. This incident began with some 2,000 unemployed Iraqis demonstrating to demand jobs who then began throwing stones at the police.<sup>1081</sup>

Under the *Order of Safeguarding National Security*, the Prime Minister has the power to restrict the freedom of assembly, a power which is subject to judicial review.<sup>1082</sup>

### **h) Freedom of expression (including of media)**

The former Iraqi *Penal Code* included a number of provisions which unreasonably restricted the

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*appears in court*, 1 July 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3855359.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3855359.stm).

<sup>1074</sup> CPA, Order No. 19, *Freedom of Assembly*, 10 July 2003,

[http://www.iraqcoalition.org/regulations/20030710\\_CPAORD\\_19\\_Freedom\\_of\\_Assembly\\_.pdf](http://www.iraqcoalition.org/regulations/20030710_CPAORD_19_Freedom_of_Assembly_.pdf).

<sup>1075</sup> Article 13(C) TAL.

<sup>1076</sup> Article 20 TAL.

<sup>1077</sup> See also the section on 'Transitional National Assembly Election and formation of the Iraqi Transitional Government'.

<sup>1078</sup> CPA, Order No. 1, *De-Ba'athification of Iraqi Society*, 16 May 2003,

[http://www.iraqcoalition.org/regulations/20030516\\_CPAORD\\_1\\_De-Ba\\_athification\\_of\\_Iraqi\\_Society\\_.pdf](http://www.iraqcoalition.org/regulations/20030516_CPAORD_1_De-Ba_athification_of_Iraqi_Society_.pdf).

<sup>1079</sup> See also the section on 'Transitional National Assembly Elections and formation of the Iraqi Transitional Government'.

<sup>1080</sup> Article 30(C) TAL provides that *fair representation for all communities in Iraq, including the Turcomans, Chaldo-Assyrians, and others* should be achieved.

<sup>1081</sup> Reuters, *Police open fire on Iraq crowd -witnesses*, 28 June 2005.

<sup>1082</sup> See also the section on 'Emergency laws'.

freedom of expression; by CPA Order No. 19 these provisions were suspended.<sup>1083</sup> The TAL provides that the 'right of free expression shall be protected'.<sup>1084</sup>

Iraqis have enjoyed a considerable amount of freedom of expression since the fall of the former regime in April 2003. Almost overnight, the repressive media environment transformed into one of the most diverse and loosely regulated. There are no restrictions on content or access to books, periodicals, mass media, satellite dishes, computers, modems, faxes and Internet services.<sup>1085</sup> Reports estimate that there were more than 170 independent newspapers and magazines being published across Iraq as of May 2005, whereas during the former regime only state-run newspapers were printed in the country.<sup>1086</sup> Among the largest-circulation newspapers are As-Sabah (which has a circulation of more than 50,000 and was founded after the invasion with US funding), Az-Zaman (owned by leading Iraqi businessman Saad Al-Bazzaz) and Hawlati, a Kurdish weekly. Most are affiliated with political parties or religious organizations. The same applies to the many new TV channels of which some 23 were broadcasting as of May 2005.<sup>1087</sup> Al-Iraqiyah, the new state channel which broadcasts nationally, was established by the CPA from the remnants of Ba'ath Party Television. While satellite dishes were banned under the former regime, Iraqis today have free access to Middle Eastern, European and US channels.

CPA Order No. 14 prohibits media organizations from publishing or broadcasting material that incites violence or civil disorder, advocates the return to power of the Ba'ath Party or contains statements that purport to be on behalf of the Ba'ath Party.<sup>1088</sup> It allows for the closure of media organizations that violate these regulations. One example is the decision of the IIG to ban the Al-Jazeera news channel from working in Iraq. The station was accused of inciting violence and hatred.<sup>1089</sup>

Dozens of radio stations are also operating throughout the country, most with only local reach.<sup>1090</sup> Ordinary Iraqis now have access to the Internet, which was only seen by the elite under the former regime.<sup>1091</sup>

The continuing insecurity in Iraq is taking its toll on journalists and media staff. While the abduction and killing of foreign journalists has received much coverage in the Western media in recent months, militants have also increasingly targeted Iraqi journalists. According to the International Federation of Journalists (IFJ), the death toll of journalists and media staff killed in Iraq since March 2003 reached 85 as of May 2005, of which Iraqi journalists make up 80 percent of the total. The number also includes 14 deaths at the hands of US soldiers, which have prompted the IFJ and others to demand independent reports on their circumstances.<sup>1092</sup> In its

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<sup>1083</sup> CPA, Order No. 19, *Freedom of Assembly*, 10 July 2003,

[http://www.iraqcoalition.org/regulations/20030710\\_CPAORD\\_19\\_Freedom\\_of\\_Assembly\\_.pdf](http://www.iraqcoalition.org/regulations/20030710_CPAORD_19_Freedom_of_Assembly_.pdf).

<sup>1084</sup> Article 12(2) TAL.

<sup>1085</sup> US Department of State, Bureau of Democracy, Human Rights, and Labor, *Iraq, Country Reports on Human Rights Practices - 2004*, 28 February 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41722.htm>.

<sup>1086</sup> The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 27, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>1087</sup> Ibid.

<sup>1088</sup> CPA, Order No. 14, *Prohibited Media Activity*, Section 2, 10 June 2003, [http://www.iraqcoalition.org/regulations/20030610\\_CPAORD\\_14\\_Prohibited\\_Media\\_Activity.pdf](http://www.iraqcoalition.org/regulations/20030610_CPAORD_14_Prohibited_Media_Activity.pdf).

<sup>1089</sup> Guardian Unlimited, *Iraq extends al-Jazeera ban and raids offices*, 6 September 2004, <http://www.guardian.co.uk/Iraq/Story/0,2763,1298039,00.html>.

<sup>1090</sup> Carnegie Endowment, Arab Reform Bulletin, *A Snapshot of the Iraqi Media Scene*, Volume 2, Issue 11, December 2004, <http://www.carnegieendowment.org/publications/index.cfm?fa=print&id=16242>.

<sup>1091</sup> According to the Brookings Institution, there were only an estimated 4,500 Internet subscribers before the conflict in 2003, while there were 147,076 subscribers by the end of March 2005; see The Brookings Institution, *Iraq Index*, updated 14 July 2005, p. 27, <http://www.brookings.edu/fp/saban/iraq/index20050714.pdf>.

<sup>1092</sup> International Federation of Journalists, *IFJ Baghdad Centre Focus on Safety as Three More Journalists Die in*

annual report for 2004, the organization Reporters Without Borders called Iraq the most dangerous country in the world for journalists and listed numerous incidents of killings, kidnappings, arrest and detention of Iraqi and foreign journalists and media staff, physical attacks against media offices and individuals, as well as harassment and obstruction.<sup>1093</sup>

The journalists targeted by insurgents by and large represent news organizations that are to varying degrees critical of the terrorism taking place in Iraq or that are supportive of the Iraqi authorities.<sup>1094</sup> News organizations that are associated with political parties and the offices and employees of the state-funded Al-Hurrah TV and Al-Iraqiyah TV have become frequent targets of attacks by insurgents for their alleged collaboration with the Iraqi Government or the US.

On the other hand, the Iraqi Association of Journalists (IAJ) raised serious concerns about the arrest of a number of journalists by the MNF/ISF on suspicion of 'collaborating with insurgents'. The IAJ reported that eight journalists had been detained since March 2005 by US forces as they were considered to pose a security risk to the Iraqi people and the military.<sup>1095</sup> Reporters without Borders reported the arrest of Ibrahim Ahmed Salma, a cameraman with the Associated Press Television News, saying that 'the methods of arresting Iraqi journalists are brutal and abusive' and calling for the Iraqi authorities to explain the reasons for his arrest as well as his whereabouts. The NGO also referred to other cases in which media staff had been arrested and held by the Iraqi authorities without due process, often on the basis of alleged links to the insurgency or criticism of authorities. It named one particular case in which a reporter with satellite TV Al-Diyar, who was arrested on 9 April 2005 in Diyala Governorate, had reportedly been tortured.<sup>1096</sup> Journalists also reported that they have been threatened and have had their notebooks or cameras taken and smashed by police and soldiers.<sup>1097</sup>

Several Iraqi and foreign journalists have been killed by US soldiers, and the IAJ, together with the IFJ and the US-based Committee to Protect Journalists, has demanded that the US military conduct independent investigations into the circumstances of their deaths.<sup>1098</sup> During one week in June 2005, three media personnel were killed in different incidents. The first was on 24 June 2005, when an Iraqi reporter working for a US news organization was shot and killed in Baghdad. Witnesses said that he apparently did not respond to a shouted signal from a military convoy. The second was on 26 June 2005, when Maha Ibrahim, a news editor with Al-Iraqiyah TV in Baghdad, was killed when US soldiers opened fire after apparently coming under attack. The third was on 28 June 2005, when US soldiers killed an Iraqi news executive who did not pull over as a military convoy passed on a road in Baghdad. The US military says it is investigating these cases.<sup>1099</sup>

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*Iraq's Media Nightmare*, 20 May 2005, <http://www.ifj.org/default.asp?Index=3150&Language=EN>.

<sup>1093</sup> Reporters without Borders, *Iraq - Annual report 2004*,

[http://www.rsf.org/article.php3?id\\_article=9945&Valider=OK](http://www.rsf.org/article.php3?id_article=9945&Valider=OK).

<sup>1094</sup> Radio Free Europe/Radio Liberty, *Analysis: Journalists Remain Target Of Militants In Iraq*, 4 November 2004,

<http://www.rferl.org/featuresarticle/2004/11/056a8adf-e23f-43a9-85f6-0dca14a50815.html>.

<sup>1095</sup> IRIN, *IRAQ: Iraqi journalists complain of censorship*, 29 May 2005,

[http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle_East).

<sup>1096</sup> Reporters without Borders, *An APTN cameraman arrested by Iraqi police*, 24 May 2005,

[http://www.rsf.org/article.php3?id\\_article=13904](http://www.rsf.org/article.php3?id_article=13904).

<sup>1097</sup> The Washington Post, *Press in Iraq Gains Rights But No Refuge*, 6 June 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/05/AR2005060501143.html>.

<sup>1098</sup> IRIN, *IRAQ: Iraqi journalists complain of censorship*, 29 May 2005,

[http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle_East).

<sup>1099</sup> The Washington Post, *Shiite Lawmaker Killed In Car Bombing in Iraq*, 29 June 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/28/AR2005062800125.html>.

In this atmosphere of insecurity, journalists may apply self-censorship in order not to be seen as supporting one side to the conflict or the other.<sup>1100</sup> In addition, lawlessness and a weak justice system may further put journalists at risk of censorship, arrest, harassment or even murder when they criticise powerful players such as security forces, political parties, tribes or militias.<sup>1101</sup>

Not only journalists complain of restricted freedom of expression. Others such as politicians, university professors and students say that the fear of being targeted by insurgents prevents them from freely pronouncing their views in public.<sup>1102</sup>

In the three Northern Governorates, criticism of the KDP and the PUK is generally not tolerated and may lead to arrest and detention. Perceived sympathizers of Islamist groups are at risk of being arbitrarily arrested and detained.<sup>1103 1104</sup>

### **i) Freedom of thought, conscience and religion**

The TAL provides for freedom of thought, conscience and religious belief and practice for all Iraqis.<sup>1105</sup>

Restrictions on freedom of worship and controls over religious institutions that were common under the former regime have been lifted. Religious groups in Iraq are represented in the TNA and ITG, though Sunnis, who largely boycotted the elections on 30 January 2005, are not adequately represented, holding only 17 out of 275 seats in the TNA. Prime Minister Ibrahim Al-Ja'afari has included eight of these Sunnis in his cabinet in order to better reflect Iraq's religious and ethnic make-up.

The Government generally respects freedom of thought and religion in practice; however, the rise of Islamic fundamentalism (both Shia and Sunni) as well as the insurgency's declared goal of stirring up sectarian violence in Iraq has had a serious impact on the exercise of these rights in practice, and has created a climate of decreasing tolerance for religious minorities and Muslims, both women and men who do not adhere to strict interpretations of Islam.<sup>1106</sup> The role of Islam is a contentious issue to be addressed in the Permanent Constitution.

Assaults and threats against Christians, which are mainly concentrated in Baghdad and in and around Mosul (Ninewa Plain) have been widely reported, for example the coordinated attacks on churches of various Christian denominations in Baghdad and Mosul on 1 August 2004,<sup>1107</sup> 16

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<sup>1100</sup> IRIN, *IRAQ: Iraqi journalists complain of censorship*, 29 May 2005, [http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle\\_East](http://www.irinnews.org/report.asp?ReportID=47254&SelectRegion=Middle_East).

<sup>1101</sup> See for example, Knight Ridder Newspapers, *Iraqi Press Under Attack from Authorities in Iraq*, 2 May 2005, [http://www.truthout.org/docs\\_2005/050305K.shtml](http://www.truthout.org/docs_2005/050305K.shtml); American Journalism Review, *Letter From Baghdad: Not That Independent*, June/Jul 2004, <http://www.ajr.org/Article.asp?id=3687>.

<sup>1102</sup> The Christian Science Monitor, *Iraq's tensions spill onto campus*, 27 May 2005, <http://www.csmonitor.com/2005/0527/p06s03-woiq.html>; *ibid.*, *Death to those who dare to speak out*, 30 April 2004, <http://csmonitor.com/2004/0430/p11s01-woiq.html>; Los Angeles Times, *Another Voice of Academia Is Silenced in Iraq*, 21 January 2004, <http://www.commondreams.org/cgi-bin/print.cgi?file=/headlines04/0121-06.htm>.

<sup>1103</sup> Radio Free Europe/Radio Liberty, *Iraq: Corruption Restricts Development In Iraqi Kurdistan*, 29 April 2005, <http://www.rferl.org/featuresarticle/2005/4/DA9D366C-C2C2-486F-A4D7-2EEBC0BB507E.html>; Dr. Rebwat Fatah and Sheri Laizer, *Fact Finding Mission to Iraqi Kurdistan, September – October 2004*, 2004, pp. 10-13, 50; Inter Press Service, *Liberated Kurds Find Little Freedom*, 5 June 2004, <http://www.antiwar.com/glantz/?articleid=2747>; IRIN, *IRAQ: Focus on libel laws in north*, 3 March 2004, [http://www.irinnews.org/report.asp?ReportID=39801&SelectRegion=Iraq\\_Crisis&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=39801&SelectRegion=Iraq_Crisis&SelectCountry=IRAQ).

<sup>1104</sup> See UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, paras 54-55.

<sup>1105</sup> Article 13 TAL.

<sup>1106</sup> See also the section on the 'Current situation of women'.

<sup>1107</sup> IRIN, *IRAQ: Christian community shaken following bombings*, 2 August 2004,



October 2004,<sup>1108</sup> 8 November 2004<sup>1109</sup> and 7 December 2004<sup>1110</sup> that left dozens killed or injured. The Iraqi authorities as well as religious leaders have repeatedly called for tolerance and religious freedom and have condemned attacks against religious minorities.<sup>1111</sup> Insurgents are targeting Christians because they often work for the MNF or foreign contractors, both of which groups are considered 'crusaders'.<sup>1112</sup> Furthermore, Christians are particularly targeted by hard-line Islamists. There are numerous reports about attacks directed against businesses owned by Christians such as liquor stores, hairdressing salons and shops selling Western music. In the view of the insurgents, these kinds of occupations and activities are blasphemous. Others Christians have been kidnapped, as they are considered to be wealthy by Iraqi standards, and have been killed if ransom was not paid.<sup>1113</sup> According to the Society for Threatened People, more than 300 Christians have been killed and more than 25 churches were partially or fully destroyed.<sup>1114</sup>

Thousands of Christians left their homes in Central and Southern Iraq and either fled to the three Northern Governorates, which they had left after the former regime destroyed their villages in the late 1980s, or to other countries, mainly Syria and Jordan.<sup>1115</sup> Some Chaldo-Assyrians claim that they are being discriminated against by the Kurdish authorities which do not share reconstruction funds and oil revenues with predominantly Chaldo-Assyrian areas and have confiscated farms and villages.<sup>1116</sup> Christians can worship freely without interference by the Kurdish authorities. Since the fall of the former regime, which restricted the establishment of new denominations, a number of Christian evangelical churches have been established and are viewed with suspicion by both Muslim and Christian religious leaders. Of particular concern is their practice of proselytizing among Muslims, something the Iraqi Christians have always refrained from doing, and that may further strain relations between the religious communities.<sup>1117</sup> According to IWPR, Kurdish Muslims that have converted to Christianity through the efforts of evangelicals may face ostracism by their society.<sup>1118</sup>

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[http://www.irinnews.org/report.asp?ReportID=42478&SelectRegion=Iraq\\_Crisis&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=42478&SelectRegion=Iraq_Crisis&SelectCountry=IRAQ).

<sup>1108</sup> BBC, *Iraq blasts mar Muslim holy month*, 16 October 2004,

[http://news.bbc.co.uk/2/hi/middle\\_east/3749520.stm](http://news.bbc.co.uk/2/hi/middle_east/3749520.stm).

<sup>1109</sup> Ibid., *US attacks Iraq rebel stronghold*, 8 November 2004,

[http://news.bbc.co.uk/2/hi/middle\\_east/3992263.stm](http://news.bbc.co.uk/2/hi/middle_east/3992263.stm).

<sup>1110</sup> Ibid., *Pope condemns Iraq church attacks*, 8 December 2004,

[http://news.bbc.co.uk/2/hi/middle\\_east/4079795.stm](http://news.bbc.co.uk/2/hi/middle_east/4079795.stm).

<sup>1111</sup> See for example, The New York Times, *Leading Muslim Clerics in Iraq Condemn Bombing of Churches*, 3 August 2004,

<http://www.genocidewatch.org/IraqLeadingMuslimClericsCondemnBombingofChurches3august2004.htm>.

<sup>1112</sup> See for example, BBC, *Analysis: Iraq's Christians under attack*, 2 August 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3529364.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3529364.stm).

<sup>1113</sup> The Christian Science Monitor, *Iraq's Christians consider fleeing as attacks on them rise*, 13 July 2004,

<http://csmonitor.com/2004/0713/p07s01-woiq.html>.

<sup>1114</sup> Society for Threatened People, Press Release, *In spite of the Release of the Bishop of Mosul: The Mass Flight of the Assyro-Chaldean Christians is not to be stopped*, 18 January 2005,

<http://www.gfbv.de/pressemit.php?id=147&stayInsideTree=1>.

<sup>1115</sup> The Society for Threatened People estimates that some 11,000 Christians fled to the North and some 40-60,000 fled to Syria, Jordan and Lebanon; see Society for Threatened People, Press Release, *In spite of the Release of the Bishop of Mosul: The Mass Flight of the Assyro-Chaldean Christians is not to be stopped*, 18 January 2005,

<http://www.gfbv.de/pressemit.php?id=147&stayInsideTree=1>.

<sup>1116</sup> Nina Shea and James Y. Rayis, *Christian Crisis*, 6 January 2005,

<http://www.nationalreview.com/comment/shearayis200501060730.asp>.

<sup>1117</sup> The Washington Post, *Evangelicals Building a Base in Iraq*, 23 June 2005,

<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/22/AR2005062202335.html>.

<sup>1118</sup> IWPR, *Iraqi Crisis Report No. 130, Kurdish Christians Complain of Discrimination*, 28 June 2005,

[http://www.iwpr.net/index.pl?archive/irq/irq\\_130\\_5\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_130_5_eng.txt).

There is little information on the situation of other religious minorities such as Sabeans-Mandaeans, Yazidis or Jews, but it is highly likely that they face similar threats as described above as there is a general trend to target those that are seen to be collaborating with the MNF or foreign contractors or considered to be ‘non-Islamic’ by not complying with strict codes of behaviour. In addition, it is highly likely that the perpetrators of such acts do not differentiate between various religions or denominations. There have been reports of forced conversions of members of different religious minority groups.<sup>1119 1120</sup>

Sectarian divisions between Sunnis and Shiites have led to displacement of populations, e.g. IOM IDP monitoring recorded some 568 Sunni families that left Basrah in the aftermath of the 2003 conflict and are currently in Al-Anbar Governorate, however, no further information regarding their flight is currently available.<sup>1121 1122</sup>

## j) Right to marry

The right of men and women to enter into marriage only if they freely and fully consent is not enshrined in the TAL, however it is guaranteed by a number of international conventions to which Iraq is a party (ICCPR, CEDAW). Under Iraq’s *Personal Status Law*, forced marriage is prohibited and punishable by up to three years’ imprisonment (Article 9). The legal age for marriage is 18 (Article 7), however a 1979-amendment to the *Personal Status Law* lowered the minimum age for marriage to 15 years with the consent of the parents, an adult brother or an adult married sister. Despite these legal provisions, many women and young girls are forced to marry and may risk enduring violence if they reject their families’ choice. Marriages of girls below the age of 15 are done according to religious customs and are not legally recognized. In rural areas of Northern Iraq, a practice called *Jin bi Jin* (meaning ‘a woman for a woman’) is often the cause for forced marriage as it involves the exchange of women between two families where no bride price is paid. Similar practices can also be found in other areas of Iraq. Another custom is giving a girl in marriage to another family as a compensation for a killing.<sup>1123</sup> According to the ILCS, 15 percent of the surveyed women aged 15-19 have been married,<sup>1124</sup> and the Youth Survey undertaken by the Ministry of Planning with the support of UNICEF between February and August 2004 revealed that 60 percent of surveyed married women were married before the age of 18. Furthermore, nearly 19 percent were married at ages below 15, mainly in rural areas.<sup>1125</sup>

Religious minorities such as Christians and Mandaeans have reported forced marriage of their women with Muslim men.<sup>1126</sup>

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<sup>1119</sup> See for example, John Bolender, *Worse Off Now Than Under Saddam, The Plight of Iraq's Mandeans*, in: Counterpunch, 8/9 January 2005, <http://www.counterpunch.org/bolender01082005.html>; CNS News.com, *Iraq's Beleaguered Christians More Fearful Than Ever*, 2 August 2004, <http://www.cnsnews.com/ForeignBureaus/archive/200408/FOR20040802a.html>.

<sup>1120</sup> UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, September 2005, para 34.

<sup>1121</sup> IOM, IDP Monitoring, *Anbar Profile*, April 2005, p. 2,

<sup>1122</sup> On the displacement of Shiites from Sunni areas in the Upper South, see also the section on ‘II. Security situation – 1. Overview’.

<sup>1123</sup> See Amnesty International, *Iraq - Decades of Suffering*, February 2005, pp. 22/23, [http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/\\$File/MDE1400105.pdf](http://web.amnesty.org/library/pdf/MDE140012005ENGLISH/$File/MDE1400105.pdf).

<sup>1124</sup> MoPDC/UNDP, *Iraq Living Conditions Survey, Analytical Report*, April 2005, p. 46, <http://www.iq.undp.org/ILCS/PDF/Analytical%20Report%20-%20English.pdf>.

<sup>1125</sup> Iraqi Ministry of Planning/UNICEF, *Survey of Knowledge, Attitudes and Practices of Youth in Iraq*, KAP2-2004, Summary, September 2004, p. 18.

<sup>1126</sup> John Bolender, *Worse Off Now Than Under Saddam, The Plight of Iraq's Mandeans*, in: Counterpunch, 8/9 January 2005, <http://www.counterpunch.org/bolender01082005.html>; Elizabeth Kendall, World Evangelical Alliance, *Iraq: Christians and Mandaeans - Cousins in Faith, United in Suffering*, 29 September 2003.

## Annex I: Attacks aiming at sparking religious unrest

**Most recent incidents (January - July 2005) aimed at sparking conflict between Sunni and Shia Muslims include (not exhaustive):**

- 26 July 2005: An aide of the Shiite cleric Muqtada Al-Sadr was shot dead while stepping out of his car in Baqouba.<sup>1127</sup>
- 16 July 2005: A suicide bomber blew himself up near a Shiite mosque, killing at least 90 people and injuring more than 150 in the town of Musayib, south of Baghdad.<sup>1128</sup> Sheikh Jalal Al-Din Al-Saghir, a prominent Shia cleric and member of the National Assembly, told the Iraqi National Assembly ‘what is truly happening, and what shall happen, is clear: a war against the Shias’.<sup>1129</sup>
- 10 July 2005: Gunmen massacred a family of nine as they slept in their home in Baghdad’s mainly Shiite Baladiyat neighbourhood. The family’s relatives blamed the killings on a Sunni tribe in the area, saying that there had been previous sectarian murders in the area.<sup>1130</sup>
- 5 July 2005: The New York Times reported that since late March 2005 at least 12 Sunnis had been killed in Ur, a mainly Shiite neighbourhood in Baghdad. As a result, many Sunni families left the area.<sup>1131</sup>
- 1 July 2005: Gunmen assassinated Kamaledin Ghuraifi, a Baghdad representative of Grand Ayatollah Ali Al-Sistani, on his way to Friday prayers at Al-Doreen Mosque on Haifa Street in Baghdad. The same day, gunmen entered a nearby Sunni mosque and abducted the imam, Amr Tikriti. It remained unclear whether the two incidents were related.<sup>1132</sup>
- 22/23 June 2005: A number of car bombs killed more than three dozen people in Shiite neighbourhoods of Baghdad in an apparent attempt to increase sectarian divisions.<sup>1133</sup>
- 7 June 2005: Sunni cleric Salam Al-Kardici, who had been kidnapped earlier, was found dead in Basrah.<sup>1134</sup>
- 3 June 2005: A suicide bombing at a Sufi monastery in Balad killed nine persons and wounded 12. This bombing may have been spurred by the fact that Sufis practice a mystical form of Sunni Islam which is rejected by hard-line Sunnis.<sup>1135</sup>
- 2 June 2005: Gunmen assassinated Shiite cleric Ali Abdul-Hussein, the Imam of a Shiite mosque in Basrah.<sup>1136</sup>
- 28 May 2005: Insurgents killed 10 Shiite pilgrims near Al-Qaim as they returned from Syria.<sup>1137</sup>

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<sup>1127</sup> Radio Free Europe/Radio Liberty, *Gunmen Kill At Least 16 In Baghdad Bus Ambush*, 26 July 2005, <http://www.rferl.org/featuresarticle/2005/07/DB003684-7BE8-4787-BAA3-6B9529D6D5A2.html>.

<sup>1128</sup> BBC, *Fresh bombings hit Iraqi capital*, 17 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4690257.stm](http://news.bbc.co.uk/2/hi/middle_east/4690257.stm).

<sup>1129</sup> Times Online, *Weekend of slaughter propels Iraq towards all-out civil war*, 18 July 2005, <http://technology.timesonline.co.uk/article/0,,20411-1698308,00.html>.

<sup>1130</sup> The Australian, *The Sunni-Shia hate boils over*, 16 July 2005, [http://www.theaustralian.news.com.au/common/story\\_page/0,5744,15941770%255E2703,00.html](http://www.theaustralian.news.com.au/common/story_page/0,5744,15941770%255E2703,00.html).

<sup>1131</sup> The New York Times, *One by one, killing off of Sunnis*, 5 July 2005, <http://www.ihf.com/articles/2005/07/04/news/baghdad.php>.

<sup>1132</sup> The Washington Post, *Gunmen In Iraq Kill Aide To Cleric*, 2 July 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/01/AR2005070101885.html>.

<sup>1133</sup> Ibid., *Car Bombs Kill Dozens in Baghdad*, 23 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/23/AR2005062300363.html>.

<sup>1134</sup> CBS/The Associated Press, *String Of Bombs Kills 18 In Iraq*, 7 June 2005, <http://www.cbsnews.com/stories/2005/06/08/iraq/main700310.shtml>.

<sup>1135</sup> The Washington Post, *Suicide Bombing Kills Nine North of Baghdad*, 3 June 2005, [http://www.washingtonpost.com/wp-dyn/content/article/2005/06/03/AR2005060300847\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/06/03/AR2005060300847_pf.html).

<sup>1136</sup> Radio Free Europe/Radio Liberty, *Shiite Cleric Gunned Down in Al-Basrah*, 3 June 2005, <http://www.rferl.org/newsline/2005/06/6-SWA/swa-030605.asp>.

<sup>1137</sup> The New York Times, *Violence Surges Across Iraq With 30 New Deaths Reported*, 29 May 2005,

- 19 May 2005: A car bombing killed at least two and injured five people near a Shiite Muslim mosque in Baghdad. Jama'at Jund Al-Sahaba claimed responsibility for the 'killing of several of the polytheists who love Americans and oppressors'.<sup>1138</sup>
- 18 May 2005: Muhammad Allaq, aide to Grand Ayatollah Ali Al-Sistani, was killed in Al-Kut south-east of Baghdad.<sup>1139</sup>
- 17 May 2005: Three clerics were killed in Baghdad. They included Mani Hassan, a member of a leading Shiite Islamist party, Muwaffaq Mansour, a Shiite cleric, and Hassan Nuaimi, a member of the Sunni AMS.<sup>1140</sup>
- 15 May 2005: Sheikh Qasim Al-Gharawi, a representative of Grand Ayatollah Ali Al-Sistani, was killed in Baghdad.<sup>1141</sup>
- 7 May 2005: Fourteen members of the powerful Sunni Dulaimi tribe were shot dead and left at a Baghdad garbage dump. It is assumed that the killings were part of the tit-for-tat kidnappings and killings between Shiites and Sunnis in the region.<sup>1142</sup>
- 6 May 2005: Jama'at Jund Al-Sahaba claimed responsibility for a suicide car bomb which struck at a vegetable market in the Shiite town of Suwayra and killed at least 31 people. In an Internet statement the group said that it 'launched an attack on the apostates in Suwayra', accusing the Shiites of allying 'with Jews and Crusaders'.<sup>1143</sup>
- 22 April 2005: At least nine people were killed and 26 wounded after a car bomb exploded outside a crowded Shia mosque in Baghdad during Friday prayers.<sup>1144</sup>
- 28 March 2005: A suicide car bomber blew up his vehicle near a crowd of Shiite Muslim pilgrims on the road between Hilla and Kerbala, which killed at least seven people and wounding nine.<sup>1145</sup>
- 23 March 2005: Aziz Mohammed, a Sunni imam, was gunned down in Jurf Al-Sakhr south of Baghdad.<sup>1146</sup>
- 10 March 2005: Qata'a Abdul Nabi, Director General of the Shiite Endowment, was killed.<sup>1147</sup>
- 19 February 2005: Unknown gunmen killed Sheikh Mullah Mohammed Rustom Kaka, leader of the Sunni Kurdish Committee of Ulemas in Kirkuk.<sup>1148</sup>
- 19 February 2005: Attacks against Shiite mosques and a religious procession in Baghdad killed dozens of people on the Shiite holy day of Ashura.<sup>1149</sup>
- 11 February 2005: At least 12 were killed in a bombing outside a Shiite mosque in Balad Ruz, north of Baghdad.<sup>1150</sup>

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<http://www.nytimes.com/2005/05/29/international/middleeast/29iraq.html>.

<sup>1138</sup> Reuters, *Iraq group says behind Shi'ite mosque blast*, 20 May 2005.

<sup>1139</sup> BBC, *Eight killed in battle in Mosul*, 19 May 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4561269.stm](http://news.bbc.co.uk/2/hi/middle_east/4561269.stm).

<sup>1140</sup> Los Angeles Times, *Bodies of 3 Iraqi Clerics Reportedly Discovered*, 17 May 2005,

[http://www.occupationwatch.org/headlines/archives/2005/05/bodies\\_of\\_3\\_ira.html](http://www.occupationwatch.org/headlines/archives/2005/05/bodies_of_3_ira.html).

<sup>1141</sup> Kuwait News Agency, *Assassination of Shiite cleric representative*, 15 May 2005,

<http://www.kuna.net.kw/Home/Story.aspx?Language=en&DSNO=733074>.

<sup>1142</sup> Reuters, *Killing of 14 Iraqi Sunnis fuels sectarian fears*, 7 May 2005.

<sup>1143</sup> Ibid., *Sunni group says behind Iraq attack in Suwayra*, 7 May 2005.

<sup>1144</sup> Aljazeera, *Many killed in Baghdad mosque blast*, 22 April 2005,

<http://english.aljazeera.net/NR/exeres/2ABCFAFD-2721-42DD-8575-C8F7E88D9EDC.htm>.

<sup>1145</sup> Reuters, *Seven killed in Kerbala car bomb attack*, 28 March 2005,

<http://www.abc.net.au/news/newsitems/200503/s1332831.htm>.

<sup>1146</sup> Middle East Online, *Fresh fighting breaks out in Fallujah*, 24 March 2005, <http://www.middle-east-online.com/english/?id=13068=13068&format=0>.

<sup>1147</sup> The Associated Press, *Iraq: Women no longer safe*, 10 March 2005,

[http://www.news24.com/News24/World/Iraq/0,,2-10-1460\\_1674243,00.html](http://www.news24.com/News24/World/Iraq/0,,2-10-1460_1674243,00.html).

<sup>1148</sup> Agence France-Presse, *Kurdish Religious Leader Gunned Down In Kirkuk*, 19 February 2005,

<http://home.cogeco.ca/~kurdistan6/20-2-05-moslim-kurdish-leader-killed-kirkuk.htm>.

<sup>1149</sup> Guardian Unlimited, *Suicide bombers target Iraq's Shia mosques on eve of holiest day*, 19 February 2005,

<http://www.guardian.co.uk/Iraq/Story/0,2763,1418081,00.html>.

<sup>1150</sup> Ibid., *Sectarian massacres shake Iraq*, 12 February 2005,

- 8 February 2005: Sheik Ammar Al-Hilali, an aide to Grand Ayatollah Ali Al-Sistani, survived an assassination attempt.<sup>1151</sup>
- 12 January 2005: Sheikh Mahmoud Al-Madaen, Representative of Grand Ayatollah Ali Al-Sistani, was assassinated in Salman Pak.<sup>1152</sup> Ansar Al-Islam claimed responsibility for the killing.<sup>1153</sup>
- 14 January 2005: Halim Al-Mohaqeq, an aide of Grand Ayatollah Ali Al-Sistani, was found dead in Najaf.<sup>1154</sup>

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<http://www.guardian.co.uk/international/story/0,,1411358,00.html>.

<sup>1151</sup> Ibid.

<sup>1152</sup> Radio Free Europe/Radio Liberty, *Iraq: Violence Continues As Shi'a Clerics Urge Restraint Following Killing Of Al-Sistani Aide*, 14 January 2005, <http://www.rferl.org/featuresarticle/2005/01/91ae5a20-3852-4bb5-80af-2e0f71e7ef12.html>.

<sup>1153</sup> Guardian Unlimited, *Sunni rebels admit killing Shia aide*, 14 January 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1390627,00.html>.

<sup>1154</sup> Times Online, *Phones down, borders sealed, troops on the streets: it's time for democracy*, 14 January 2005, <http://www.timesonline.co.uk/article/0,,7374-1439684,00.html>.



## Annex II: Attacks on Iraqi Security Forces

**Major attacks targeting the ISF (both the security forces themselves and particular important individuals in their ranks) since the 30 January elections until the end of July 2005 include (not exhaustive):**

- 29 July 2005: A suicide bomber blew himself up among a group of Iraqi army recruits in the Northern town of Rabia north-west of Mosul, killing at least 25 people and wounding 35.<sup>1155</sup> Al-Qaeda in Iraq claimed responsibility.<sup>1156</sup>
- 24 July 2005: A suicide bomber killed up to 40 people outside a Baghdad police station.<sup>1157</sup>
- 20 July 2005: A suicide bomber killed at least eight people and wounded many others at the Muthanna Army Recruitment Centre in Baghdad.<sup>1158</sup>
- 15 July 2005: Suicide car bombs and explosions rocked wide areas of Baghdad, targeting MNF/ISF and killing at least 29 people.<sup>1159</sup>
- 10 July 2005: A suicide bomber killed more than 20 and injured more than 30 people who were queuing outside an army recruitment centre in Baghdad.<sup>1160</sup>
- 2 July 2005: A suicide bomber killed 20 people waiting outside a police recruitment centre in Baghdad's Yarmouk neighbourhood.<sup>1161</sup>
- 28 June 2005: Police Colonel Salar Mohammed of the traffic police in Kirkuk survived an assassination attempt. Two bodyguards were killed and six people wounded in the attack.<sup>1162</sup>
- 27 June 2005: Kirkuk Police Captain Farhan Faisal was assassinated by gunmen on his way to work.<sup>1163</sup>
- 27 June 2005: Police Major Mohammed Shamekh was shot dead at Dora market in Baghdad.<sup>1164</sup>
- 26 June 2005: Gunmen killed police Col. Riyad Abdul Karim, an assistant district police director of emergency services, in eastern Baghdad. Al-Qaeda in Iraq claimed responsibility for the attack.<sup>1165</sup>
- 26 June 2005: 15 people, mainly policemen, were killed in a suicide attack on a police station in central Mosul. Another five policemen died in an attack on Mosul's General Hospital, where some of the casualties from the other bombing had been taken.<sup>1166</sup> Al-Qaeda in Iraq claimed responsibility for the attack on the police station.<sup>1167</sup>

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<sup>1155</sup> BBC, *Bomb kills 25 Iraqi army recruits*, 29 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4728065.stm](http://news.bbc.co.uk/2/hi/middle_east/4728065.stm).

<sup>1156</sup> Xinhuanet, *Al-Qaida claims suicide bombing in northern Iraq*, 29 July 2005, [http://news.xinhuanet.com/english/2005-07/30/content\\_3286377.htm](http://news.xinhuanet.com/english/2005-07/30/content_3286377.htm).

<sup>1157</sup> Reuters/The Associated Press, *40 killed in Baghdad suicide attack*, 24 July 2005, <http://www.dawn.com/2005/07/25/top10.htm>.

<sup>1158</sup> BBC, *Bomber hits Iraq army recruits*, 20 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4698861.stm](http://news.bbc.co.uk/2/hi/middle_east/4698861.stm).

<sup>1159</sup> The Associated Press, *Attacks Kill 29 Across Iraq*, 15 July 2005, <http://www.foxnews.com/story/0,2933,162598,00.html>.

<sup>1160</sup> Knight Ridder Newspapers, *Suicide bombers strike in several Iraqi cities, killing dozens*, 10 July 2005, [http://www.realcities.com/mld/kwashington/news/columnists/hannah\\_allam/12101605.htm](http://www.realcities.com/mld/kwashington/news/columnists/hannah_allam/12101605.htm).

<sup>1161</sup> The Associated Press/New York Times/The Washington Post, *Baghdad violence follows shooting of cleric in street*, 2 July 2005, [http://www.signonsandiego.com/uniontrib/20050702/news\\_2n2iraq.html](http://www.signonsandiego.com/uniontrib/20050702/news_2n2iraq.html).

<sup>1162</sup> Aljazeera, *Iraqi journalist shot, US forces accused*, 28 June 2005, <http://english.aljazeera.net/NR/exeres/51D004E1-C147-4F5C-817B-967125129641.htm>.

<sup>1163</sup> Reuters, *Iraq security incidents: June 27*, 27 June 2005, <http://www.signonsandiego.com/news/world/iraq/20050627-1311-iraq-incidents.html>.

<sup>1164</sup> Ibid.

<sup>1165</sup> CBS/The Associated Press, *U.S. Talks With Insurgents*, 26 June 2005, <http://www.cbsnews.com/stories/2005/06/27/iraq/main704347.shtml>.

<sup>1166</sup> BBC, *Blasts hit Mosul security forces*, 26 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4623507.stm](http://news.bbc.co.uk/2/hi/middle_east/4623507.stm).

<sup>1167</sup> Reuters, *Multiple suicide bombers hit Iraq police, army*, 26 June 2005, <http://www.abc.net.au/news/newsitems/200506/s1400851.htm>.

- 25 June 2005: Nine persons died during bomb attacks outside the home of a member of an elite police commando unit in Samarra.<sup>1168</sup>
- 25 June 2005: The bodies of eight policemen who had died in an attack by gunmen in Ramadi were discovered.<sup>1169</sup>
- 21 June 2005: A security chief in the town of Halabja in the Governorate of Sulaymaniyah and his three bodyguards were killed in a suicide car bombing.<sup>1170</sup>
- 20 June 2005: A suicide bomber disguised as a policeman blew himself up in front of a traffic police centre in Erbil, killing at least 16 persons and wounding more than 100.<sup>1171</sup> Al-Qaeda in Iraq claimed responsibility for the attack.<sup>1172</sup>
- 20 June 2005: At least six were killed in an assault on a police station in Baghdad.<sup>1173</sup>
- 19 June 2005: A suicide bomber wearing a police uniform drove a car rigged with explosives into the main gate of a US military base in Tikrit, killing five Iraqis, including two soldiers.<sup>1174</sup>
- 19 June 2005: A suicide bomber killed at least 23 people and wounded many more in a restaurant in Baghdad that is frequently visited by Iraqi policemen and security guards. At least six of those killed were policemen. Al-Qaeda in Iraq claimed responsibility for the attack.<sup>1175</sup>
- 15 June 2005: A car bomber crashed into two police cars on patrol in eastern Baghdad, killing eight policemen and wounding 13 bystanders.<sup>1176</sup>
- 15 June 2005: Gunmen kidnapped and killed Nafe Muhi Aldin, a Major General in the Iraqi army, and his son, a Lieutenant Colonel, as they travelled from Kirkuk to Baghdad.<sup>1177</sup>
- 15 June 2005: A suicide bomber wearing an Iraqi army uniform detonated a bomb in a canteen at an Iraqi army base at Khalis, a town northeast of Baghdad, killing 23 soldiers and wounding 28 others.<sup>1178</sup>
- 14 June 2005: A suicide bomber rammed into an Iraqi army checkpoint in Kanaan, north of Baghdad, killing five soldiers and wounding two civilians. Jaish Ansar Al-Sunna claimed responsibility for the attack.<sup>1179</sup>
- 11 June 2005: A suicide attack targeting the Headquarters of the Wolf Brigade killed three policemen and wounded one. There are reports that the attacker may have been a former member of the unit.<sup>1180</sup>
- 10 June, 2005: In Kirkuk, Colonel Rahim Uthman, head of the Mosul anti-terrorist department, and his assistant Major Ghanim Jihad were killed. Jaish Ansar Al-Sunna claimed responsibility.<sup>1181</sup>

<sup>1168</sup> BBC, *Many dead in fresh Iraq violence*, 25 June 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4621889.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4621889.stm).

<sup>1169</sup> Ibid.

<sup>1170</sup> Ibid., *Many dead in attacks across Iraq*, 20 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4109908.stm](http://news.bbc.co.uk/2/hi/middle_east/4109908.stm).

<sup>1171</sup> The Washington Post, *At Least 16 Iraqis Killed in Suicide Car Bombing*, 21 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/20/AR2005062000108.html>.

<sup>1172</sup> Reuters, *Iraq's Qaeda claims Arbil suicide bombing*, 21 June 2005.

<sup>1173</sup> BBC, *Attack on Erbil police kills many*, 20 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4109908.stm](http://news.bbc.co.uk/2/hi/middle_east/4109908.stm).

<sup>1174</sup> The Washington Post, *Bomber in Baghdad Hits Police Hangout*, 20 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/19/AR2005061900733.html>.

<sup>1175</sup> BBC, *Baghdad restaurant bomb kills 23*, 19 June 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4108480.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4108480.stm).

<sup>1176</sup> The Telegraph, *Troops rescue hostage in Baghdad raid*, 16 June 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/06/16/wirq16.xml&sSheet=/news/2005/06/16/ixnewstop.html>.

<sup>1177</sup> The Washington Post, *Australian Hostage Is Rescued in Baghdad*, 16 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/15/AR2005061500439.html>.

<sup>1178</sup> The New York Times, *Iraqi Forces Stage a Raid and Rescue 2 Hostages*, 15 June 2005, <http://www.nytimes.com/2005/06/16/international/middleeast/16iraq.html?>

<sup>1179</sup> Guardian Unlimited, *22 die in Iraq street blast*, 14 June 2005, <http://www.guardian.co.uk/Iraq/Story/0,2763,1506077,00.html>.

<sup>1180</sup> BBC, *Bomber hits elite Iraqi police HQ*, 11 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4083090.stm](http://news.bbc.co.uk/2/hi/middle_east/4083090.stm).

<sup>1181</sup> SITE Institute, *Ansar al-Sunnah Claims Responsibility for the Murder of General Rahim Uthman Saeed and*

- 10 June 2005: Gunmen killed security officers Col. Abdul-Karim Al-Daraji and his brother Qusay in Basrah. A third brother in the car suffered minor injuries.<sup>1182</sup>
- 8 June 2005: Gunmen kidnapped 22 Iraqi soldiers on the road from Al-Qaim to Rawa after they left their base.<sup>1183</sup>
- 7 June 2005: Four choreographed bombings, targeting Iraqi soldiers in and around Hawija, left 18 people dead and at least 39 injured.<sup>1184</sup>
- 6 June 2005: Capt. Rafid Fadil, a police officer in charge of security at a court in Karada/Baghdad, was shot dead by gunmen.<sup>1185</sup>
- 5 June 2005: Lt. Maj. Mazin Muhammad of the Interior Ministry was gunned down in Baghdad.<sup>1186</sup>
- 2 June 2005: Two motorcycles strapped with explosives blew up near the Headquarters of the Mosul police force, killing at least seven people and wounding 10.<sup>1187</sup>
- 30 May 2005: Two separate suicide bomb attacks on Iraqi policemen in Hilla killed 27 and wounded more than 100. Al-Qaeda in Iraq claimed responsibility for the attacks.<sup>1188</sup>
- 29 May 2005: Gunmen ambushed a car carrying Iraqi soldiers south of Baghdad, killing six of them. Another two suicide car bomb attacks in Baghdad, one near the Oil Ministry and the other targeting a police patrol, killed at least six Iraqis. Al-Qaeda in Iraq claimed responsibility for the attack near the Oil Ministry in an Internet posting.<sup>1189</sup>
- 28 May 2005: Two suicide car bombs exploded outside a joint US-Iraqi military base near the Northern town of Sinjar, killing six people and wounding at least 58.<sup>1190</sup> Outside Hilla, unknown gunmen stopped a car carrying five Iraqi soldiers and opened fire, killing four of them and seriously wounding one.<sup>1191</sup>
- 25 May 2005: Mikhlif Khalaf, the police chief of the Northern Iraqi town of Sharqat was killed by gunmen who ambushed his car.<sup>1192</sup>
- 23 May 2005: Wael Rubaie, senior official in the operations room in the Ministry for National Security, was killed in Baghdad. Al-Qaeda in Iraq said it was behind the assassination.<sup>1193</sup>
- 15 May 2005: The bodies of 10 Iraqi soldiers were found in Ramadi.<sup>1194</sup>

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<sup>1182</sup> The New York Times, *Roadside Bomb in Iraq Kills 5 Marines*, 11 June 2005,

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<sup>1183</sup> Reuters, *Iraqi soldiers abducted on road from Qaim*, 8 June 2005,

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<sup>1184</sup> The Associated Press, *Failed escape sparks Abu Ghraib riot*, 7 June 2005,

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<sup>1185</sup> The New York Times, *2 Police Officers Assassinated in Separate Attacks; U.S. and Iraqi Forces Press Insurgents*, 7 June 2005, <http://www.nytimes.com/2005/06/07/international/middleeast/07iraq.html>.

<sup>1186</sup> Ibid.

<sup>1187</sup> Ibid., *Insurgent Attacks in Iraq Kill at Least 33*, 3 June 2005,

<http://www.nytimes.com/2005/06/03/international/middleeast/03iraq.html?>

<sup>1188</sup> Ibid., *Attack Kills at Least 30 as Iraqi Forces Press Baghdad Offensive*, 30 May 2005,

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<sup>1189</sup> Reuters, *Iraqi forces launch crackdown; al Qaeda defiant*, 30 May 2005,

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<sup>1190</sup> BBC, *Car bombers hit Iraqi army base*, 28 May 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4589125.stm](http://news.bbc.co.uk/2/hi/middle_east/4589125.stm).

<sup>1191</sup> Reuters, *Car bombs, shooting kill 11, wound 70 in Iraq*, 28 May 2005, <http://english.epochtimes.com/news/5-5-28/29127.html>.

<sup>1192</sup> Ibid., *Police chief of northern Iraqi town killed*, 25 May 2005,

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<sup>1194</sup> CNN, *Rice makes surprise visit to Iraq*, 16 May 2005,

<http://edition.cnn.com/2005/WORLD/meast/05/15/iraq.main/>.

- 12 May 2005: Brigadier General Iyad Imad Mehdi was shot dead by unidentified gunmen as he drove to work in Baghdad. Police Colonel Fadel Mohammad Mubarak, was shot dead an hour later in a separate incident in Baghdad.<sup>1195</sup>
- 11 May 2005: A suicide bomber walked up to an army recruitment centre in Hawija, southwest of Kirkuk, and detonated an explosive belt, killing at least 32 people.<sup>1196</sup>
- 6 May 2005: Brigadier General Mirza Hamza, Head of the Civil Defence Force in Mahmoudiyah, and his brother were killed in a drive-by shooting.<sup>1197</sup>
- 5 May 2005: A suicide bomber blew himself up at an army recruitment centre at a former airfield in western Baghdad, killing at least 13 people and wounding 15. Gunmen also ambushed a police convoy, shooting dead 10 policemen. Al-Qaeda in Iraq claimed responsibility for the attacks in a posting on an Islamist website.<sup>1198</sup>
- 4 May 2005: A suicide bomber killed up to 60 people at a police recruitment centre in Erbil. Jaish Ansar Al-Sunna claimed responsibility.<sup>1199</sup>
- 29 April 2005: A wave of car bomb attacks targeting the ISF in and around Baghdad killed at least 29 people and wounded more than 100.<sup>1200</sup>
- 24 April 2005: A twin attack on a police academy in Tikrit killed seven and wounded 33. Al-Qaeda in Iraq said it carried out the attacks.<sup>1201</sup>
- 23 April 2005: An attack on a convoy of the Iraq National Guard in Abu Ghraib killed at least nine and wounded 20.<sup>1202</sup>
- 19 April 2005: A suicide car bomb outside an army recruitment centre killed at least six people and wounded 44.<sup>1203</sup>
- 19 April 2005: Armed gunmen killed Lieutenant General Adnan Qaragholi, a high-ranking Defence Ministry advisor.<sup>1204</sup>
- 18 April 2005: Brigadier General Hussein Hato Al-Jabeeri, Inspector General responsible for Southern Provinces, was shot dead in Al-Amarah.<sup>1205</sup>
- 18 April 2005: Major General Adnan Faush Farawni, a Senior Advisor to the Defence Ministry, and his son, Captain Alladin Farawni, who worked in intelligence, were shot dead in Baghdad.<sup>1206</sup>
- 17 April 2005: Brig. Gen. Yunis Mohammed Sulaiman, police spokesperson in Mosul, was killed.<sup>1207</sup>

<sup>1195</sup> BBC, *Iraq general shot dead in Baghdad*, 12 May 2005, [http://news.bbc.co.uk/2/hi/in\\_depth/4539177.stm](http://news.bbc.co.uk/2/hi/in_depth/4539177.stm).

<sup>1196</sup> Ibid., *Suicide bombs cause Iraq carnage*, 11 May 2005,

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<sup>1197</sup> Forbes, *Iraqi general killed in 'triangle of death'*, 6 May 2005,

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<sup>1198</sup> Reuters, *Insurgents kill 24 in wave of Baghdad attacks*, 5 May 2005, <http://english.epochtimes.com/news/5-5-5/28496.html>.

<sup>1199</sup> CNN, *Suicide bombing kills about 60 in Kurdish city*, 4 May 2005,

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<sup>1200</sup> BBC, *Iraq car bombs kill at least 29*, 29 April 2005,

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<sup>1201</sup> Reuters, *Twin car bombs kill 7 in Iraqi town of Tikrit*, 24 April 2005,

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<sup>1203</sup> The International News, *24 die in Iraq suicide bombing, attacks*, 20 April 2005,

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<sup>1204</sup> CNN, *Iraqi military officer, son slain at home*, 19 April 2005,

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<sup>1205</sup> Middle East Online, *Insurgents pick off Iraqi army targets*, 19 April 2005, <http://www.middle-east-online.com/english/?id=13258>.

<sup>1206</sup> Ibid.

<sup>1207</sup> Turkish Press, *Iraqi police general killed by insurgents in Mosul*, 18 April 2005,

<http://www.turkishpress.com/news.asp?id=40416>.



- 17 April 2005: Armed men opened fire against Major Amar Hussein, a high-ranking officer in the Iraqi Army. Major Hussein had arrested dozens of insurgents involved in terrorist operations in Mosul.<sup>1208</sup>
- 17 April 2005: Lieutenant Colonel Hassan Al-Jaghaini, Head of the Police in Al-Haditha, was killed.<sup>1209</sup>
- 13 April 2005: Attackers used a bomb to kill at least nine members of the ISF who were dismantling a decoy bomb device near Kirkuk.<sup>1210</sup>
- 10 April 2005: Police officer Maj. Ziyad Khalaf Mekhlif was killed and Cpl. Bahaa Ahmad was abducted in Al-Haditha.<sup>1211</sup>
- 10 April 2005: Al-Qaeda in Iraq claimed it had kidnapped and killed Brigadier General Basem Mohammed Kadem, the Head of Police in Najaf.<sup>1212</sup>
- 9 April 2005: Gunmen shot dead the newly appointed police chief of Haditha, Ziad Al-Joghaithi.<sup>1213</sup>
- 9 April 2005: Insurgents killed 15 Iraqi soldiers travelling in a truck near Latifiyah.<sup>1214</sup>
- 5 April 2005: Brig. Gen. Jalal Mohammed Saleh, a senior Interior Ministry official who was involved in anti-insurgency operations, was abducted. Al-Qaeda in Iraq said it was behind the kidnapping.<sup>1215</sup>
- 1 April 2005: Gunmen killed Colonel Hatem Rashid Mohammad, the Chief of Police in Balad Ruz/Diyala Governorate.<sup>1216</sup>
- 31 March 2005: Suicide car bombers mounted two attacks on Iraqi soldiers in Suleiman Beik, killing at least seven people.<sup>1217</sup>
- 26 March 2005: Colonel Riyadh Katei Aliwi, senior Interior Ministry official who had been kidnapped in February, was shot dead, according to Al-Qaeda in Iraq.<sup>1218</sup>
- 25 March 2005: Gunmen shot dead Major-General Suleiman Mohammad, commander of a National Guard Division in Southern Iraq. Al-Qaeda in Iraq claimed responsibility for the killing.<sup>1219</sup>
- 25 March 2005: A suicide bomber blew up his car at a checkpoint in Ramadi, killing 11 and wounding 14.<sup>1220</sup>
- 20 March 2005: A suicide bomber killed the Head of the Police Anti-Corruption Department in Mosul.<sup>1221</sup>

<sup>1208</sup> Kuwait News Agency, *Insurgents assassinate two Iraqi officers*, April 17, 2005, <http://www.kuna.net.kw/Home/Story.aspx?Language=en&DSNO=724059>.

<sup>1209</sup> Ibid.

<sup>1210</sup> BBC, *Nine killed in Kirkuk bomb attack*, 13 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4439489.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4439489.stm).

<sup>1211</sup> The Washington Times, *Iraqi police officer killed, one kidnapped*, 10 April 2005, <http://www.washtimes.com/upi-breaking/20050410-072740-5126r.htm>.

<sup>1212</sup> Agence France-Presse, *Al Qaeda kills Najaf police chief*, 10 April 2005, <http://www.dawn.com/2005/04/11/int4.htm>.

<sup>1213</sup> Scotland on Sunday, *15 Iraqi troops killed as rally denounces US*, 10 April 2005, <http://scotlandonsunday.scotsman.com/index.cfm?id=379312005>.

<sup>1214</sup> Agence France-Presse, *Iraqis demand US exit as 29 killed*, 10 April 2005, <http://www.theage.com.au/news/Iraq/Iraqis-demand-US-exit-as-29-killed/2005/04/10/1113071841251.html?oneclick=true>.

<sup>1215</sup> CBS/The Associated Press, *Saddam Foes Lead Iraq*, 7 April 2005, <http://www.cbsnews.com/stories/2005/04/09/iraq/main686940.shtml>.

<sup>1216</sup> BBC, *Six killed in attacks across Iraq*, 1 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4400115.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4400115.stm).

<sup>1217</sup> Reuters, *Suicide car bombers kill seven in Iraq*, 31 March 2005, <http://www.swissinfo.org/sen/swissinfo.html?siteSect=143&sid=5644208&cKey=1112284285000>.

<sup>1218</sup> Agencies, *Iraq Qaeda says kills kidnapped colonel*, 27 March 2005, [http://www.chinadaily.com.cn/english/doc/2005-03/27/content\\_428424.htm](http://www.chinadaily.com.cn/english/doc/2005-03/27/content_428424.htm).

<sup>1219</sup> Agencies, *Assassination, attacks overshadow Iraq political talks*, 26 March 2005, [http://www2.chinadaily.com.cn/english/doc/2005-03/26/content\\_428311.htm](http://www2.chinadaily.com.cn/english/doc/2005-03/26/content_428311.htm).

<sup>1220</sup> Ibid.



- 28 February 2005: An attack on police recruits in Hilla killed more than 120 and wounded many more.<sup>1222</sup>
- 24 February 2005: An attack by a suspected suicide car bomber killed at least 10 people and wounded more than 20.<sup>1223</sup>
- 8 February 2005: At least 21 people were killed and 27 wounded in a blast at an army recruitment centre in west Baghdad.<sup>1224</sup>
- 7 February 2005: At least 25 people were killed in two separate bomb attacks in Mosul and Baqouba targeting the police force. Al-Qaeda in Iraq said it carried out the attack in Mosul.<sup>1225</sup>

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<sup>1221</sup> BBC, *Three killed by Mosul attackers*, 20 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4365479.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4365479.stm).

<sup>1222</sup> The New York Times, *Deadliest Single Attack Since Fall of Hussein Kills More Than 120*, 28 February 2005, <http://www.nytimes.com/2005/02/28/international/middleeast/28cnd-iraq.html?ex=1115352000&en=eeebc873ebfa9a20&ei=5070>.

<sup>1223</sup> Reuters/The Associated Press, *Car Bomb In Tikrit Kills 10, Wounds 20*, 24 February 2005, <http://www.rferl.org/featuresarticle/2005/2/C4479B4C-CCDD-44A8-94F1-BD05D304EC60.html>.

<sup>1224</sup> BBC, *Baghdad blast kills 21 recruits*, 8 February 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4245579.stm](http://news.bbc.co.uk/2/hi/middle_east/4245579.stm).

<sup>1225</sup> Ibid., *Iraq bombings kill more than 25*, 7 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4242375.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4242375.stm).

## Annex III: Major attacks on civilians

### Major attacks targeting civilians since the handover of sovereignty on 28 June 2004 until the end of July 2005 (not exhaustive):

- 30 July 2005: A car bomb exploded at an Iraqi police checkpoint in Haswa, south of Baghdad, killing seven civilians and wounding 12, among them three policemen.<sup>1226</sup>
- 26 July 2005: At least 16 people were killed in an attack on a bus carrying Iraqi workers from a factory west of Baghdad.<sup>1227</sup>
- 19 July 2005: At least 13 people died in an ambush on a minibus carrying workers to a US base in Baqouba.<sup>1228</sup>
- 16 July 2005: At least 90 people were killed and more than 150 injured in a suicide bomb attack in the town of Musayib, south of Baghdad.<sup>1229</sup>
- 14 July 2005: At least 26 children were killed and 13 injured after a suicide bomber blew himself up near a US convoy in Baghdad's Shiite district of Ijidda.<sup>1230</sup>
- 6 July 2005: Thirteen people were killed and 30 wounded in a double car bomb attack in the town of Jbeila near Hilla. Police said the first bomb was followed minutes later by a second, hitting many civilians gathered nearby.<sup>1231</sup>
- 26 June 2005: Fifteen people died when a bomber attacked people queuing outside a military base in Kasak near Mosul. Most of the dead were thought to be civilian labourers.<sup>1232</sup>
- 25 June 2005: Nine civilians died and 16 were wounded as a result of bomb attacks outside the home of a policeman in Samarra.<sup>1233</sup>
- 23 June 2005: Four car bombs exploded in the Karada district of Baghdad, two of them outside a Shiite mosque, killing 15 and wounding 28.<sup>1234</sup>
- 22 June 2005: At least 18 people were killed and 46 wounded in three car bomb attacks in Baghdad's neighbourhood of Shula. The three bombs went off in quick succession and within a short distance of each other.<sup>1235</sup>
- 20 June 2005: A suicide bomber disguised as a policeman blew himself up in front of a traffic police centre in Erbil and killed at least 16 persons and wounded more than 100.<sup>1236</sup> Al-Qaeda in Iraq claimed responsibility for the attack.<sup>1237</sup>
- 19 June 2005: A suicide bomber killed at least 23 people and wounded many more in a restaurant in Baghdad that is frequented by Iraqi policemen and security guards. Al-Qaeda in Iraq claimed responsibility for the attack.<sup>1238</sup>

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<sup>1226</sup> Reuters, *Car bomb south of Baghdad kills 7, wounds 12-Police*, 31 July 2005, <http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/07/31/topnews/carbombsouthofbaghdadkills7wounds12-police.html>.

<sup>1227</sup> Reuters/Agence France-Presse, *Gunmen Kill At Least 16 In Baghdad Bus Ambush*, 26 July 2005, <http://www.rferl.org/featuresarticle/2005/07/DB003684-7BE8-4787-BAA3-6B9529D6D5A2.html>.

<sup>1228</sup> BBC, *Iraqi gunmen target airbase staff*, 19 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4695543.stm](http://news.bbc.co.uk/2/hi/middle_east/4695543.stm).

<sup>1229</sup> Ibid., *Fresh bombings hit Iraqi capital*, 17 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4690257.stm](http://news.bbc.co.uk/2/hi/middle_east/4690257.stm).

<sup>1230</sup> IRIN, *Iraq: Children killed in car bombing*, 14 July 2005,

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<sup>1231</sup> BBC, *Twin bomb attack kills 13 in Iraq*, 7 July 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4658757.stm](http://news.bbc.co.uk/2/hi/middle_east/4658757.stm).

<sup>1232</sup> Ibid., *Blasts hit Mosul security forces*, 26 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4623507.stm](http://news.bbc.co.uk/2/hi/middle_east/4623507.stm).

<sup>1233</sup> Ibid., *Many dead in fresh Iraq violence*, 25 June 2005,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/4621889.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4621889.stm).

<sup>1234</sup> The Washington Post, *Car Bombs Kill Dozens in Baghdad*, 23 June, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/23/AR2005062300363.html>.

<sup>1235</sup> BBC, *Many die in triple Baghdad blasts*, 22 June 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4121202.stm](http://news.bbc.co.uk/2/hi/middle_east/4121202.stm).

<sup>1236</sup> The Washington Post, *At Least 16 Iraqis Killed in Suicide Car Bombing*, 21 June 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/20/AR2005062000108.html>.

<sup>1237</sup> Reuters, *Iraq's Qaeda claims Arbil suicide bombing*, 21 June 2005.

<sup>1238</sup> BBC, *Baghdad restaurant bomb kills 23*, 19 June 2005,

- 14 June 2005: At least 22 people, mainly civil servants waiting outside a bank to receive their salaries or pensions, were killed and almost 100 wounded in a suicide bombing in Kirkuk. Al-Qaeda in Iraq claimed responsibility in an Internet statement.<sup>1239</sup>
- 13 June 2005: Seventeen bodies were found west of Baghdad and another seven were discovered near Hit, some of them beheaded. A statement posted at a mosque in Hit indicated that the seven had been killed by members of Jaish Ansar Al-Sunna, calling the victims 'traitors' because they worked as private contractors supplying cement.<sup>1240</sup>
- 11 June 2005: Gunmen attacked a busload of construction workers in Diyara, south of Baghdad, killing 10 and wounding three others. According to the local police, they were employed on various projects at US and Iraqi bases in the Baghdad area.<sup>1241</sup>
- 10 June 2005: A blast near a busy marketplace in Baghdad killed 10 and injured 27.<sup>1242</sup>
- 2/3 June 2005: Nine people died in a suicide bombing at a Sufi place of worship in Balad.<sup>1243</sup>
- 2 June 2005: Insurgents gunned down nine people in a market in Hurriya, a neighbourhood in north-western Baghdad.<sup>1244</sup>
- 2 June 2005: At least 12 people were killed and 40 wounded in a massive explosion targeting a restaurant in Tuz Khurmatu, near Kirkuk. Among the wounded were several bodyguards of Deputy Prime Minister Rowsch Shways who were eating in the restaurant. Jaish Ansar Al-Sunna claimed responsibility for the attack in an Internet statement.<sup>1245</sup>
- 30 May 2005: Two separate suicide bomb attacks on Iraqi policemen in Hilla killed at least 30 and wounded up to 120. Al-Qaeda in Iraq claimed responsibility for the attacks.<sup>1246</sup>
- 23 May 2005: Two car bombs exploded outside the home of Turkmen leader Hassan Bakdash in Tal Afar, killing at least 15 people and injuring at least 20. The attack represented the second failed assassination attempt on Bagdash within a few days.<sup>1247</sup>
- 23 May 2005: A suicide truck bomb blast outside the mayor's office in Tuz Khurmatu south of Kirkuk killed at least five people and wounded 18.<sup>1248</sup>
- 23 May 2005: A car bomb blast outside a Shia mosque in Mahmoudiyah killed at least 7 people and injured more than 20.<sup>1249</sup>
- 23 May 2005: A car bomb blast outside a popular restaurant in the Shia-dominated Talibiya area of Baghdad killed at least eight people and injured as many as 100.<sup>1250</sup>

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[http://news.bbc.co.uk/1/hi/world/middle\\_east/4108480.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4108480.stm).

<sup>1239</sup> Guardian Unlimited, *22 die in Iraq street blast*, 14 June 2005,

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<sup>1244</sup> The New York Times, *Insurgent Attacks in Iraq Kill at Least 33*, 3 June 2005,

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<sup>1246</sup> Ibid., *Attack Kills at Least 30 as Iraqi Forces Press Baghdad Offensive*, 30 May 2005,

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<sup>1249</sup> BBC, *Car bomb blasts rock Iraqi town*, 24 May 2005,

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<sup>1250</sup> Ibid.

- 12 May 2005: A car bomb blast in a market in Baghdad killed at least 10 people and wounded dozens more.<sup>1251</sup>
- 11 May 2005: A car bomb killed 33 and wounded 80 people, mainly Shiite migrant workers, in Tikrit. Jaish Ansar Al-Sunna claimed responsibility for the attack, saying that the migrant labourers were working at nearby US bases and calling them 'apostates who sold their religion and became slaves and agents of the crusaders'.<sup>1252</sup>
- 7 May 2005: Two suicide car bombs exploded beside a foreign civilian security convoy in Baghdad, killing 22 people.<sup>1253</sup>
- 6 May 2005: A suicide car bomb hit a crowded vegetable market in Suwayra, south of Baghdad, killing at least 58 and wounding dozens more.<sup>1254</sup>
- 4 May 2005: A suicide bomber killed at least 60 people and wounded 70 at a KDP office in Erbil. Jaish Ansar Al-Sunna claimed it was behind the attack.<sup>1255</sup>
- 1 May 2005: A suicide bomber killed at least 25 people and wounded more than 30 at the funeral of Kurdish official Taleb Wahab, who had been killed by insurgents in Mosul one day earlier.<sup>1256</sup>
- 29 April 2005: A wave of car bomb attacks targeting the ISF in and around Baghdad killed at least 29 people and wounded more than 100.<sup>1257</sup>
- 17 April 2005: Seven Kurdish civilians working at a US military base near Khanaqeen were killed.<sup>1258</sup>
- 14 April 2005: Twin suicide car bombs killed at least 15 people near an Interior Ministry building in Baghdad. Al-Qaeda in Iraq claimed responsibility.<sup>1259</sup>
- 7 April 2005: Eleven Iraqis working at a US military base in Ramadi were killed.<sup>1260</sup>
- 3 April 2005: Militants launched an attack on the Abu Ghraib Prison employing mortars, rockets, ground assaults and car bombs, wounding 44 US soldiers and 13 prisoners. The assault was reportedly carried out by Al-Qaeda in Iraq.<sup>1261</sup>
- 10 March 2005: A suicide bomber killed at least 47 people and wounded 90 during a funeral at the Shiite Shahidain mosque in Mosul.<sup>1262</sup>
- 7 March 2005: Suicide attacks in Balad and Baqouba killed at least 25 persons.<sup>1263</sup>
- 28 February 2005: A suicide car bomb attack on a crowd of people who were applying for work in the security services in Hilla killed at least 122 and wounded 170.<sup>1264</sup>

<sup>1251</sup> Voice of America, *Car Bomb Blast in Baghdad Kills 10*, 12 May 2005, <http://www.voanews.com/khmer/2005-05-12-voal.cfm>.

<sup>1252</sup> Reuters, *Four suicide attacks kill at least 71*, 11 May 2005, <http://www.tiscali.co.uk/news/newswire.php/news/reuters/2005/05/11/topnews/foursuicideattackskillatleast71.html>.

<sup>1253</sup> CBS, *Baghdad Blast Kills Two Americans*, 7 May 2005, <http://www.cbsnews.com/stories/2005/05/08/iraq/main693770.shtml>.

<sup>1254</sup> The Scotsman, *67 killed as suicide bombers strike in Iraq*, 7 May 2005, <http://thescotsman.scotsman.com/index.cfm?id=491082005>.

<sup>1255</sup> Reuters, *Iraq's Ansar al-Sunna claims Arbil bombing*, 4 May 2005, <http://www.abc.net.au/news/newsitems/200505/s1360115.htm>.

<sup>1256</sup> BBC, *Bombing of Iraqi Kurds kills 25*, 1 May 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4504305.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4504305.stm).

<sup>1257</sup> Ibid., *Iraq car bombs kill at least 29*, 29 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4496277.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4496277.stm).

<sup>1258</sup> Aljazeera, *Aid worker killed in Iraq violence upsurge*, 17 April 2005, <http://english.aljazeera.net/NR/exeres/45C0FDC1-C83B-4B0A-A630-1D60F81E838A.htm>.

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<sup>1260</sup> ABC News Online, *11 bodies found in Ramadi*, 8 April 2005, <http://www.abc.net.au/news/newsitems/200504/s1340742.htm>.

<sup>1261</sup> The Washington Post, *Zarqawi Said to Be Behind Iraq Raid*, 5 April 2005, <http://www.washingtonpost.com/wp-dyn/articles/A24808-2005Apr4.html>.

<sup>1262</sup> BBC, *Dozens die in Iraq suicide attack*, 10 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4337363.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4337363.stm).

<sup>1263</sup> Ibid., *Series of attacks in Iraq kill 25*, 7 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4324639.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4324639.stm).

- 19 February 2005: At least 30 people were killed in attacks against mainly Shiite targets around Baghdad on the Shiite festival of Ashura.<sup>1265</sup>
- 12 February 2005: A blast outside a hospital killed at least 17 people and injured approximately 25 in Musayib, south of Baghdad.<sup>1266</sup>
- 11 February 2005: Attacks against Shiite civilians outside a mosque in Balad Ruz and a bakery in Baghdad killed at least 23 people.<sup>1267</sup>
- 7 February 2005: Suicide bombers killed at least 25 people outside a Baqouba police station and a Mosul hospital.<sup>1268</sup>
- 30 January 2005: Insurgents unleashed at least nine suicide bombings on Iraq's election day, killing at least 35 people.<sup>1269</sup>
- 21 January 2005: An attack on a mosque in Baghdad killed at least 14 people and wounded 40 on the Islamic festival of Eid Al-Adha.<sup>1270</sup>
- 17 January 2005: At least 16 people were killed in two separate attacks on the ISF in Baiji and Baqouba.<sup>1271</sup>
- 5 January 2005: A suicide car bomb attack on a police academy in Hilla killed at least 15 people.<sup>1272</sup>
- 5 January 2005: The bodies of 18 Iraqis who had worked at a US military base were found in Mosul.<sup>1273</sup>
- 2 January 2005: Suicide car bombers hit a bus full of members of the Iraqi National Guard outside a US base near Balad and killed 23.<sup>1274</sup>
- 21 December 2004: A suicide bomber killed 24 people and wounded more than 60 at a US Military Base in Mosul. A statement attributed to Ansar Al-Sunna on an Islamist website said that one of its suicide bombers had carried out the attack.<sup>1275</sup>
- 19 December 2004: More than 60 persons died in twin suicide car attacks in Kerbala and Najaf in Southern Iraq.<sup>1276</sup>
- 7 November 2004: A police station in Haditha was attacked, during which 21 policemen were executed.<sup>1277</sup>

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<sup>1264</sup> The New York Times, *Deadliest Single Attack Since Fall of Hussein Kills More Than 120*, 28 February 2005, <http://www.nytimes.com/2005/02/28/international/middleeast/28cnd-iraq.html?ex=1115352000&en=eeebc873ebfa9a20&ei=5070>.

<sup>1265</sup> BBC, *Violence mars Iraq Shia festival*, 19 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4279139.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4279139.stm).

<sup>1266</sup> Ibid., *Eighteen killed in Iraq violence*, 12 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4259487.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4259487.stm).

<sup>1267</sup> Ibid., *Iraq attacks hit Shia civilians*, 11 February, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4257273.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4257273.stm).

<sup>1268</sup> Ibid., *Iraq bombings kill more than 25*, 7 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4242375.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4242375.stm).

<sup>1269</sup> Aljazeera, *Summary of attacks on election day*, 30 January 2005, <http://english.aljazeera.net/NR/exeres/15F23DED-17B3-4F3F-A1DA-A1E502E1DB74.htm>.

<sup>1270</sup> BBC, *Deadly attack on Baghdad mosque*, 21 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4194027.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4194027.stm).

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<sup>1272</sup> Ibid., *Dozens killed in Iraqi violence*, 5 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4148329.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4148329.stm).

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<sup>1275</sup> BBC, *Attack on US Iraq base kills 24*, 21 December 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4115145.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4115145.stm)

<sup>1276</sup> Ibid., *Iraq Shia leaders appeal for calm*, 20 December 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4110163.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4110163.stm).

<sup>1277</sup> Ibid., *Militants massacre 21 Iraq police*, 7 November 2004,



- 6 November 2004: At least 33 people were killed and more than 48 wounded in car bombs and other attacks in Samarra.<sup>1278</sup>
- 31 October 2004: At least 15 Iraqi civilians were killed and eight wounded in a rocket attack on an US base in Tikrit.<sup>1279</sup>
- 23 October 2004: Fifty army recruits were killed in an ambush near Baqouba. Al-Qaeda in Iraq claimed responsibility.<sup>1280</sup>
- 23 October 2004: Sixteen died and up to 50 others were wounded in a blast at a police training base in Ramadi.<sup>1281</sup>
- 4 October 2004: Two car bombs exploded near an army recruitment centre and a US military convoy in Baghdad, killing at least 21 people and wounding dozens.<sup>1282</sup>
- 30 September 2004: A series of bomb blasts in Baghdad killed at least 41 people – among them 34 children – and wounded 131. The attacks were claimed by the JTJ of Abu Musab Al-Zarqawi.<sup>1283</sup>
- 18 September 2004: A suicide car bomb attack on the Iraqi National Guard headquarters in Kirkuk killed 23 people and wounded at least 53.<sup>1284</sup>
- 14 September 2004: A car bomb near a police station in Baghdad killed at least 47 people and wounded 114. A statement said to be from Abu Musab Al-Zarqawi's group claimed responsibility for the attacks.<sup>1285</sup>
- 4 September 2004: A suicide car bomb attack on a police training academy in Kirkuk left at least 17 people dead and more than 20 wounded.<sup>1286</sup>
- 26 August 2004: Twenty-five people were killed and dozens injured in a mortar attack on a mosque in Kufa.<sup>1287</sup>
- 1 August 2004: At least 11 people were killed and dozens of others injured when bomb blasts rocked Iraqi churches in Baghdad and Mosul.<sup>1288</sup>
- 28 July 2004: A suicide car bomb killed at least 68 people at a police recruitment centre in Baqouba.<sup>1289</sup>

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[http://news.bbc.co.uk/1/hi/world/middle\\_east/3989671.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3989671.stm).

<sup>1278</sup> Ibid., *Rebel attacks in Samarra kill 33*, 6 November 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3987927.stm](http://news.bbc.co.uk/2/hi/middle_east/3987927.stm).

<sup>1279</sup> Ibid., *Many dead in Iraq rocket attack*, 31 October 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3970229.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3970229.stm).

<sup>1280</sup> Ibid., *Iraqi massacre 'was inside job'*, 25 October 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3950005.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3950005.stm).

<sup>1281</sup> Ibid., *Iraq rocked by multiple bombings*, 23 October 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3946831.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3946831.stm).

<sup>1282</sup> Ibid., *Baghdad bomb blasts leave 21 dead*, 4 October 2004,

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<sup>1283</sup> Ibid., *Children massacred by Iraq bombs*, 30 September 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3702710.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3702710.stm).

<sup>1284</sup> Aljazeera, *Bomb targets police base in Kirkuk*, 18 September 2004,

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<sup>1285</sup> BBC, *Iraq suffers day of grim violence*, 15 September 2004,

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<sup>1286</sup> BBC, *Violence flares in northern Iraq*, 4 September 2004,

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<sup>1287</sup> Ibid., *Attack on Iraq mosque 'kills 25'*, 26 August 2004,

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<sup>1288</sup> Ibid., *Bomb blasts rock Iraqi churches*, 1 August 2004,

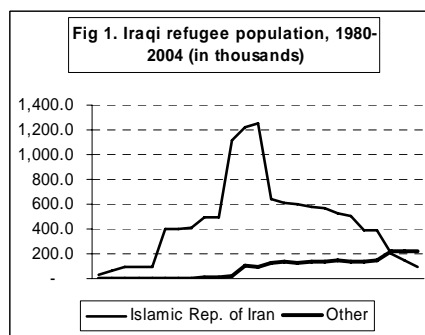
[http://news.bbc.co.uk/1/hi/world/middle\\_east/3526084.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3526084.stm).

<sup>1289</sup> Ibid., *Scores killed in Iraq bomb attack*, 28 July 2004,

[http://news.bbc.co.uk/1/hi/world/middle\\_east/3932123.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3932123.stm).

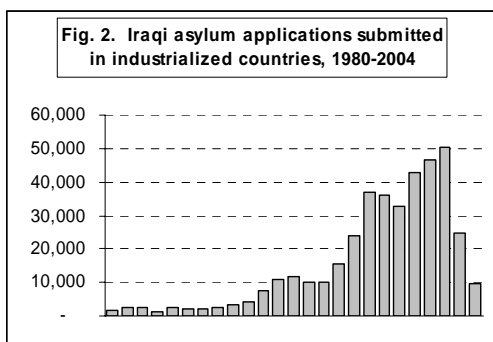
## Annex IV: Asylum-seekers and refugees from Iraq: Global levels and trends

The global number of refugees from Iraq reached a peak in the early 1990s, when some 1.3 million Iraqi refugees found asylum, particularly in the neighbouring Islamic Republic of Iran (see Figure 1). Since then, there has been a steep decline. By the end of 2004, the global Iraqi refugee population was estimated at some 312,000 persons (see Table 1).



The proportion of Iraqi refugees hosted by non-neighbouring countries has gradually increased. Although the largest number of Iraqi refugees is still hosted by the Islamic Republic of Iran (93,000), Sweden is also hosting a sizeable refugee population (68,000), followed by the Netherlands (28,000) and Germany (23,000).<sup>1290</sup>

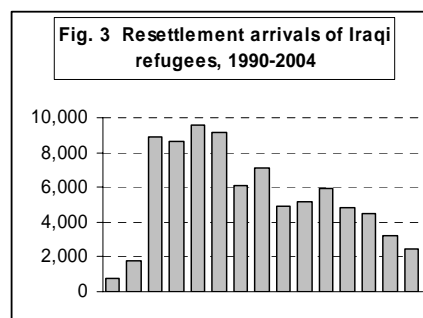
During the period 1980-2004, some 456,000 Iraqi nationals applied for asylum in the



industrialized countries, the large majority of which (87%) were lodged in Europe. In 2002, some 52,000 Iraqi asylum applications were received, the highest level during the 25-year period (see Figure 2). Since then, the flow of Iraqi asylum-seekers has dropped sharply to 10,800 in 2004. Since 1980, Germany has received the largest number of Iraqi asylum-seekers (23%), followed by Sweden (11%), the Netherlands, Turkey and the United Kingdom (each 10%). While

most asylum-seekers in the industrialized countries, once recognized as refugees, benefit from local integration, most recognized asylum-seekers in Turkey are resettled in third countries.

From 1990 to 2004, some 83,100 Iraqi refugees found a durable solution through resettlement. The highest level of resettlement took place from 1992 to 1994 (see Figure 3). The number of Iraqi refugees resettled in 2004 was the lowest since 1991, primarily due to a sharp fall in arrivals to the United States (see Table 3).



A detailed overview of asylum applications, refugee status determination is provided in Table 4.

<sup>1290</sup> For most industrialized countries, including Sweden and the Netherlands, the number of refugees is estimated by UNHCR as no official figures exist. In Europe, the UNHCR estimates are based on the number of resettled refugees and recognized asylum-seekers during the past 10 years. In Canada, the US and Australia, the figures are based on the past five years.

**Table 1. Iraqi refugees by country of asylum, end of year (thousands)**

Data for previous years may not be complete.

For most industrialized countries, UNHCR estimates the refugee population based on recently recognized asylum-seekers and resettled refugees.

Country	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Islamic Rep. of Iran	30.0	65.0	100.0	100.0	100.0	400.0	400.0	410.0	500.0	500.0	1,113.3	1,218.4	1,250.1	645.0	613.0	595.5	579.2	570.8	530.6	510.0	386.0	386.0	201.7	150.2	93.2
Sweden	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	72.7	73.5	68.1
Netherlands	-	-	-	-	-	-	-	-	-	-	-	-	1.8	2.9	5.5	8.7	14.0	18.4	24.4	24.9	25.3	26.0	26.2	28.6	27.6
Germany	-	-	-	-	-	-	-	-	0.9	1.2	1.3	1.4	2.8	3.1	3.6	4.2	4.7	5.1	6.0	6.4	9.5	12.0	20.6	23.4	22.8
Syrian Arab Rep.	-	-	-	-	-	-	-	-	-	-	8.9	11.4	14.4	16.8	18.5	19.5	20.2	21.4	22.6	23.6	25.6	25.9	25.7	23.9	22.0
United States	-	0.4	0.6	0.6	-	-	-	-	-	-	3.8	4.0	5.4	35.5	36.3	33.9	26.8	21.1	19.4	3.4	1.8	1.7	1.7	2.4	14.4
Saudi Arabia	-	-	-	-	-	-	-	-	-	1.1	1.4	1.8	2.9	3.7	4.3	5.3	5.9	7.0	8.3	10.5	11.8	12.6	12.5	11.8	11.5
United Kingdom	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9.7	9.0	9.8	10.4	10.5	10.5	11.9	12.2	11.5
Denmark	-	-	-	-	-	-	-	-	1.1	1.0	0.8	1.4	4.7	9.3	14.4	18.0	20.6	25.4	22.3	19.4	19.3	19.1	12.0	10.5	8.6
Australia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.6	2.3	4.8	8.1	8.2	8.3	7.8	8.3
Kuwait	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6.7	7.3	8.2	8.0	6.6	6.0	5.8	6.0	5.7	5.4	5.4
Canada	-	-	-	-	-	-	-	-	-	-	-	-	-	0.1	0.2	0.4	0.6	1.1	1.1	1.8	2.1	2.6	3.2	3.3	3.2
Turkey	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2.2	2.4	1.9	1.9	1.5	1.4	1.6
Norway	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.8	1.9	1.9	1.8	1.2	1.1	1.4
Lebanon	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.1	1.3	1.4	1.5	1.6	1.6	1.6	1.6	1.4	1.4
Greece	0.1	0.2	0.2	0.2	0.3	0.3	0.4	0.5	0.6	0.6	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.4	0.6	0.8	0.9	1.1	1.3	1.3	1.3
Switzerland	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.0	-	-	-	-	0.2	0.2	0.3	0.7	0.9	1.3
Italy	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.1	0.1	0.1	0.0	0.0	0.0	0.1	0.5	0.8	1.1	1.2
France	1.0	1.0	1.0	1.1	-	-	-	-	3.5	-	0.5	0.4	0.7	0.5	0.6	1.0	1.4	1.9	2.3	2.5	1.8	1.8	1.8	1.5	1.1
Pakistan	-	-	2.0	1.8	1.3	0.9	0.4	0.2	0.6	0.7	-	-	-	2.5	2.4	1.5	2.5	2.4	0.4	0.4	0.5	0.6	1.0	1.0	1.0
Finland	-	-	-	-	-	-	-	-	-	-	0.0	0.3	0.2	0.1	0.3	0.4	0.7	0.5	0.7	0.9	0.9	0.9	1.1	1.0	0.9
Austria	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.8	0.8	0.9	1.2	1.1	0.9	0.8	0.8	0.9	0.8
New Zealand	-	-	-	-	-	-	-	-	-	-	-	32.9	27.7	24.0	18.0	13.0	9.7	5.7	5.4	5.4	5.2	5.1	5.1	0.7	0.4
Jordan	-	-	-	-	0.1	0.1	-	-	-	-	-	20.0	19.9	20.0	20.0	1.7	2.0	1.6	1.7	1.8	1.2	0.3	0.4	0.4	0.4
Bulgaria	-	-	-	-	-	-	-	-	-	-	-	-	0.1	0.2	0.2	0.1	0.1	0.2	0.3	0.3	0.3	0.4	0.4	0.5	0.4
Hungary	-	-	-	-	-	-	-	-	-	-	-	0.1	0.1	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Romania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.1	0.1	0.1	0.2	0.2	0.2
Spain	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2
Belgium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.3	0.3	0.2	0.2	0.3	0.2	0.2	0.2	0.2
Ukraine	-	-	-	-	-	-	-	-	-	-	-	-	0.1	0.3	0.2	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.1	0.1	0.1
Yemen	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.0	0.0	0.0	0.1
Malta	-	-	-	-	-	0.2	-	0.2	1.6	1.7	1.4	28.0	11.4	4.9	2.7	3.3	3.0	0.7	1.0	0.6	0.6	0.6	0.4	0.3	0.1
Indonesia	-	-	-	-	-	-	-	-	0.2	1.7	1.7	1.1	1.3	1.2	1.2	1.2	1.1	1.1	0.9	0.5	0.4	0.2	0.2	0.1	0.1
Ireland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Brazil	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Slovakia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0	0.0	0.4	0.4	0.3	0.1	0.1
Other	-	-	-	-	-	-	-	-	-	-	0.0	0.1	-	0.2	0.9	0.7	0.9	0.8	0.9	0.5	0.6	0.6	0.7	0.7	0.6
<b>Total</b>	<b>31.1</b>	<b>66.6</b>	<b>103.8</b>	<b>103.7</b>	<b>101.7</b>	<b>401.5</b>	<b>400.7</b>	<b>410.8</b>	<b>508.5</b>	<b>508.0</b>	<b>1,133.8</b>	<b>1,321.9</b>	<b>1,343.8</b>	<b>771.1</b>	<b>749.8</b>	<b>718.7</b>	<b>714.7</b>	<b>707.3</b>	<b>675.0</b>	<b>642.9</b>	<b>526.2</b>	<b>530.5</b>	<b>422.5</b>	<b>368.6</b>	<b>311.9</b>

**Table 2. New asylum applications submitted by Iraqi nationals in industrialized countries**

Values between 1 and 4 have been replaced with by an asterisk.

Country	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
Australia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	121	151	238	919	2,165	1,784	107	138	66	
Austria	-	-	51	37	49	11	36	122	83	142	147	951	1,026	541	899	659	1,585	1,478	1,963	2,001	2,361	2,118	4,466	1,446	232	
Belgium	-	-	11	10	12	9	7	8	13	19	47	67	105	102	90	106	223	243	231	293	569	368	461	282	388	
Bulgaria	-	-	-	-	-	-	-	-	-	-	-	8	-	-	-	-	31	93	229	197	300	720	946	211	47	
Canada	-	-	-	-	-	-	-	-	-	172	262	270	371	192	240	324	303	272	271	363	282	398	309	118	92	
Cyprus	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	38	39	47	16	64	69	21	29	131	
Czech Rep.	-	-	-	-	-	-	-	-	-	-	9	57	14	15	22	80	88	283	315	346	127	296	201	102	38	
Denmark	-	-	-	-	325	-	339	158	588	591	764	2,758	1,540	998	632	694	866	929	2,007	1,902	2,605	2,099	1,045	442	217	
Estonia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	15	-	-	-	-	-	-	
Finland	-	-	-	*	-	*	-	-	13	-	*	12	23	147	179	55	78	72	102	84	97	62	103	115	150	123
France	-	37	55	32	39	52	41	35	33	231	108	174	237	179	202	236	279	217	331	245	262	296	246	559	163	
Germany	223	322	471	205	175	568	1,057	266	298	354	707	1,384	1,484	1,246	2,066	6,941	10,934	14,189	7,435	8,662	11,601	17,167	10,242	3,850	1,293	
Greece	1,214	1,545	549	*	13	9	62	323	585	348	2,114	871	1,387	359	433	621	1,033	3,808	2,166	906	1,334	1,972	2,567	2,831	936	
Hungary	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	111	183	115	542	543	889	1,014	2,008	348	36	
Iceland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*	*	*	*	*	*	*	6
Ireland	-	-	-	-	-	-	-	-	-	-	-	*	*	-	*	11	47	49	47	101	89	48	148	129	38	
Italy	-	210	50	70	65	67	38	125	84	41	13	89	26	31	22	181	151	336	3,362	1,838	6,082	1,985	1,944	493	166	
Japan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	*	6	-	*	*	*	*	*	-
Latvia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*	*	-	-	-	-	-
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*	-
Lithuania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6	-	-	6	*	-	-
Luxembourg	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	5	*	19	6	*	*	8	34	14	9
Malta	-	-	-	-	-	-	-	-	*	-	-	37	360	-	-	-	*	9	12	10	14	16	36	14	29	
Netherlands	-	61	-	-	20	-	-	53	173	361	439	684	770	3,229	2,858	2,431	4,378	9,641	8,300	3,703	2,773	1,329	1,020	3,473	1,043	
New Zealand	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	69	31	39	12	
Norway	-	-	-	-	-	-	52	267	131	114	90	131	111	137	126	99	113	272	1,296	4,073	766	1,056	1,624	971	412	
Poland	-	-	-	-	-	-	-	-	-	-	-	56	-	-	-	57	359	198	129	47	30	108	137	75	6	
Portugal	-	-	-	-	-	-	*	*	*	*	*	*	-	-	-	*	-	*	*	*	*	*	*	*	*	*
Rep. of Korea	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*	*	-	*	*	-	-	-
Romania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	126	349	259	149	250	680	398	330	109	
Slovakia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	99	96	50	140	115	990	1,245	475	116	
Slovenia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*	*	*	58	447	214	133	190	28
Spain	-	-	104	82	116	87	88	81	44	*	250	309	441	210	310	129	200	44	133	196	136	73	83	139	57	
Sweden	-	312	666	460	1,177	1,195	290	673	1,147	1,924	1,955	2,222	3,220	2,323	1,668	1,783	1,557	3,057	3,843	3,576	3,499	6,206	5,446	2,700	1,456	
Switzerland	*	31	143	79	29	12	18	27	34	26	71	160	117	76	151	321	413	522	2,041	1,658	908	1,201	1,182	1,444	631	
Turkey	-	-	7	13	113	*	31	1,342	1,359	1,215	481	6,996	5,437	4,720	2,464	2,753	2,540	3,282	4,672	2,472	1,641	982	974	342	964	
United Kingdom	146	14	271	298	348	251	210	210	163	215	985	915	700	495	550	930	965	1,075	1,295	1,800	7,475	6,705	14,570	4,288	1,878	
United States	-	-	-	-	-	-	-	21	59	-	100	338	167	173	145	117	422	2,328	178	148	330	584	534	298	158	
<b>Total</b>	<b>1,586</b>	<b>2,532</b>	<b>2,379</b>	<b>1,288</b>	<b>2,482</b>	<b>2,264</b>	<b>2,272</b>	<b>3,727</b>	<b>4,798</b>	<b>5,760</b>	<b>8,556</b>	<b>18,506</b>	<b>17,662</b>	<b>15,205</b>	<b>12,937</b>	<b>18,672</b>	<b>27,139</b>	<b>43,187</b>	<b>41,523</b>	<b>36,481</b>	<b>47,184</b>	<b>50,663</b>	<b>52,290</b>	<b>25,929</b>	<b>10,881</b>	
- Europe	1,586	2,532	2,372	1,275	2,369	2,261	2,241	2,364	3,380	4,373	7,713	10,902	11,687	10,120	10,088	15,474	23,710	37,113	36,109	32,562	42,699	46,773	50,309	24,963	9,458	

**Table 3. Annual resettlement arrivals of Iraqi refugees**  
Values between 1 and 4 have been replaced with by an asterisk.

Country	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
Australia	-	-	2,240	984	1,730	2,880	1,680	1,364	1,733	1,754	947	623	2,139	1,944	1,558	21,576
Canada	486	271	1,166	2,234	1,337	1,155	1,136	1,146	781	689	1,158	1,131	922	528	721	14,861
Denmark	-	36	155	253	168	326	246	293	201	129	58	70	208	*	*	2,148
Finland	-	-	-	-	-	-	-	341	-	115	147	94	109	24	10	840
Ireland	-	-	-	-	-	-	-	-	-	-	-	*	-	5	-	8
Italy	-	-	-	-	-	-	-	-	*	-	-	-	-	-	-	3
Netherlands	42	-	233	217	455	474	392	118	29	5	7	10	15	5	*	2,006
New Zealand	104	203	97	7	215	318	136	266	241	169	47	77	216	296	30	2,422
Norway	-	-	-	197	19	-	-	624	223	180	94	127	167	59	*	1,692
Sweden	61	438	1,575	106	650	543	-	330	266	148	335	254	247	91	33	5,077
United States	67	842	3,442	4,605	4,984	3,482	2,528	2,679	1,407	1,955	3,152	2,473	457	298	66	32,437
<b>Total</b>	<b>760</b>	<b>1,790</b>	<b>8,908</b>	<b>8,603</b>	<b>9,558</b>	<b>9,178</b>	<b>6,118</b>	<b>7,161</b>	<b>4,884</b>	<b>5,144</b>	<b>5,945</b>	<b>4,862</b>	<b>4,480</b>	<b>3,254</b>	<b>2,425</b>	<b>83,070</b>

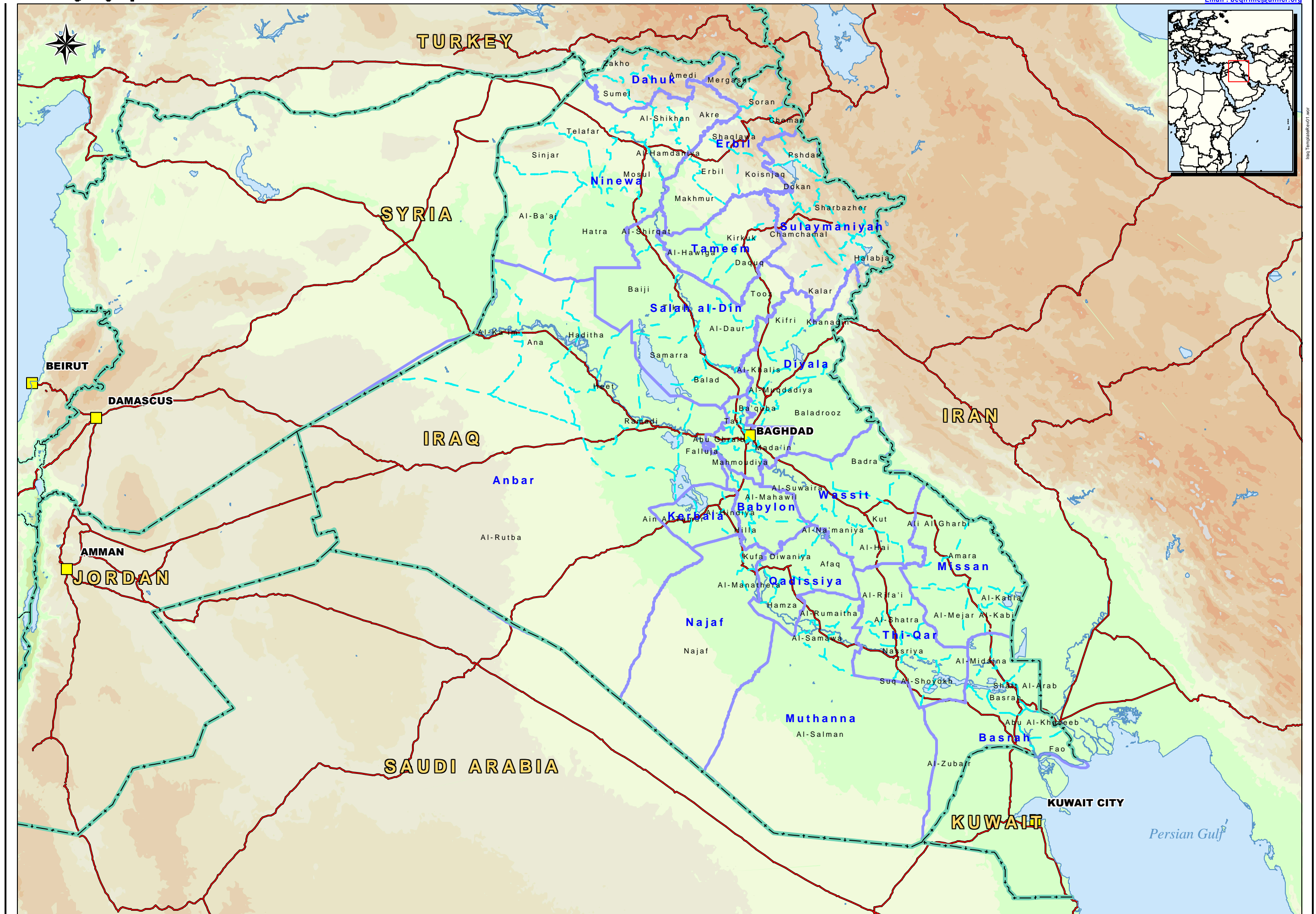


**Table 4. Asylum applications, refugee status determination and pending cases, 2004**  
Country of origin: Iraq Values between 1 and 4 have been replaced with by an asterisk.  
T=Type: (U)NHCRC, (G)overnment, (V)arious/unknown  
L=Level: First Instance (FI), Administrative Review (AR), First instance and review (FA), new applications (NA), repeat applications (RA)  
Department of Homeland Security (IN), Executive Office of Immigration Review (EO)

Country name	Procedure		Pending begin year	Applied since 1 Jan.	Decisions since 1 January					Pending end of year	Indicators (%)			
					Recognized	Other (hum.)	Rejected	Otherw. closed	Total		Recognition rates		O/w. closed	Pending cases change
											Ref. status	Total		
Afghanistan	U	FI	25	13	-	-	9	28	37	*	-	-	75.7	-96
Albania	G	FI	-	-	-	-	-	-	-	-	..	..	..	..
Argentina	G	FI	*	-	*	-	-	-	*	-	100.0	100.0	-	-100
Armenia	G	FI	25	168	-	93	-	36	129	64	-	100.0	27.9	156
Australia	G	AR	7	147	*	-	11	*	15	139	21.4	21.4	6.7	1,886
Australia	G	FI	76	66	50	-	25	*	79	279	66.7	66.7	5.1	267
Austria	G	FA	-	232	128	251	80	244	703	-	27.9	82.6	34.7	..
Azerbaijan	U	FI	55	*	-	-	31	-	31	25	-	-	-	-55
Azerbaijan	G	FI	-	17	-	-	*	-	*	16	-	-	-	..
Bahrain	U	FA	-	5	-	-	-	-	-	5	..	..	..	..
Belarus	G	FI	13	5	-	5	*	7	13	5	-	83.3	53.8	-62
Belgium	G	AR	51	28	-	-	*	6	7	72	-	-	85.7	41
Belgium	G	FI	-	388	67	-	34	36	137	-	66.3	66.3	26.3	..
Bosnia and Herzegovina	U	FI	*	-	-	-	-	*	*	-	..	..	100.0	-100
Brazil	G	FI	12	6	10	-	-	*	12	6	100.0	100.0	16.7	-50
Bulgaria	G	FI	219	47	-	85	-	27	112	154	-	100.0	24.1	-30
Canada	G	FI	277	92	184	-	55	12	251	111	77.0	77.0	4.8	-60
China	U	FI	-	5	-	-	*	*	*	*	-	-	75.0	..
Croatia	U	FI	6	-	-	-	-	6	6	-	..	..	100.0	-100
Croatia	G	FI	-	*	-	-	-	-	*	-	-	-	-	..
Croatia	G	FI	-	6	-	-	5	-	5	*	-	-	-	..
Cuba	U	FI	*	-	-	-	*	-	*	-	-	-	-	-100
Cyprus	G	AR	-	-	-	-	-	-	-	-	..	..	..	..
Cyprus	U	FA	74	-	-	-	*	68	70	*	-	-	97.1	-95
Cyprus	G	FI	45	131	-	-	-	10	10	166	..	..	100.0	269
Czech Rep.	G	FI	55	38	*	-	9	44	57	36	30.8	30.8	77.2	-35
Denmark	G	AR	618	-	-	37	789	-	826	164	-	4.5	-	-73
Denmark	G	FI	286	217	-	7	523	-	530	53	-	1.3	-	-81
Djibouti	G	FI	*	-	-	-	*	-	*	-	-	-	-	-100
Ecuador	G	FI	-	*	-	-	-	-	-	*	..	..	..	..
Egypt	U	FI	151	20	-	-	-	80	80	91	..	..	100.0	-40
Estonia	G	FI	*	-	-	-	-	-	-	*	..	..	..	0
Finland	G	FA	-	123	-	207	*	17	226	-	-	99.0	7.5	..
France	G	FI	-	163	31	-	178	-	209	-	14.8	14.8	-	..
France	G	RA	-	10	*	-	-	-	*	-	100.0	100.0	-	..
Georgia	G	FI	-	*	-	-	-	-	-	*	..	..	..	..
Germany	G	NA	2,661	1,293	38	46	3,319	373	3,776	778	1.1	2.5	9.9	-71
Germany	G	RA	133	147	*	*	8	199	212	66	15.4	38.5	93.9	-50
Greece	G	FI	1,808	936	-	-	785	165	950	1,794	-	-	17.4	-1
Hungary	G	AR	38	18	-	-	15	-	15	*	-	-	-	-92
Hungary	G	FI	35	36	19	33	8	12	72	-	31.7	86.7	16.7	-100
Iceland	G	FI	*	6	-	-	*	5	6	*	-	-	83.3	0
India	U	AR	*	-	-	-	-	-	*	*	-	-	-	-50
India	U	FI	-	8	-	-	-	7	7	*	..	..	100.0	..
Indonesia	U	FA	8	-	-	-	-	8	8	-	..	..	100.0	-100
Ireland	G	AR	25	55	20	-	43	*	64	16	31.7	31.7	1.6	-36
Ireland	G	FI	172	38	34	-	64	93	191	19	34.7	34.7	48.7	-89
Israel	G	FI	-	*	-	-	*	*	*	-	..	..	100.0	..
Italy	G	FI	-	166	21	62	388	*	473	-	4.5	17.6	0.4	..
Japan	G	FI	*	-	-	-	*	-	*	*	-	-	-	-50
Jordan	U	FI	6,517	6,069	36	-	*	468	508	12,078	90.0	90.0	92.1	85
Kazakhstan	G	FI	-	*	-	-	-	-	-	*	..	..	..	..
Kenya	U	FI	*	-	-	-	-	*	*	-	..	..	100.0	-100
Kuwait	U	FI	60	-	-	-	-	-	-	21	..	..	..	-65
Kyrgyzstan	G	FI	*	*	*	-	-	*	5	-	100.0	100.0	20.0	-100
Lebanon	U	FA	487	392	-	-	*	262	265	614	-	-	98.9	26
Libyan Arab Jamahiriya	U	FI	-	*	-	-	*	-	*	-	-	-	-	..
Luxembourg	G	FI	-	9	-	-	-	-	-	-	..	..	..	..
Malaysia	U	FA	5	28	18	-	-	*	19	14	100.0	100.0	5.3	180
Malta	G	FI	-	29	5	7	10	*	23	6	22.7	54.5	4.3	..
Mexico	G	FI	-	*	-	-	-	-	-	*	..	..	..	..
Morocco	U	FI	12	-	-	-	-	-	-	12	..	..	..	0
Nepal	B	FI	16	-	-	-	-	8	8	8	..	..	100.0	-50
Netherlands	G	AR	615	-	27	244	235	337	843	822	5.3	53.6	40.0	34
Netherlands	G	FI	2,368	1,043	13	1,244	703	512	2,472	1,685	0.7	64.1	20.7	-29
Netherlands	G	JR	3,628	-	-	-	-	-	-	1,556	..	..	..	-57
New Zealand	G	AR	33	16	10	-	22	*	33	15	31.3	31.3	3.0	-55
New Zealand	G	FI	-	12	*	-	14	-	16	8	12.5	12.5	-	..
Niger	U	FI	-	-	-	-	-	-	-	-	..	..	..	..

Table 4 (continued)

Country name	Procedure		Pending begin year	Applied since 1 Jan.	Decisions since 1 January					Pending end of year	Indicators (%)			
					Recognized	Other (hum.)	Rejected	Otherw. closed	Total		Recognition rates		O/w. closed	Pending cases change
											Ref. status	Total		
T	L													
Norway	G	AR	-	-	-	68	668	-	736	-	-	9.2	-	..
Norway	G	FI	-	412	27	434	364	92	917	-	3.3	55.9	10.0	..
Oman	U	FA	*	-	-	-	-	-	-	*	..	..	..	0
Pakistan	U	FA	170	18	*	-	-	13	14	174	100.0	100.0	92.9	2
Peru	G	FI	15	-	*	-	-	5	6	9	100.0	100.0	83.3	-40
Philippines	G	FI	*	-	-	-	-	*	*	*	..	..	100.0	-50
Poland	G	AR	-	9	-	-	15	-	15	-	-	-	-	..
Poland	G	FI	37	6	-	10	29	*	43	-	-	25.6	9.3	-100
Portugal	G	FI	-	*	-	-	-	-	-	-	..	..	..	..
Qatar	U	FA	*	-	-	-	-	-	-	*	..	..	..	0
Rep. of Moldova	G	FI	11	*	*	-	*	*	5	10	25.0	25.0	20.0	-9
Romania	G	FA	*	109	30	22	37	14	103	8	33.7	58.4	13.6	300
Russian Federation	G	FI	*	18	*	-	15	-	19	*	21.1	21.1	-	-33
Serbia and Montenegro	U	FI	11	11	*	-	-	-	*	19	100.0	100.0	-	73
Serbia and Montenegro	U	FI	-	*	*	-	-	-	*	-	100.0	100.0	-	..
Slovakia	G	FI	225	116	-	-	*	157	160	181	-	-	98.1	-20
Slovenia	G	FI	15	28	-	-	10	25	35	8	-	-	71.4	-47
Somalia	U	FI	*	-	-	-	-	-	-	*	..	..	..	0
South Africa	G	FI	42	*	-	-	-	-	-	45	..	..	..	7
Spain	G	-	-	57	*	50	69	19	142	-	3.3	43.9	13.4	..
Sweden	G	AR	963	-	*	94	1,171	160	1,429	3,312	0.3	7.7	11.2	244
Sweden	G	FI	5,351	1,456	6	243	4,495	382	5,126	1,445	0.1	5.2	7.5	-73
Switzerland	G	CA	-	-	-	93	-	-	93	-	-	100.0	-	..
Switzerland	G	FI	1,857	631	175	147	366	431	1,119	1,532	25.4	46.8	38.5	-18
Syrian Arab Rep.	U	FA	965	4,496	16	-	7	5,438	5,461	-	69.6	69.6	99.6	-100
Thailand	U	FA	98	34	*	-	*	9	17	115	50.0	50.0	52.9	17
Togo	U	FI	-	*	-	-	-	-	-	*	..	..	..	..
Tunisia	U	FI	-	9	-	-	-	8	8	*	..	..	100.0	..
Turkey	U	FI	561	964	11	-	92	-	103	1,422	10.7	10.7	-	153
Ukraine	G	AR	27	31	*	-	7	10	18	40	12.5	12.5	55.6	48
Ukraine	G	FI	131	69	*	-	43	30	77	123	8.5	8.5	39.0	-6
Ukraine	U	FI	-	7	*	-	-	-	*	*	100.0	100.0	-	..
United Arab Emirates	U	FI	11	-	-	-	-	-	-	11	..	..	..	0
United Kingdom	G	AR	-	-	280	-	6,250	135	6,665	-	4.3	4.3	2.0	..
United Kingdom	G	FI	-	1,878	11	191	4,122	773	5,097	-	0.3	4.7	15.2	..
United States	G	EO	569	110	115	-	206	99	420	371	35.8	35.8	23.6	-35
United States	G	IN	146	158	103	-	93	8	204	104	52.6	52.6	3.9	-29
Uzbekistan	U	FA	*	*	-	-	-	-	-	7	..	..	..	75
Venezuela	G	FI	*	-	-	-	-	-	-	*	..	..	..	0
Yemen	U	FI	276	493	-	-	-	*	*	765	..	..	100.0	177



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