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# Iraq

## One year on the human rights situation remains dire

### Introduction

A year after US-led forces launched war on Iraq, the promise of improved human rights for Iraqis remains far from realized. Most Iraqis still feel unsafe in a country ravaged by violence.

Every day Iraqis face threats to their lives and security. Violence is endemic, whether in the form of attacks by armed groups, abuses by the occupying forces, or violence against women. Millions of people have suffered the consequences of destroyed or looted infrastructure, mass unemployment and uncertainty about their future. And there is little or no confidence that those responsible for past and present human rights abuses will be brought to justice.

In the past year, hundreds of civilians have been killed by armed groups in deliberate and indiscriminate attacks motivated by opposition to the occupation or by revenge for past abuses. Scores of unarmed Iraqis have been killed as a result of excessive or unnecessary use of lethal force by Coalition Forces at public demonstrations and checkpoints. Thousands of Iraqis have been detained, often in extremely harsh conditions, in unacknowledged centres. Many have been tortured or ill-treated; some have died as a result. Other Iraqis have been collectively punished for attacks on Coalition Forces by having their crops and houses deliberately destroyed. In the prevailing state of lawlessness, human rights abuses against women and girls were reported, including abduction, rape and murder. Amnesty International has on numerous occasions reminded the occupying powers of their obligations and in many areas they have failed to respect them.

There have been some welcome positive developments in the country, especially in the field of freedom of expression, association and assembly. Dozens of non-government organizations (NGOs), including organizations focusing on women's rights, have been established, more than 80 daily and weekly newspapers are published and scores of political parties and religious organizations have emerged.

The people of Iraq, however, urgently needs stability, security and peace, not more bloodshed. Their future must be based on justice and the rule of law. This report, published a year after the war began, outlines some of the major human rights concerns that must be addressed if such a future is to be secured.

## **Background**

Before the war began on 20 March 2003, Amnesty International (AI) warned that military action would mean further suffering for a people who had already suffered terribly as a result of government repression and the devastating effects of economic sanctions. Some of AI's fears were borne out. Hundreds of Iraqi civilians were killed and injured during the war, some as a result of cluster bombs dropped by Coalition Forces. Homes and vital institutions were destroyed, and whole communities were cut off from electricity and water supplies.

By early April, US forces controlled Baghdad and UK forces controlled southern Iraq. On 1 May, US President George W. Bush declared the main combat operations over and soon after Paul Bremer, a former US diplomat, had been appointed as US Administrator for Iraq and Head of the Coalition Provisional Authority (CPA). Iraq was a defeated and occupied country.

On 24 April, AI delegates arrived in Basra -- the first time in 20 years that the organization had been able to visit Iraq. The overriding concern of everyone they met was the growing insecurity and violence. Basra was a city ravaged by looting and lawlessness, a city where women and girls were too frightened to go out alone for fear of rape, abduction and other violence.

Across Iraq, disorder, fear and insecurity prevailed. In most places, US and UK troops stood by as government buildings, offices, universities, schools, hospitals, museums, libraries and warehouses were ransacked and demolished. Countless documents vital to the future of Iraqis were burned or otherwise destroyed.

The Coalition Forces had removed the previous government's authority, but had demonstrably failed to provide the protection and assistance they were obliged to give the people whose land they were occupying. Under international humanitarian law, as occupying powers it was their duty to maintain and restore public order, and provide food, medical care and relief assistance. They failed in this duty, with the result that millions of Iraqis faced grave threats to their health and safety.

The problem of insecurity was heightened by the lack of appropriate policing and the wide availability of arms. An increase in serious abuses against women, including rape and murder, was reported, and scores of former Ba'ath Party and security force members were targeted in revenge attacks, particularly in the Shi'a dominated districts of Baghdad and in southern Iraq.

In July the CPA appointed a 25-member Iraqi Governing Council (IGC) from the various religious and ethnic groups. The Council had some executive powers, but Paul Bremer retained power to overrule or veto its decisions. In early September the IGC appointed an Iraqi interim government. The CPA and IGC agreed in November on a

power transfer to an interim Iraqi government on 30 June 2004 and on 8 March 2004 the IGC signed an interim Constitution.

In the meantime, new Iraqi human rights non-governmental organizations, including women's groups, had begun to emerge and started work on a wide range of human rights activities, including documenting past and recent violations. New political parties and media outlets also emerged, and people freely organized demonstrations for the first time in decades to express their grievances. Reforms to the law introduced by the new authorities removed the shadow of the death penalty and closed down courts that had been a mockery to justice.

However, the positive developments, along with almost everything else, were constantly threatened by the mounting insecurity. AI repeatedly called on the occupying forces, as a matter of urgency, to enforce law and order until Iraqi police forces could operate effectively, and expedite the creation of an Iraqi police force.

Some progress in this direction has been made since the early months of the occupation, particularly in the south of Iraq. Iraqis interviewed by AI delegates in February and March 2004 in Basra and Amara, the two governorates under the control of British troops, said the general situation had improved, although lack of security was still a major concern. Members of religious minorities, such as Sunni Muslims, Christians and Sabeen/Mandeans, felt they were being targeted for attacks and other abuses.

Elsewhere in Iraq, however, violence and insecurity continue to dominate daily life. Attacks on Iraqi police stations and Coalition Forces have steadily mounted. Most have taken place in central and northern Iraq, as well as in Baghdad, and have resulted in hundreds of deaths, mostly of Iraqis but also of US and other nationals.

As the first anniversary of the war approached, such attacks appeared to be intensifying. On 3 February US Brigadier General Mark Kimmitt said that there were an average of 23 engagements a day between US soldiers and "Iraqi insurgents", compared with 18 the week before.<sup>1</sup>

In response, Coalition Forces appear in many cases to be using the climate of violence to justify violating the very human rights standards they are supposed to be upholding. They have shot Iraqis dead during demonstrations. They have tortured and ill-treated prisoners and detainees. They have arrested people arbitrarily and held them indefinitely without charge and without access to a lawyer. They have demolished houses and other property in acts of revenge and collective punishment. And they are operating in a legal framework that offers no mechanism in Iraq for bringing members of the Coalition Forces to justice for such acts.

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<sup>1</sup> AP, 3 February 2004

## **Killings of civilians**

More than 10,000 Iraqi civilians are thought to have been killed since 20 March 2003 as a direct result of the military intervention in Iraq, either during the war or in violent incidents during the subsequent occupation. The number is an estimate – no one in authority in Iraq is willing or able to catalogue the killings. “We don’t have the capacity to track all civilian casualties”, admitted US Brigadier General Mark Kimmitt in February 2004.<sup>2</sup> A different attitude has been shown towards non-Iraqi civilians and soldiers who have been killed.

A year after the war began, Iraqi civilians are still being killed every day. The worst incidents receive some international coverage, but many killings simply go unreported. Often, the assailants are unknown. On 4 March 2004 an AFP journalist witnessed three Iraqi civilians being killed when a missile hit their car and exploded near a US military base in southwest Baghdad. Neither the journalist nor the Iraqi police could find out who fired the rocket, and the names of the victims were not published.<sup>3</sup>

### **Killings by Coalition Forces**

Scores of civilians have been killed apparently as a result of excessive use of force by US troops or have been shot dead in disputed circumstances.

For example, US soldiers have shot and killed scores of Iraqi demonstrators in several incidents, including seven in Mosul on 15 April 2003, at least 15 in Falluja on 29 April and at least two outside the Republican Palace in Baghdad on 18 June.

In November 2003 the US military said it had paid out US \$1.5 million to Iraqi civilians to settle claims by victims or relatives of victims for personal injury, death or damage to property. Some of the 10,402 claims reportedly filed concerned incidents in which US soldiers had shot dead or seriously wounded Iraqi civilians with no apparent cause.<sup>4</sup>

Beyond such payments, however, there has been little recourse for the families of the dead and injured. No US soldier has been prosecuted for illegally killing an Iraqi civilian. Iraqi courts, because of an order issued by the US-led authority in Baghdad in June, are forbidden from hearing cases against US soldiers or any other foreign troops or foreign officials in Iraq. In effect, US soldiers are operating with total impunity.

The following are just a few cases that have been monitored by AI.

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<sup>2</sup> Reuters 12 Feb 2004

<sup>3</sup> AFP 4 March 2004

<sup>4</sup> Guardian, 26 November 2003

- On 14 May, two US armed vehicles broke through the perimeter wall of the home of Sa'adi Suleiman Ibrahim al-'Ubaydi in Ramadi. Soldiers beat him with rifle butts and then shot him dead as he tried to flee.
- US forces shot 12-year-old Mohammad al-Kubaisi as they carried out search operations around his house in the Hay al-Jihad area in Baghdad on 26 June. He was carrying the family bedding to the roof of his house when he was shot. Neighbours tried to rush him by car to the nearby hospital, but US soldiers stopped them. By the time they got back home, Mohammad al-Kubaisi was dead. CPA officials told AI delegates in July that Mohammad al-Kubaisi was carrying a gun when he was killed.
- On 17 September a 14-year-old boy was killed and six people were injured when US troops opened fire at a wedding party in Fallujah. The soldiers reportedly believed they were under attack when shots were fired in the air in celebration.
- On 23 September, three farmers, 'Ali Khalaf, Sa'adi Faqri and Salem Khalil, were killed and three others injured when US troops opened a barrage of gunfire reportedly lasting for at least an hour in the village of al-Jisr near Fallujah. A US military official stated that the troops came under attack but this was vehemently denied by relatives of the dead. Later that day, US military officials reportedly went to the farmhouse, took photographs and apologized to the family.

AI has also documented numerous cases where British soldiers have resorted to lethal force and killed Iraqi civilians even though their lives and the lives of others did not appear to be in danger. In some of these cases, no investigation has been carried out. In others, the investigation appeared to be inadequate. Families of victims killed by the British Army are usually given no information or inadequate information about the mechanisms and procedures for investigations and compensation.

- Walid Fayay Mazban, a driver aged 42, was shot dead by British soldiers on 24 August at a junction near the Apache Military Camp in circumstances indicating that no lives were in danger. Soldiers had set up a temporary checkpoint at the junction, but street lights were not working so the whole area was dark. When Walid Fayay Mazban failed to stop at the checkpoint, he was shot several times in his back by a British soldier. Soldiers found nothing of suspicion in his car. In September the British Army paid around US\$1,500 to his family on humanitarian grounds. The Royal Military Police launched an investigation into the killing, but Walid Fayay Mazban's family have been provided with no information on the progress of the investigation.

AI has repeatedly called for all killings of civilians by Coalition Forces to be thoroughly, independently and impartially investigated and for perpetrators of unlawful killings to be brought to justice. To date, no independent investigations are known to have been held.

### **Killings by armed individuals**

On 2 March 2004, bombs exploded in a Shi'a mosque in the Kadhimiya neighbourhood of Baghdad and in the Shi'a holy city of Karbala within seconds of each other, killing around 170 civilians and injuring 500, almost all of them Shi'a Muslims. The attacks appeared to have been carefully planned: a combination of suicide bombs, planted explosives and possibly mortar fire.<sup>5</sup>

A month earlier, 101 people died as two suicide bomb attacks ripped apart the offices of Kurdish political parties in the northern city of Arbil.

These bombings were just two of the more recent attacks, apparently carried out by armed groups, that have been a growing feature of life in Iraq since the occupation began. The attacks have targeted the US military, Iraqi security personnel, Iraqi-controlled police stations, religious leaders and buildings, media workers, non-governmental organizations and UN agencies. They have resulted in the deaths of hundreds if not thousands of civilians.

Many other civilians have been killed by shooting – either targeted for assassination or shot dead by stray bullets. In Basra, for example, such victims have included former Ba'ath Party members and security or government officials, as well as people suspected of selling or drinking alcohol. Some of these killings appear to have been acts of revenge carried out by individuals. Many, however, appear to have been organized, reportedly by armed Islamist groups. The head of one police station in Basra openly endorsed revenge killings, telling an AI delegate that families of victims of past abuses “were in the right” for avenging the deaths of relatives by the previous government.

AI has called on armed groups to end the policy of attacking civilians and members of international humanitarian agencies. It has also called on those responsible for such crimes to be brought to justice and tried according to international human rights standards.

The following list highlights a few attacks. In not one of these cases have the perpetrators been brought to justice.

- On 7 August 2003, 17 people were killed when a truck exploded outside Jordanian embassy in Baghdad.

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<sup>5</sup> AFP and Reuters 4 March 2004



- On 19 August, 22 people were killed, including UN envoy Sergio Vieira de Mello, by truck bomb on the UN headquarters in Baghdad.
- On 29 August: 83 people were killed, including Shi'a leader Ayatollah Mohammad Baqer al-Hakim, by a car bomb at the Imam Ali mosque in Najaf.
- On 27 October, 35 people were killed in four bomb attacks in Baghdad targeting the Red Cross and police stations.
- On 18 January 2004, 25 people were killed, most of them Iraqi civilians, in a car bomb attack outside US headquarters in Baghdad.

## Administration of justice

On 12 December, 65-year-old Amal Salim Madi, whose three sons were arrested in October, joined a demonstration in Baghdad demanding rights for prisoners. She said, "The Americans said they were taking [my sons] off for an hour of questioning. We have not seen them since."<sup>6</sup>

Her sons are among the new generation of missing people in Iraq. They are not ending up in mass graves, as many did under the former Iraqi government, but they are lost to their families – held somewhere in the system of detention centres being run by the occupying forces in Iraq. Adil Allami, a lawyer with the Human Rights Organization of Iraq, said in October 2003: "Iraq has turned into one big Guantanamo", referring to the US military prison in Cuba where hundreds of individuals suspected of "terrorist" acts remain held without charge.<sup>7</sup>

Ever since the war began, AI has been receiving reports of Iraqis who have been taken into detention by Coalition Forces and whose rights have been violated. Many have been held without charge for weeks or months. Some have been tortured and ill-treated. Virtually none has had prompt access to a lawyer, their family or judicial review of their detention.

Such abuses in the administration of justice have been facilitated by the general breakdown in law and order, but also by inconsistent application of international standards by the occupying forces.

After taking power, the CPA reviewed the Iraqi Penal Code of 1969 and the Criminal Procedure Code of 1971 to evaluate their compatibility with international human rights standards. It also introduced legal amendments; these entered into force prior to their publication in Arabic in the *Official Gazette*, in contravention of Article 65 of the

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<sup>6</sup> AFP, 12 December 2003

<sup>7</sup> agency/date not clear

Fourth Geneva Convention. The amendments did, nevertheless, include some welcome reforms. Section 9 of CPA Memorandum No. 7 prohibited the use of torture and cruel, inhuman or degrading treatment or punishment. The Revolutionary, Special and National Security Courts, which had conducted grossly unfair trials, were abolished.

In June 2003, the CPA issued Order No.13, establishing the Central Criminal Court of Iraq. The court applies Iraqi law and has jurisdiction over crimes committed in Iraq since 19 March 2003, including crimes against the Coalition forces. In November 2003 the court sentenced the former governor of Najaf to 14 years' imprisonment for "illegal arrest, destruction of a government document and misuse of office." The court has also looked at at least two other cases involving smuggling. Amnesty International has not been able to attend trial proceedings of this court, but the organization remains concerned that Order No.13 imposed the sweeping condition that judges appointed to the court should not have been involved in Ba'ath Party activity. It is also concerned that those selected are appointed for a one-year term by the Administrator of the CPA. Such conditions appear to violate the principle of judicial independence.

Section 2(3) of CPA Memorandum No. 3 removed the jurisdiction of Iraqi courts over any Coalition personnel in both civil and criminal matters, resulting in a lack of accountability for such personnel. There are no proper mechanisms to ensure competent, impartial investigations into allegations of violations of international human rights and humanitarian law by the CPA or Coalition Forces.

### **Incommunicado and unlawful detention**

The massive Abu Ghraib prison on the southwest edge of Baghdad was the most feared detention centre under the former Iraqi government. Today the building officially goes by the name of Baghdad Correctional Facility, but little else has changed. Relatives of those held inside still wait outside for news of their loved ones, and lawyers are still turned away. One father was told to come back in four months when he tried to visit his son in November. "My son has already been in there for four months and he has been charged with nothing", he told a member of International Occupation Watch Center.<sup>8</sup>

The CPA published a list of 8,500 detainees on the Internet. Most are being held indefinitely and without charge as "suspected terrorists" or "security" detainees.<sup>9</sup> Families waiting outside Abu Ghraib prison say most of their relatives were picked up in indiscriminate raids.

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<sup>8</sup> Searching for Yunis – and how many others? International Occupation Watch Centre, David Enders, 28 November 2003.

<sup>9</sup> Searching for Yunis – and how many others? International Occupation Watch Centre, David Enders, 28 November 2003.

Many Iraqis do not know where their relatives are being held and the majority have no access to the Internet to seek information about them. Some of those arrested are taken to jails run by Iraqi police, others are taken to US-run centres – but often no one seems to have the relevant information. Those in Iraqi jails usually have access to lawyers and judges at some point. Many of those held in prisons and detention centres run by the Coalition Forces – such as Camp Cropper in Baghdad International Airport (which closed in October), Abu Ghraib Prison and the detention centres in Habbaniya Airport and Um Qasr – have invariably been denied access to family or lawyers and any form of judicial review of their detention. Some have been held for weeks or months; others are apparently being held beyond the prescribed 90 days for judicial review. AI has also investigated cases in which Coalition Forces have failed to implement promptly rulings by judges to release suspects.

In effect, there is a two-tier system whereby people detained by the Coalition Forces have fewer safeguards than those held by Iraqi officials. For example, those detained by Coalition Forces can be held for 90 days before being brought before a judge (according to CPA Memorandum No. 3), whereas those detained within the framework of the Iraqi Code of Criminal Procedure must have their case reviewed within 24 hours.

Conditions in many of the detention centres are harsh. There have been many unconfirmed reports of hunger strikes and revolts in prisons. The CPA acknowledged that three prisoners were killed and eight wounded during an uprising in Abu Ghraib prison on 24 November.

In Basra, scores of people remain held without charge or trial in the British-controlled al-Shu'aiba detention centre near al-Zubair. Some were held in Um Qasr before being transferred. Also in Basra, armed Islamist groups have been involved in the arrest, detention and torture of people whom they suspect of “immoral” activities such as selling alcohol, videos or CDs.

- Qays Mohammad Abd al-Karim al-Salman, a businessman with Danish citizenship, returned to Iraq 10 days before his arrest by the US army on 6 May. He alleged he was forced to lie down on the road, then taken to the Holding Centre at Baghdad Airport where he was held for 33 days on suspicion of murder before being released without charge. He was denied contact with the outside world and ill-treated.
- Zakariya Zakher Sa'ad, aged 55, an Egyptian nightwatchman for the Russian Consul in Baghdad, was arrested by US soldiers investigating an attempted theft at the Consulate. Neighbours tried to tell the soldiers that he was the guard, not the thief, but the soldiers would not listen. The soldiers threw Zakariya Zakher Sa'ad to the ground, tied him and took him away. Until July

2003 he had been held at Camp Cropper, although his family had not been able to see him to confirm his whereabouts. Amnesty International does not have any information as to whether his still detained or not.

- Humam ‘Abd al-Khaleq ‘Abd al-Ghaffur, a nuclear physicist, was arrested in his home in Baghdad on 20 April 2003. His whereabouts remain unknown.
- Hussain al-Haery, a professor at Baghdad University, was arrested at his house in early July 2003. He is currently held in Abu Ghraib.
- Sa’doun Hamadi, the former parliament speaker, was arrested on 29 May 2003 and detained without charge or trial for nearly nine months before his release on 14 February. He was held in three different places, Camp Cropper at Baghdad International Airport, Um Qasr and then Abu Ghraib Prison. On his release US authorities stated that there was no security justification for his detention.

AI has written to the CPA asking for clarification on the reasons for the continued detention and legal status of a number of people, including scientists, former diplomats and civil servants. It has yet to receive a response.

### **Torture and ill-treatment**

Abdallah Khudhran al-Shamran, a Saudi Arabian national, was arrested in al-Rutba in early April 2003 by US and allied Iraqi forces while travelling from Syria to Baghdad. On reaching an unknown site, he said he was beaten, given electric shocks, suspended by his legs, had his penis tied and was subjected to sleep deprivation. He was held there for four days before being transferred to a camp hospital in Um Qasr. He was then interrogated and released without money or passport. He approached a British soldier, whereupon he was taken to another place of detention, then transferred to a military field hospital and again interrogated and tortured. This time torture methods reportedly included prolonged exposure in the sun, being locked in a container, and being threatened with execution.

Such reports of torture or other ill-treatment by Coalition Forces have been frequent in the past year. In the first weeks of the war and occupation, detainees suffered extreme heat while housed in tents and were supplied with insufficient water, inadequate washing facilities, open trenches for toilets, no change of clothes, and no books, newspapers, radios or writing materials. Since then, detainees have reported being routinely subjected to cruel, inhuman or degrading treatment during arrest and the first 24 hours of detention. Plastic handcuffs used by US troops have caused detainees unnecessary pain. Former detainees have said they were forced to lie face down on the ground, were held handcuffed, hooded or blindfolded, and were not given water or food or allowed to go to the toilet.

Many detainees have alleged they were tortured and ill-treated by US and UK troops during interrogation. Methods often reported include prolonged sleep deprivation; beatings; prolonged restraint in painful positions, sometimes combined with exposure to loud music; prolonged hooding; and exposure to bright lights. Virtually none of the allegations of torture or ill-treatment has been adequately investigated.

In Basra, at least four people have died in British custody. In one case, the cause of death was torture. Several people interviewed by AI described being tortured by British soldiers during interrogation.

- Eight Iraqis arrested on 14 September by British soldiers from the British military base Camp Steven in Basra were reportedly tortured. The men all worked for a hotel in Basra where weapons were reported to have been found. Baha' al-Maliki, the hotel's receptionist, died in custody three days later; his body was reportedly severely bruised and covered in blood. Kefah Taha was admitted to hospital in critical condition, suffering renal failure and severe bruising.
- In February 2004, during a hearing into the death in June 2003 of Najem Sa'doun Hattab at Camp Whitehorse detention centre near Nassiriya, a former US marine testified that it was common practice to kick and punch prisoners who did not cooperate – and even some who did. The marine had been granted immunity from prosecution for his testimony. Najem Sa'doun Hattab, a former Ba'ath Party official, died after he was beaten and choked by a US marine reservist.<sup>10</sup>

### **House demolitions and searches**

On 10 November 2003, US soldiers arrived at the farmhouse of the Najim family near the town of al-Mahmudiya, south of Baghdad. They ordered everyone who lived there to leave within 30 minutes. Soon afterwards, two F-16 warplanes bombed and destroyed the farmhouse.

The demolition was apparently in retaliation for an attack on a US convoy a few days earlier. Soon after the attack, US soldiers had arrested six men outside the Najim house reportedly after weapons were found there. The destruction of the Najim home was just one of several similar retaliatory house demolitions that have been reported. Such acts – reprisals against people or their property, and collective punishments -- are clearly prohibited by the Fourth Geneva Convention.

AI has learned of at least 15 other houses that have been destroyed by US forces since November during military operations in Tikrit. In one case, a family in al-Haweda

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<sup>10</sup> Union-Tribune, 3 February 2004, by Rick Rogers

village was given just five minutes to leave their house before it was razed to the ground by US tanks and helicopter fire.

Major Lou Zeisman, a US military official from the 82<sup>nd</sup> Airborne Division, reportedly said: “If you shoot at an American or Coalition force member, you are going to be killed or you are going to be captured, and if we trace somebody back to a specific safe house, we are going to destroy that facility...”<sup>11</sup>

AI also continues to receive many reports of members of the Coalition Forces damaging and destroying property without justification during house searches. Soldiers have smashed their way into cars, houses and cupboards after the owners have offered keys and begged that they be used. In numerous cases, property and large sums of money have been “confiscated” during an arrest and not returned when the person is released.

In one case, US officers accepted that there was evidence that a crime had been committed by officers who took more than three million dinars (US\$2,000) from a family’s home. They added, however, that redress would be long and difficult as they lacked the means to investigate.

## **Victims of lawlessness**

A sudden barrage of shooting rang out in the bustling Old Basra Street on 15 February 2004. When it finished, at least nine people were dead – the latest victims of attacks on suspected alcohol vendors in Basra. The attackers were unknown, but widely suspected to be members of Shi’a armed political groups which have appeared after the war. A frightened salesman, Tarik Mahmoud, said: “There are no laws to protect me, and even if a law existed, I would still be afraid because people are used to killing each other.”<sup>12</sup>

The lack of law and order continues to be a major concern in many areas of Iraq. AI delegates witnessed firsthand the devastating impact the lawlessness is having on the lives of ordinary Iraqis, whether it be looting, revenge killings, kidnappings or violent sexual crimes.

### **Violence against women**

In the aftermath of war, women and girls have increasingly faced violent attacks, including abduction, rape and murder, as a result of the breakdown of law and order. Many women were too afraid to leave their homes, and girls were being kept away

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<sup>11</sup> LA Times, 12 November 2003

<sup>12</sup> International Press, Edward Wong, 19 February 2004

from school. Women who have been victims of violence in the street or home have virtually no hope of obtaining justice.

In May 2003, for example, Asma, a young engineer, was abducted in Baghdad. She was shopping with her mother, sister and a male relative when six armed men started shooting around them. Asma was forced into a car and driven to a farmhouse outside Baghdad, where she was said to have been repeatedly raped. A day later she was driven back to her parents' neighbourhood and pushed out of the car.

In Basra, women and girls not wearing the *hijab* have been threatened by Islamist groups and now almost all cover themselves.

Samira Abd al-Munim, who works in Basra's teaching hospital, told AI delegates in May: "Because of the insecurity, my life is extremely limited. I cannot visit my family or go to the market without the company of my husband... I don't dare walk on my own as I used to... My children are almost imprisoned in the house for their safety."

In some cases women who have been campaigning to protect women's rights have been threatened. Yanar Mohammed, a member of the Organization of Women's Freedom in Iraq, has reportedly received several death threats, including one by email from an Islamist group known as the Army of Sahaba. When she asked CPA officials for protection, she was allegedly told there were more urgent matters to attend to. A number of women working for the CPA have been killed. AI is not aware of any steps that have been taken by the CPA or IGC to ensure adequate protection of women's human rights and women activists.

## **Accountability for past violations**

Ensuring justice is fundamental for the countless victims of human rights violations in Iraq. They have suffered decades of grave violations by Iraqi government agents as well as abuses committed during the course of several conflicts, including the recent war and its aftermath.

To date, little action has been taken to address past human rights violations, including mass "disappearances", or to investigate and bring to justice those found responsible for committing crimes against humanity, genocide and war crimes, or to provide compensation and restitution to victims. In December the Iraqi Governing Council established the statute of the Iraqi Special Tribunal in order to try Saddam Hussain and other former Iraqi officials, as well as a Committee on Truth and Reconciliation. However, it remains to be seen whether these will be effective and will help to gain justice for victims in accordance with international standards.

In order to be fair and effective, all measures aimed at obtaining justice must conform to international human rights and standards. Neither victims nor suspected perpetrators of abuses should receive second class justice.

In relation to former Iraqi government officials, AI has continued to stress the need for ensuring fairness. Any tribunal must be competent, impartial and independent, and suspects must be pursued solely on the basis of the evidence against them and through a fair process. There should be no statute of limitations and no amnesties, pardons or similar measures for crimes under international law if such measures would prevent a conclusive verdict and full reparations for victims. There should be the right to appeal and no recourse to the death penalty or other forms of cruel, inhuman or degrading punishment. Victims and their families must have effective means to obtain full reparation for the violations they have suffered.

AI has recommended that Iraqi judicial experts work with international experts to assess the Iraqi judicial system, including its capacity to ensure fair trials, and explore options for bring perpetrators of abuse to justice.

## **Conclusion and recommendations**

After a year of war, lawlessness, spiralling violence and economic hardship, Iraqis face an uncertain future. For the next year to be better than the last, the occupying forces, the Iraqi Governing Council, the next Iraqi interim administration and the international community must make a real commitment to protecting and promoting the full range of human rights.

Fundamental changes to Iraq's legal, judicial and penal systems are needed. Human rights must be at the centre of all efforts to rebuild and reconstruct Iraq. A failure to fully protect human rights in the process of change would be a betrayal of the Iraqi people, who have suffered so much in the past.

AI calls on the Coalition Provisional Authority, the Coalition Forces and the Iraqi Governing Council to:

- Ensure that soldiers fully abide by law enforcement standards and use force in line with the principles of necessity and proportionality. In particular, they should use firearms only if lives are in danger and there is no other means to respond to that danger.
- Ensure that Iraqi police replace soldiers for law enforcement duties as soon as possible provided they are given appropriate equipment and training, including on international standards for law enforcement.



- Provide a unified legal system whereby all criminal suspects are treated in the same way and afforded all safeguards provided for in international law. The rights of all suspects must be fully respected regardless of which authority is responsible for holding them.
- Clarify without delay the fate and whereabouts of everyone held in custody.
- Amend CPA Memorandum No. 3 to ensure that all criminal suspects can be brought before a judicial authority promptly after arrest and have the lawfulness and necessity of their detention reviewed. The Memorandum should also be amended to ensure detainees have a right to prompt access to a lawyer and that their families are promptly notified of the detention.
- Clarify and make public the disciplinary and criminal mechanisms of accountability for the CPA and Coalition Forces.
- Ensure that the prohibition of torture and any other form of ill-treatment is absolutely respected by Coalition Forces, Iraqi police and any other forces involved in detaining suspects.
- Ensure that all investigations into alleged abuses by Coalition Forces are conducted by a body that is competent, impartial and independent, and seen to be so, and that any findings of such investigations are made public.
- Provide reparations, including compensation to the victims or to their families.
- Improve conditions of detention so that they comply fully with the Standard Minimum Rules for the Treatment of Prisoners.
- Immediately stop any policy of unlawful destruction of property and collective punishment, and make clear to all US forces that such actions are prohibited. All families whose houses or other property have been destroyed in such actions should be fully compensated.