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ASSISTANCE MISSION FOR IRAQ

بعثة الأمم المتحدة لمساعدة العراق

## HUMAN RIGHTS REPORT

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## ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ICCPR	International Covenant on Civil and Political Rights
ICMP	International Commission on Missing Persons
IED	Improvised Explosive Device
IRFFI	International Reconstruction Fund Facility for Iraq
IHCHR	Independent High Commission for Human Rights of Iraq
KRG	Kurdistan Regional Government
MNF-I	Multi-National Force in Iraq
MoLSA	Ministry of Labour and Social Affairs of Iraq
OHCHR	UN Office of the High Commissioner for Human Rights
SRSG	Special Representative of the Secretary-General of the United Nations
SSI	Security Section in Iraq (UNAMI)
UNAMI	United Nations Assistance Mission for Iraq
UNDP	United Nations Development Programme
UNOPS	United Nations Office for Project Services
UNCT	United Nations Country Team

## I. EXECUTIVE SUMMARY

1. UNAMI engages in the promotion and protection of human rights and the rule of law in close collaboration with the Government of Iraq and non-governmental sectors, in accordance with its mandate under UN Security Council resolution 1830 (2008)<sup>1</sup> to “promote the protection of human rights and judicial and legal reform in order to strengthen the rule of law in Iraq.”<sup>2</sup> To that end, UNAMI monitors the human rights situation in Iraq and assists, especially through its capacity-building activities, in the rehabilitation and reconstruction of state and civil society institutions. It collaborates closely with local human rights groups and seeks to maintain direct contact with victims and witnesses of human rights violations.

2. The human rights reports published by UNAMI and OHCHR are intended to assist the Government of Iraq and the Kurdistan Regional Government (KRG) in ensuring the protection of basic human rights and respect for the rule of law. Iraq remains bound by both its international treaty obligations and its domestic legislation in taking measures to curb violence and promote and protect human rights. *The International Covenant on Civil and Political Rights* (ICCPR) is clear on the basic rights to be protected at all times, including in time of war and civil disturbances.<sup>3</sup> UNAMI remains committed to assisting the Iraqi authorities in order to achieve these objectives, and to providing capacity building and training programmes for the governmental and non-governmental sectors.

3. The first half of 2009 was characterized by further improvements in the security situation with fewer high-visibility mass-casualty attacks by militias, insurgents and criminal groups than recorded in 2008. However, notwithstanding the reduction in the number of attacks, indiscriminate attacks as well as targeted killings of security forces, high ranking officials and civil servants, religious and political leaders, members of professional groups such as journalists, educators, medical doctors, judges and lawyers continued to claim lives throughout the reporting period. Numerous reports indicated an increased number of attacks directed at persons based on their perceived sexual orientation. Violence against women and “honour”-related homicides also remained to be of serious concern, as particularly reported in the KRG where, despite the efforts by legislators, many crimes went unpunished

4. UNAMI and OHCHR expressed, both publicly and in direct communication with relevant Iraqi authorities, concern regarding the decision by the Government of Iraq to resume the implementation of the death penalty. UNAMI received reports that 31 death row inmates were executed during the reporting period, including one woman. OHCHR and UNAMI are concerned that the Iraqi criminal justice system does not provide sufficient fair trial guarantees and calls upon the Government of Iraq to immediately take necessary measures to ensure its compliance with the relevant articles of the ICCPR as well as UN General Assembly resolution 62/149 requesting states that have not abolished the death penalty to establish a moratorium on executions.

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<sup>1</sup> Security Council resolution 1830 was passed on 7 August 2008, deciding that the Special Representative of the Secretary-General and UNAMI “shall continue to pursue their expanded mandate as stipulated in Resolution 1770 (2007).”

<sup>2</sup> Security Council resolution 1770, para 2(c).

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

5. Significant progress remains to be achieved to fully restore the rule of law and to systematically address the issue of impunity. UNAMI has continuously stated that security in Iraq may not be sustainable unless significant steps are taken to uphold the rule of law and human rights and has continued to offer assistance to this end.

6. The situation in prisons and detention centres remains a major concern to UNAMI. At the end of the reporting period, the Ministry of Human Rights reported that 40,737 individuals remained in detention under the custody of the Ministry of Interior, Ministry of Justice, Ministry of Defense, Ministry of Labor and Social Affairs (MoLSA) and the Multi-National Force in Iraq (MNF-I). Additionally, 2,863 individuals were detained in the KRG bringing the number of detainees to 43, 600. UNAMI continued to raise concerns about the conditions of detainees, many of whom have been deprived of their liberty for months or even years without charges or trials, as well as overcrowding in detention centres run by the Government of Iraq and the KRG. UNAMI also remains concerned about violations of the minimum standards of due process, as many have not had access to judicial review of pre-trial detention, defense counsel, or formally charged with a crime.

7. UNAMI continued to receive credible reports of allegations of torture and ill-treatment occurring during pre-trial detention in Iraqi detention facilities. UNAMI also received reports of ill-treatment in detention facilities in the KRG and has requested all relevant authorities to urgently investigate all such cases. The Iraq-United States Bilateral Security Agreement<sup>4</sup> came into effect on 1 January 2009. The agreement provides for the release or transfer of MNF-I-held detainees to Iraqi custody. UNAMI called upon both parties to implement the agreement in strict compliance with human rights norms and standards.

8. As MNF-I transferred the security responsibility for Camp Ashraf to the Government of Iraq, UNAMI reminded all parties about their obligations towards its residents, including to respect and ensure the full range of human rights (including guarantees of due process for those accused of committing crimes), and to refrain from forcible expulsion or repatriation of the residents in accordance with the principle of *non-refoulement*.

9. UNAMI continued its efforts in supporting the Government of Iraq and non-governmental organizations through its capacity-building activities. These activities aim at helping the development of an Iraqi owned and led human rights protection system. UNAMI held workshops on how to mainstream human rights into the work of the Ministries of Interior and Defense. With its partners in the UNCT, UNAMI designed and implemented a number of projects, including providing technical assistance for the review of the Government of Iraq before the Human Rights Council as part of the Universal Periodic Review that will take place in February 2010, the establishment of an Independent High Commission for Human Rights (IHCHR), the establishment of protection frameworks for children, journalists and human rights defenders, and providing training and equipment for experts at the Ministry of Human Rights for the exhumation of mass graves.

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<sup>4</sup> The full title is *The Agreement between the United States of America and Iraq on the withdrawal of United States Forces from Iraq and the organization of their activities during their temporary presence in Iraq*.

10. UNAMI deployed human rights officers to field offices to strengthen its capacity to monitor and promote human rights throughout Iraq. In addition to its presence in Erbil, during the month of May UNAMI deployed human rights staff to Basra, Mosul and Kirkuk.

## II. RECOMMENDATIONS

11. Based on its continuous monitoring and assessment of the human rights situation in Iraq, UNAMI reiterates its call on all parties concerned to implement the following recommendations:

### **Recommendations to the Government of Iraq**

- a) Review Prison Administration Law No. 66 (1936) and its amendments and bring all detention facilities and prisons under the authority of the Ministry of Justice.
- b) Review the Law on Criminal Proceedings and the rules of evidence with a view of correcting the practice of reliance on confessions in judicial proceedings, including confessions obtained under duress and torture, and ensuring that the right of detainees not to incriminate themselves is respected.
- c) Finalize the process of accession to the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* by depositing the instrument of accession with the UN Secretary-General.
- d) Consider inviting the UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to Iraq to examine the human rights situation in detention centres and prisons in order to recommend the necessary reforms.
- e) Increase efforts to alleviate overcrowding in prisons and detention facilities and improve sanitation and hygiene conditions; in particular, institute urgent measures to examine conditions at all detention facilities in respect of transmittable diseases, mental health of detainees and lack of adequate rehabilitation programmes.
- f) Give consideration to the creation of a high-level committee to establish appropriate child protection policies in line with the recommendations of the Special Representative of the Secretary-General on Children and Armed Conflicts, and review the Juvenile Code Law No. 76 (1983), to ensure conformity with international standards.
- g) Establish a moratorium on the death penalty pending a thorough review of the Penal Code and the Law on Criminal Proceedings in accordance with UN General Assembly resolutions 62/149 (2007) and 63/168 (2008).
- h) Investigate incidents involving gender-based violence, in particular the so-called “honour crimes” perpetrated against women, and take measures to ensure that persons found responsible for committing these crimes are held accountable and brought to justice.
- (i) Consider reviewing the Penal Code and the laws on criminal proceedings to ensure conformity with international standards and abolish the provisions permitting the application of mitigating circumstances for “honour crimes”.
- j) Consider the adoption of legislation banning female genital mutilation as an act of violence against women inflicting physical, mental and sexual harm and suffering.

- k) Consider the ratification of the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*.<sup>5</sup>
- l) Ensure that the law establishing the Independent High Commission for Human Rights (IHCHR) is expeditiously implemented and that the IHCHR be provided with adequate resources to operate independently in accordance with article 102 of the Iraqi Constitution and the Paris Principles.
- m) Sustain efforts and adopt effective measures to support vulnerable communities, including religious and ethnic minorities, and allocate additional resources to meet the needs of the large numbers of displaced persons; adopt measures to ensure that other vulnerable groups, including foreign nationals or stateless persons, receive required protection from the State; and continue to reaffirm and honour the commitment to the principle of *non-refoulement*.
- n) Ensure that Iraqi security forces observe the UN Code of Conduct for Law Enforcement Officials, and respect human rights when engaged in security operations and that the Iraqi Army complies, when engaged in military operations, with Iraq's obligations under international humanitarian law and international human rights law.

### **Recommendations to the Kurdistan Regional Government**

- a) Review Prison Administration Law No. 66 (1936) and its amendments and bring all detention facilities and prisons under the authority of the Ministry of Justice.
- b) Review the current practice of administrative detention and grant detainees the right to challenge the lawfulness of their detention; ensure prompt and regular access to defense counsel and relatives, and adopt measures to guarantee prompt and regular access to justice.
- c) Ensure that juvenile detainees are held at appropriate and separate locations equipped with rehabilitation facilities and vocational training programmes.
- d) Sustain efforts and adopt effective measures to support vulnerable communities, including religious and ethnic minorities, and allocate additional resources to meet the needs of the large numbers of displaced persons; and adopt measures to ensure that other vulnerable groups, including third country nationals and stateless persons, receive protection from the regional authorities.
- e) Ensure that incidents involving violence against women, under whatever circumstances, are promptly and thoroughly investigated and their perpetrators brought to justice; ensure that the punishment of perpetrators and compensation of victims are proportionate to the gravity of the crime.
- f) Consider the adoption of legislation banning female genital mutilation as an act of violence against women inflicting physical, mental and sexual harm and suffering.
- g) Ensure that the Journalism Law No. 35 (208) adopted by the Parliament of Kurdistan is effectively implemented and disseminated among the judiciary and law enforcement agencies.

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<sup>5</sup> The Optional Protocol to CEDAW entered into force on 22 December 2000. By ratifying the Optional Protocol, a State recognizes the competence of the Committee on the Elimination of Discrimination against Women to receive and consider complaints from individuals or groups.

- h) Establish a moratorium on the death penalty pending a thorough review of the Penal Code and the Law on Criminal Proceedings in accordance with UN General Assembly resolutions 62/149 (2007) and 63/168 (2008).

### **Recommendations to the Multi-National Force - Iraq (MNF-I)**

- a) Continue the policy of investigating all allegations of unlawful killings by MNF-I military personnel and take appropriate action against those found to have used excessive or indiscriminate force, or to have acted unlawfully. The investigations into such incidents and their findings should be made public.
- b) Continue to refrain from transferring detainees that are likely to be sentenced to death or prisoners that have been sentenced to death to the Iraqi authorities pending a thorough legal and judicial review of their cases.
- c) Continue to hold U.S. Government contractors and contractor personnel accountable for criminal acts in coordination with the Government of Iraq, and continue to ensure that offences committed in Iraq up to 31 December 2008 by all categories of U.S. Government contractors and contractors' employees are subject to prosecution.
- d) Ensure respect of international humanitarian law and international human rights law when engaged in military operations, in particular the obligation to respect the requirement for the protection of civilians and the obligation to distinguish between civilian objects, on the one hand, and military objectives on the other, and observe the ICCPR provisions related to the administration of justice and due process of law in respect to its handling of detainees.

## **III. PROTECTION OF HUMAN RIGHTS**

### **Indiscriminate killings of civilians**

12. The number of civilian casualties reportedly decreased during the first five months of 2009, and in May the death toll reportedly dropped to the lowest level since 2003. However, the number of civilian casualties in June increased to double the previous month. The UN reiterates that deliberate attacks against civilians are tantamount to crimes against humanity and violate the laws and customs applicable in armed conflict. Their perpetrators should be brought to justice.

13. According to a national NGO dedicated to compiling statistics on violations of constitutional rights and freedoms,<sup>6</sup> 1,841 civilians were killed and 4,797 injured from January to June of 2009. In comparison, the Ministry of Health reported that in 2008 in total 6,787 persons were killed and 20,178 injured. Significant incidents causing civilian casualties occurred in Baghdad, Kirkuk, and the governorates of Ninewa and Diyala.

14. Civilians thus continued to bear the brunt of violence as a result of indiscriminate shelling and shooting, random bomb and suicide attacks inside busy markets and residential areas. The locations targeted by suicide bombers ranged from crowded restaurants to police checkpoints and places of worship, clearly indicating

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<sup>6</sup> The "Monitor of Constitutional Freedoms and Bill of Rights" is an Iraqi NGO compiling statistics of the violations against constitutional rights and freedom of Iraqi citizens. See <http://iraqimrfc.org/newprint.php>.

the intention to systematically and indiscriminately target large numbers of the civilian population. Two heinous crimes took place in April; in Baghdad two suicide bombers struck almost simultaneously near the al-Kadhmiyah shrines and in Ba'quba in the governorate of Diyala a suicide bomber detonated himself near a restaurant, killing 53 Iranian pilgrims and 2 Iraqis, including 16 women and one child. On 20 June, the deadliest attack in Iraq in over a year took place when a suicide truck bomber detonated explosives close to the al-Rasoul mosque in Taza, a Shi'a Turkmen town 20 km south of Kirkuk. The attack claimed the lives of 85 people and wounded 170 while destroying 95 homes and further damaging another 100. Registration of those left homeless as a consequence of this attack is ongoing but it is believed that some 600 people may have been affected by this incident.

### **Targeted attacks or killings**

15. During the reporting period, armed groups continued to commit atrocities against civilians. With regard to the motivations behind these attacks, it is often difficult to draw a line between ideologically-driven insurgent operations and criminal acts committed by organized gangs, as there is frequently overlap between the two.

16. During the provincial council elections held at the end of January, armed groups targeted political candidates in Babil, Diyala, Ninewa and Baghdad governorates. Haitham al-Husain, a candidate running for the State of Law List, one of the branches of a political group headed by Prime Minister Nouri al-Maliki, was killed on 16 January in Babil by gunmen. A female candidate, Maiyadah al-Baiti, running for the Islamic Party was killed in Baghdad on 28 January. Two days before the elections, four candidates from Mosul, Baghdad and Diyala were killed by gunmen. Three of the victims belonged to the Current Reform Party, a political party headed by former Prime Minister Ibrahim al-Jaferi in Diyala, Accordance Front and the National Unity List in Mosul respectively.

17. The trend of targeting Iraqi police and army personnel by armed groups increased during the reporting period, particularly in Baghdad. According to UNAMI's Security Section in Iraq (SSI), which liaises with Iraqi security forces, the estimated number of police and soldiers killed increased from 502 during the last reporting period to 535 at the end of June. Additionally, the senior leadership continued to be targeted by roadside bombs, car bombs and drive-by shootings in Baghdad. On 6 April, Brigadier General Ahmed Kathume Breesem was killed by gunmen as he was driving with his family. On the same day, Brigadier General Saadoun, deputy director of the Internal Security Court, survived an assassination attempt by car bomb that killed two and wounded four. Brigadier General Abdul Hussein Muhsin al-Kadhimi from the Traffic Department was killed in a drive-by shooting incident on 11 May.

18. The Awakening Councils or Sahwa militias, formed in 2006 by the MNF-I to reportedly combat al-Qaeda in the Anbar, Salah-ad-Din, Diyala and Baghdad governorates also continued to be targeted, if at a less frequency than in 2008. Attacks did, however, increase against heads of Councils as opposed to against checkpoints. The heads of the Awakening Councils in Uqla, Dawoodi, Taji, and Ba'quba in Diyala were either killed or injured.



19. Religious and tribal leaders, judges and lawyers, government officials, civil servants, governors and members of the Council of Representatives continued to be targeted during the reporting period. On 3 January, Mohieddin Rasoul, a member of the Kurdistan Communist Party was killed in his house in northern Kirkuk. On 5 January, also in northern Kirkuk, gunmen killed Subhi Hassan, a leading figure of the Patriotic Union of Kurdistan (PUK). On 11 January, in Ninewa governorate, Faris al-Sinjari, a leading member of al-Hadbaa National List was wounded in a blast from an IED planted in his vehicle. The Minister of Higher Education and Scientific Research escaped an attack targeting his convoy on 20 January in Baghdad. On 3 March, Worya Fattah Khalil Agha Kakaie, a prominent Kurdish tribal leader and an assistant director of a local government department was shot dead by gunmen in front of his house in southern Kirkuk. On 4 March, gunmen killed a lawyer, Faysal Jassem Faysal, near his house in Kirkuk. On 13 April, Thaer al-Dabouni, the mayor of al-Qadissiyah al-Thaniyah neighborhood in eastern Mosul was killed. On 31 May, Alaa Abdul Wahab al-Jabbori, a sports journalist working for al-Baghdadiyah TV was killed in a magnetic IED attack. Public officials were also reported to be victims of abduction. Judge Hatem Faiyadh of the Kirkuk Court House was abducted on 22 April near his house by gunmen. His whereabouts remain unknown.

20. Dr. Harith al-Ubaidi, head of the Accordance Front in the Iraqi Council of Representatives and deputy chairman of the Council's Human Rights Committee was assassinated on 12 June in al-Shawaf mosque in Baghdad. A subsequent shootout between the gunman and security officers resulted in the death of five people including a 15 year-old who had allegedly shot Dr. al-Ubaidi. An investigation into the assassination was ordered but to date no conclusions have been made public. Dr al-Ubaidi was committed to defend the rights of detainees in Iraq. He opposed the ongoing use of the death penalty and called for the retrial of death penalty cases according to international standards of due process and fair trial. In a speech before the Council on 11 June 2009, he denounced ill treatment and torture in prisons and called upon the ministries concerned to improve the human rights situation in prisons and detentions centres. He warned that if the situation did not improve he would request that the ministers in charge of departments running detention centres to be called before the Council for questioning.

### **Extrajudicial killings and unidentified bodies**

21. During the reporting period, unidentified bodies continued to be found in different parts of Iraq. According to estimates provided by SSI, the total number of unidentified bodies found in the first half of 2009 was 210, compared to the previous reporting period when 434 unidentified bodies were found. On 5 May, the body of a 35-year-old man showing signs of torture was found near al-Jamasa village in front of the Technological Institute in Kirkuk. On 11 May, the body of a five-year-old child, abducted ten days earlier in eastern al-Shekhan, was discovered in Mosul. On 31 May, the body of a woman was found near Omar Mandan village in Shawan district, north of Kirkuk. On 3 June, the Director of Talafar police in Mosul reported that the body of a young girl bearing signs of stab wounds was found in Owaynat village, in northwest Mosul. The exact motivations behind these killings remain unknown.

## **Mass graves**

22. A number of mass graves were discovered across the country during the reporting period. On 12 May, the Ministry of Human Rights discovered a mass grave containing the bodies of 100 persons believed to be Kurds, including women and children in traditional Kurdish dresses, in al-Nah al-Taleth region in eastern Diwaniyah.<sup>7</sup> On 15 May, the Ministry of Human Rights in Najaf unearthed a mass grave in al-Qadisiyah south of Najaf. It is estimated that it may contain the remains of three thousand Kurdish victims believed to have been killed during the al-Anfal campaign between 1987-1988.<sup>8</sup> Officials at the Ministry of Human Rights said that a new mass grave was found in Basra on 10 June with the remains of 500 victims. Experts at the Ministry took DNA samples from all the remains to be archived for future identification. According to the Ministry, a further 70 mass graves have been discovered across the Tameem governorate. The discovery of three mass graves in Karbala containing the remains of persons believed to be Kuwaiti prisoners of war from the First Gulf War was announced at the end of June and work is underway at a fourth suspected site. The Ministry indicated that there may be around 270 unopened known mass grave sites in Iraq.

23. To assist the Ministry of Human Rights to increase its technical ability to exhume mass graves and ensure that forensic evidence is preserved for identification, UNAMI jointly with UNOPS and the International Committee of Missing Persons (ICMP) implemented a project of training experts within the Ministry of Human Rights on exhumation practices and provide them with equipment.

## **Civilian casualties involving private security companies**

24. During the reporting period, no reports of killings or injuries of civilians by employees of private security companies came to the attention of UNAMI. This is the first reporting period since 2007 during which no incidents have been reported. UNAMI suspects this to be a result of the change in legal status of private security companies as of 1 January 2009, as well as the increased regulation and scrutiny of the activities of private security companies by the Government of Iraq. Additionally, since January 2009, certain types of contractors have been made subject to Iraqi jurisdiction for criminal acts.

25. In January 2009, a judge in the United States postponed until 1 February 2010 the trial of five Blackwater employees charged with the killing of 14 civilians in Baghdad on 16 September 2007.<sup>9</sup> The judge cited the need for further investigation, including visiting the scene of the crime. In early April, the US State Department announced that private security company Triple Canopy would henceforth protect US diplomats in Iraq after the State Department's decision not to renew its contract with Blackwater (which has since changed its name to Xe). Blackwater's departure has been a demand of the Government of Iraq since the incident. It has also refused to issue a new operating license to the firm in January.

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<sup>7</sup> Reported by Aswat al-Iraq.

<sup>8</sup> Reported by al-Hurra TV station, Sharq al-Awsat newspaper and al-Sharqia TV station.

<sup>9</sup> The US Department of Justice indictment refers to only 14 confirmed deaths, while media reports stated there were 17.

## **Civilian deaths in the context of MNF-I and Iraqi military operations**

26. A relative improvement in the security situation in many areas of Iraq over the past 18 months and the legal framework provided by the Iraq-United States Bilateral Security Agreement resulted in a lighter footprint of MNF-I military operations. UNAMI is not aware of any incidents in which MNF-I air strikes injured or killed civilians during this reporting period.

27. However, as with previous reports, UNAMI notes with concern that the issue of civilian deaths and injuries as a result of military ground operations or checkpoint confrontations continued during the reporting period. Reports received by UNAMI indicate that several people were killed for failing to stop at a joint Iraqi-MNF-I checkpoint in a shooting aimed at suspected armed targets, or as a result of failing to keep distance from a military convoy. On 22 January, three brothers were killed when MNF-I troops raided their house in southern Mosul. In Diwaniyah in the Qadissiyah governorate, on 5 and 7 February, MNF-I killed two civilians of whom an eight-year-old girl apparently died from an accidental discharge. MNF-I-led raids and ground operations reportedly led to the killing of several civilians, such as the allegedly accidental killing of a woman during a raid on her house in western Ninewa on 15 March, or the incident reported to have taken place on 26 April in which a woman was allegedly accidentally killed during the raid in Wassit in Kut governorate. In a rare case of MNF-I operations in the KRG, a man named Jaleel Ismail was reportedly killed on the road between Sulaymaniyah and Tasluja on 13 April. Children were also reported to be victims of MNF-I operations. For instance, a 12-year-old girl died on 16 March after being struck by a warning shot fired by MNF-I troops to stop a car accelerating towards a police station in Hurriya in Ninewa governorate. On 9 May, MNF-I forces shot and killed a 12-year-old boy suspected of having been paid by insurgents to throw a hand grenade at the soldiers, a charge denied by the Iraqi police.

28. Military and police activities of Iraqi forces were also reported to have led to civilian deaths and injuries during the reporting period. On 31 January, an Iraqi soldier was reported to have accidentally fired his weapon during a scuffle with a journalist at a polling station in Baghdad's Sadr City, killing a bystander. On the same day, also in Sadr City, a vehicle driven by an Iraqi soldier reportedly caused a traffic accident in which a child was killed. When the child's family reacted in protest, Iraqi soldiers allegedly shot and killed two members of the family. Journalist Salam al-Dasoki was killed by his neighbor Mohammed Yunis Mohammed, a policeman, in Mosul on 5 February in what was described as a personal dispute. The policeman was subsequently arrested. The arrest of Adil al-Mashhadani, the head of a neighborhood guard unit in Baghdad's Fadhil district, on the suspicion of committing serious crimes led to a firefight on 30 March between Iraqi security forces and al-Mashhadani's supporters during which two civilian bystanders were killed.

29. Turkish and Iranian military bombardment of the Iraqi border regions, usually claiming to target armed elements of the Kurdistan Workers Party (PKK) or the Party of Free Life of Kurdistan (PEJAK) has affected Iraqi border regions for many years and continued to do so during the reporting period. Evidence collected by local observers, some of it seen by UNAMI, indicates that these acts occasionally kill

civilians, cause substantial displacement,<sup>10</sup> destroy dwellings and livestock, and render agricultural land unusable. The affected population alleged that its suffering was greatly increased when the attacks, which had previously been seasonal and predictable, became much more random and sustained as of late 2007. After a February 2009 agreement between the KRG and Iran to stop shelling civilian populated areas, some villagers began returning home only to discover weeks later that the attacks had resumed. On 10 March, a one and half year old boy was killed in Sulaymaniyah governorate as a result of these attacks. UNAMI reminds all parties to the conflict that international humanitarian law demands the protection of civilians and distinction between civilian and military objects.

### **MNF-I related court proceedings for international humanitarian law violations**

30. Several US soldiers were subjected to court proceedings under the US Uniform Code of Military Justice and domestic criminal law on suspicion of having committed violations of international humanitarian law while stationed in Iraq as members of MNF-I.

31. On 23 February, Trevor Slane, a former guard at the MNF-I detention centre at Camp Bucca in 2008, was sentenced under the Uniform Code of Military Justice by a courts-martial at Mayport Naval Station in Jacksonville, Florida, to three months in prison for beating detainees who allegedly had insulted him. Lieutenant Michael Behenna was convicted of murder by a military jury in Fort Campbell, Kentucky on 27 February for killing Ali Mansour Mohammed near Tikrit in May 2008. Nine days earlier, Staff Sergeant Hal Warner, who had testified against Lieutenant Behenna, was sentenced to 17 months confinement for his involvement in the incident.

32. On 20 February Sergeant Michael Leahy was sentenced to life in prison by a courts-martial at the US military base at Rose Barracks in Vilseck, Germany, for the premeditated murder of four Iraqi detainees between 10 March and 17 April 2007 in Baghdad. Sergeant First Class Joseph Mayo received a prison sentence of 35 years from the same court for his involvement in the execution-style killings of the four men, whose bodies were never found. A third man, Master Sergeant John Hatley, the most senior soldier of the trio, was convicted of murder and sentenced to life in prison on 16 April. Two other soldiers involved in the killing had been sentenced in 2008. In mid-June, Leahy and Mayo were granted clemency by Brigadier General David Hogg, the convening authority of the courts-martial and chief of the Joint Multinational Training Command, and had their sentences reduced to 20 years with the possibility for parole after seven years in prison.

33. During the reporting period there were also developments in the two most publicized cases of the killings of civilians by US forces in Iraq. On 17 March, a military appeals court at Camp Pendleton, California, upheld the dismissal of the charges against Lieutenant-Colonel Jeffrey Chessani, the most senior soldier investigated for his involvement in the killing of up to 24 Iraqi civilians in Haditha in 2005. The court cited procedural reasons for its decision. Of the eight soldiers charged in the incident, five have had their charges dismissed and a sixth has been acquitted.

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<sup>10</sup> As of April, 120 IDP families were seeking shelter in one tent camp in Zharawa sub-district alone, which had been built to accommodate 45 families.

Only Staff Sergeant Frank Wuterich, the alleged ringleader of the killings, is still awaiting trial. During the reporting period, a US soldier was also convicted under US criminal law because he had left the service prior to being charged: on 7 May, Private Steven Green was convicted by a US federal court in Paducah, Kentucky, of the rape and murder of 14-year-old Abeer Qassim al-Janabi, and the killing of three members of her family on 12 March 2006 near Mahmudiyah, south of Baghdad. He was sentenced on 21 May to life imprisonment.

### **Situation of women**

34. Research conducted by UNAMI on the situation of women indicates that gender-based violence is prevalent in many Iraqi communities, and that, due to the nature of the crime, it is treated as a family affair and rarely reported to the authorities.

35. On 3 February, the State Minister for Women's Affairs, Nawal al-Samarrāie, announced her resignation in protest against the meager resources given to her ministry, stating that the needs of 3 million widows, namely women whose families have lost their breadwinners in the conflicts since the early 1980s, is Iraq's most pressing issue. The Minister eventually withdrew her resignation.

36. UNAMI continued to monitor the situation of women in the KRG. During the reporting period, UNAMI did not see any indications of significant changes regarding the scale and patterns of violence and abuse targeting women. Various reports recorded a total of 122 cases of violence against women,<sup>11</sup> including those described as "honour killings" and cases of female self-immolation. Out of those, 57 cases were reported to have involved suicide or attempted self-immolation due to ill-treatment and abuse; 33 women died due to "accidents" involving the explosion of cooking devices; while 13 cases were reported as attempts at killing or premeditated murder by family members. One case involved the sexual abuse of a female child by an adult male.

37. The Iraqi Penal Code of 1969 and its amendments consider "honourable motives" while committing a crime to be a mitigating factor.<sup>12</sup> For instance, it is possible for a person convicted pursuant to articles 405 and 406 of the Penal Code to receive a sentence of up to one year for a crime of homicide if the crime was committed to "wash the family's honour." Additionally, a husband who kills his wife when caught in the act of adultery can receive a sentence of only up to three years imprisonment. His testimony in court is sufficient evidence to prove adultery.

38. Many cases of domestic violence remain unreported because of the fear of social stigma and reprisals against the victims and because women lack confidence that they will receive the help and support required. A positive step forward has taken place in the KRG where four directorates have been established under the Ministry of Interior to increase the level of support for victims of violence and to follow up on cases of violence against women. Although the directorates are relatively new, their

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<sup>11</sup> 75 cases out of 122 involve women aged between 18 and 40 and 17 cases involve girls under 18.

<sup>12</sup> Articles 128 and 130 of the Iraqi (Federal) Penal Code are no longer applicable in the Kurdistan Region of Iraq. These were suppressed by an act of the Parliament of Kurdistan in 2002. Thus, the KRG no longer considers honour killing a mitigating circumstance.

establishment has contributed to raising the profile and awareness of the issue and has led to increased reporting of cases of domestic violence. The new directorates, however, need to be given necessary financial resources in order to be able to discharge their mandates. Currently, there are two shelters run by the Ministry of Labor and Social Affairs (MoLSA) in the Kurdistan Region; one in Erbil and the other in Dahuk. The Ministry of Interior runs a shelter in Sulaymaniyah where women can stay for a short period of time. Two NGOs operate two additional shelters in Sulaymaniyah. The shelters provide safety, but lack rehabilitation services.

### **Situation of children and young adults**

39. The promotion and protection of the rights of children remained a major challenge during the reporting period. Children and young adults were exposed to a wide range of threats, including death and injury from sectarian violence, military operations and unexploded ordinances and other remnants of war. Attacks have taken place in areas where children and young adults congregate, including schools. The abduction of children and young adults has also been reported, usually for ransom or similar criminal motives. Continuous reports show that women and children are victims of sexual violence, forced marriages, “honour crimes” and trafficking. Access to essential social services is a daily challenge to the community as a whole, with particular impact on children. Detention of children and young people in adult detention centres and the lack of specialized centres and community based programmes for the rehabilitation continue to require immediate government attention.

40. Media, police, military sources, NGOs and community members reported the continuing recruitment of children and young adults by armed groups for acts of terrorism, including being used as suicide bombers. UNAMI investigated four cases of children used by insurgents in April and May in Kirkuk. On 1 May, Iraqi police arrested a 19 year-old suicide bomber as he attempted to enter the al-Zahra’a Mosque in Kirkuk. The man stated to the police that he had been recruited by al-Qaeda at the age of 16. On 12 May, a 14 year old suicide bomber detonated his explosive in Kirkuk, killing himself, five police officers and wounding 11 civilians. On 26 May, a joint Iraqi police and MNF-I patrol in Hawija was attacked by a boy reported to be between the ages of 14 and 16 who threw a grenade at the patrol. On 1 June, in the same area another joint patrol was attacked by a 15 year-old boy, who, according to the Iraqi police, was paid 1,600 Iraqi Dinars by insurgents to throw the grenade. On 12 June, Dr. Harith al-Ubaidi, a member of the Council of Representatives and deputy chairman of the Human Rights Committee, was allegedly killed by a 15 year old boy inside a mosque in Baghdad.

41. The Iraqi juvenile justice system continued to be characterized by the lack of community based actions to prevent juvenile delinquency as well as by the lack of alternatives to the formal justice system (including appropriate diversion mechanisms). Sentenced juveniles are sent to inadequately equipped and poorly managed detention centres. Additionally, there is the almost automatic tendency to remand juvenile suspects into custody pending trial and while in detention may not be segregated from adults.

42. Children and adolescents in contact with Iraqi security forces continued to be exposed to physical and psychological ill-treatment, particularly upon arrest and during the early stages of investigation. The criminal justice system places an overwhelming weight on confessions and detained children are almost inevitably subjected to some form of violence by investigators with the aim of obtaining a confession. Children are likely to spend lengthy periods in pre-trial detention in violations of the *Convention on the Rights of the Child* and other international standards on juvenile justice. Key actors, service providers and institutions lack knowledge of modern juvenile justice procedures. The social support systems are inadequate, obsolete and under-funded. The Juvenile Care Law (1983) needs to be reviewed in line with international standards and Iraq's obligations under international law. Particular attention should be given to raising the age of criminal responsibility to 18 and the age of mandatory education from 12 to 16. The law should also be amended in such a way to introduce "the best interests of the child" as a guiding principle in juvenile justice.

43. The number of juveniles and children in MNF-I detention has continued to decrease in comparison to previous reporting periods. According to statistics provided by MNF-I, the number of juvenile detainees fell from 50 at the end of December 2008 to 19 in June 2009.

#### **Situation of minorities and other groups**

44. UNAMI welcomed the election of members of the Yezidi, Shabak, Christian and Sabeen communities to the provincial councils of Mosul, Baghdad and Basra. Additionally, the KRG amended its electoral law to include the representation of the Armenian, Chaldean, Syrian and Turkmen minorities.

45. Minorities, however, continued to report frequent attacks on their members, some of which appear to have been perpetrated by state or political party organs with an explicit aim to influence their political affiliations and votes. Representatives of the Yezidi, a group that inhabit the mountainous regions of northern Iraq, have informed UNAMI that their population has been reduced to 300,000 from more than 500,000 prior to March 2003. During the reporting period, sporadic attacks occurred against Yezidi villages in the area of Sinjar, west of Mosul by the Peshmerga, the armed forces of the KRG. The Sabeen community has seen its numbers decline. According to the leader of the community, Sheikh Sattar Jabbar al-Hulu, its numbers fell from 35,000 prior to 2003 to a current 7,000 or 8,000 as many have fled Iraq.<sup>13</sup> The Shabaks, a minority group of approximately 400,000 persons living on the Ninewa plain, continued to report to be subjected to pressure to vote for pro-Kurdish candidates in the provincial elections.

46. UNAMI received reports that Christians continued to be targeted in Mosul, Kirkuk and Baghdad. Between February and May, eight Christians were killed in Mosul and three in Kirkuk. The Christian Bishop of Kirkuk and the Iraqi Vice President Adil Abdel Mehdi called for the members of this community not to flee the city. Vice President Mehdi described the situation of Christians as "vulnerable" and called for a collective taskforce to ensure they remain in Iraq. Of the 1.4 million

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<sup>13</sup> Agence France Press, 18 March 2009.

Christians included in the 1987 census it is estimated that only 500,000 to 800,000 remain currently in Iraq.<sup>14</sup>

### **Attacks directed at persons on the basis of their perceived sexual orientation**

47. UNAMI received reports about escalating violence directed at individuals on the basis of their sexual orientation. An international NGO monitoring the human rights situation in Iraq reported in April that at least 25 boys and men were killed in Baghdad in the preceding weeks because of their perceived or actual sexual orientation.<sup>15</sup> Additional reports indicated that some corpses were left on public display on the streets of al-Sadr City in Baghdad. UNAMI interviewed several persons whose life was threatened and who fled, with the help of various NGOs, to seek shelter outside Baghdad. They were all able to name their perpetrators. UNAMI is also aware of various other instances of attacks or persecution based on sexual orientation perpetrated by members of the Mahdi Army, religious leaders, police officers as well as local criminal gangs.<sup>16</sup> UNAMI calls on the Iraqi government to investigate allegations of the attacks perpetrated by the Mehdi Army and Iraqi security forces as well as violence-instigating calls by some imams during Friday prayers.

48. The Government of Iraq has a constitutional obligation to protect the rights and freedoms of all without distinction of any kind as set out in its Constitution, and the fundamental principles of international human rights law including the Universal Declaration of Human Rights and the ICCPR.

### **Refugees and IDPs**

49. UNHCR estimated that there remains 1.5 million Iraqis living outside the country, mostly in Syria and Jordan, and that there are an additional 2 million internally displaced persons (IDPs) within Iraq.<sup>17</sup> Between January and June, UNHCR reported that there were 101,490 returning Iraqis, either internally IDPs returning to their places of origin within Iraq or refugees returning from outside Iraq. This number consisted of 79,200 internally displaced persons or 13,490 families and 22,290 refugees or 5480 families returning to their places of origin. The highest number of returns was reported in March most likely attributable to the relative improvement of the security situation. The main concerns of returnees were the volatility of the security situation, unemployment, lack of housing and availability of educational and medical services as well as public utilities such as electricity and clean water.<sup>18</sup>

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<sup>14</sup> <http://christiansofiraq.com/>.

<sup>15</sup> Amnesty International, "Iraq: Grave concern at recent killings of men because of their sexual orientation", 9 April 2009. <http://www.amnesty.org/en/library/asset/MDE14/010/2009/en/b4b3801d-3599-4ac6-8454-0386ef09ea50/mde140102009en.pdf>.

<sup>16</sup> For a comprehensive report on the attacks against persons on the basis of their perceived sexuality in Iraq see: Human Rights Watch Report, "'They want us exterminated', murder, torture, sexual orientation and gender in Iraq", August 2009. <http://www.hrw.org/en/reports/2009/08/17/they-want-us-exterminated-0>.

<sup>17</sup> UHCHR Press Briefing, 2 June 2009.

[http://www.uniraq.org/documents/UNHCR\\_BriefingNotes\\_02June09.pdf](http://www.uniraq.org/documents/UNHCR_BriefingNotes_02June09.pdf)

<sup>18</sup> For detailed information visit the UNHCR site on [www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486426](http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486426).



## **The situation in Camp Ashraf**

50. The human rights and humanitarian situation of the estimated 3,500 residents of Camp Ashraf under the leadership of the People's Mujahideen of Iran (PMOI) will continue to be closely monitored by UNAMI and other UN agencies. The Government of Iraq publicly stated its intention to close the Camp, which was handed over by the MNF-I to the Iraqi Army on 22 February 2009. The MNF-I has retained a military police detachment based at Forward Operating Base Grizzly, inside the outer perimeter of Camp Ashraf, to monitor the situation. The US Government has confirmed to the residents of the Camp that it has received assurances from the Government of Iraq that it will treat the residents humanely and in accordance with the Constitution and international human rights obligations of Iraq.<sup>19</sup>

51. UNAMI conducted two missions to Camp Ashraf on 19 March and 21 April. Additionally, a delegation of PMOI representatives from Camp Ashraf met with UNAMI on 22 February and 16 May in Baghdad. During these meetings they expressed their readiness for a dialogue with the Government of Iraq on seeking a solution to the current situation.

52. In March, UNAMI interviewed former residents of Camp Ashraf who had escaped from the Camp. They confirmed some of the previous findings that some residents may have been brought into the Camp on false pretenses, while trying to leave Iran for western Europe or the United States of America, and once there, were denied the right to leave. UNAMI was on this and previous occasions told of the alleged psychological pressure, intimidation and physical abuses that the PMOI rank and file may be subjected to.

53. UNAMI recalls that it has consistently advocated that the residents of Camp Ashraf be protected from forcible deportation, expulsion or repatriation in violation of the *non-refoulement* principle. While in Iraq they should be able to enjoy the full range of human rights, while respecting the laws and the authority of the host country.

## **Freedom of expression and the targeting of media workers**

54. UNAMI continued to receive reports of intimidation and harassment of media professionals. Journalists and media workers reported to be continuously subjected to ill-treatment and arbitrary detention by Ministry of Defense personnel<sup>20</sup> and officials' body guards.<sup>21</sup> One local NGO reported of 64 incidents of abuse committed against journalists and media workers during the three-day voting period in Baghdad, Basra, Babil and Anbar. The type of abuse ranged from preventing journalists getting to

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<sup>19</sup> On 28-29 July 2009, the Iraqi security force made a forceful attempt to enter the Camp to establish a police station. The attempt was resisted by the Camps residents and led to a confrontation that resulted in the death of 11 residents and several hundred injured. These events will be detailed in the 16<sup>th</sup> Human Rights Report covering the period 1 July-31 December 2009.

<sup>20</sup> On 13 February 2009, the correspondent of al-Itijah satellite channel along with two cameramen and the driver were severely beaten by Iraqi Army personnel at Twereege checkpoint in Baghdad.

<sup>21</sup> On 13 April, the correspondent of the National Iraqi News Agency (NINA) was insulted and beaten by the bodyguards of the Minister of Trade.

polling stations to their being insulted, beaten, and/or having their equipment destroyed.

55. UNAMI welcomed measures taken by the Minister of Interior against twenty employees of the Ministry found to have assaulted journalists and media workers. The Minister made public his decision to facilitate the movements of journalists inside Iraq.

56. The KRG Syndicate Council denied news reports of the annulment of the article in the Kurdistan Journalism Law that prohibits the imprisonment of journalists. The statement indicated that this issue was discussed on 10 January in a meeting of the Syndicate Council where it was agreed that no article of the law would be amended. However, reports received by UNAMI highlight the on-going violence and intimidation against journalists and ordinary citizens exercising their right to freedom of expression.

57. A number of journalists received prison sentences for criticizing state institutions in the KRG. The Halabja district court in the Sulaymaniyah governorate sentenced journalist Nasih Abdul Rahim to four days in prison because of his article concerning the activities of Kurdish Democratic Party branch No.12 in Halabja.

58. On 25 February, the Asayish special forces in the KRG were reported to have arbitrarily arrested Mr. Jassim Mohamad Hassan, the head of the Information Section in Kurdistan Islamic Union's branch in Zahko, without a requisite judicial arrest warrant. The arrest was allegedly prompted by his article concerning the political pressure exerted by the Asayish forces against the Union.

59. There have also been reports of ordinary citizens arrested and detained solely for expressing their views. One such case is Kakalaw Omar, who, on 31 March, appeared on local TV network KNN where members of the public were invited to air their views on the standard and quality of local services in Taq Taq Sub-District. Omar was critical of the government's efforts to fulfill its promises to the local population. Shortly after the programme was aired, the Mayor of Taq Taq, Kakakhan Nasreddin, filed a case against Omar who was subsequently arrested by the police. The investigative judge ordered his detention for five days. The mayor of Taq Taq told KNN in an interview: "That citizen has a right to freedom of speech, however he spoke in an ugly way; he said we had lied and not fulfilled our promises, that's why I reported him to the courts".

### **Violations in the context of the Governorate Council elections**

60. Elections for fourteen provincial councils took place on 31 January. The turnout was 51%, which was noted as the lowest since the first democratic election in January 2005. Some 14,000 candidates (and over 400 political entities) competed for 440 seats. The Governorate Council Election Law No.36 (2008) and its amendment No.44 have allowed for the increased representation of minorities by reserving two seats for Christians and Sabeans in Baghdad, three seats each in Ninewa governorate for the Christian, Yezidi and Shabak communities, and one seat for Christians in Basra.

61. Serious acts of violence were committed prior to the elections against candidates, members of political parties, and voting stations. Communist Party member Anwar Mohyee al-Din Rasoul was assassinated in front of his house in Kirkuk by unknown gunmen on 3 January. Faris Sinjari, a leading member of the al-Hadbaa party, was injured by a car bomb in Mosul on 12 January. Haitham Kadhim al-Husaini, a cleric and Dawa Party candidate, was assassinated while campaigning in Jebela in Babil governorate on 16 January. Three candidates were assassinated on 29 January in separate incidents: Omar Faruq al-Ani in Baghdad, Hazim Salim Ahmed in Mosul and Abbas Farhan near Mandili in Diyala governorate. Voting places were also targeted; a school to be used as a polling centre was torched by arsonists south of Fallujah on 27 January, and two Iraqi soldiers guarding the Ayysha Secondary School polling centre in the Tuz Khormatu district south of Kirkuk were killed by gunmen on 28 January.

62. Despite the violence preceding voting day, the elections themselves were conducted in a generally orderly and peaceful manner. UNAMI, however, observed a widespread lack of understanding and respect for an individual's personal right to make his or her choice in complete independence and secrecy: male heads of households openly supervised the voting of family members (especially females) while, more than occasionally, polling station officials were observed "assisting" voters. Although this interference was observed as appearing to be more of providing assistance rather than attempting to force a voter's choice, it is of no less cause for concern.

### **Legislative developments and the establishment of the Independent High Commission for Human Rights**

63. Since the election of the new Speaker of the Council of Representatives in April, a number of draft laws were introduced to the parliament to be voted on in the next parliamentary session including the draft laws to ratify the *Convention on the Rights of Persons with Disabilities*, on assistance for women without income, on child protection, on the freedom of expression and on charitable organizations. These legislative activities address urgent issues related to the enjoyment of fundamental rights and the protection of vulnerable people. UNAMI continued to provide expert advice to the Human Rights Committee of the Council of Representatives to ensure that such legislation is adopted in conformity with the Government of Iraq's obligations under international human rights law.

64. UNAMI has supported the establishment of the Independent High Commission for Human Rights (IHCHR) in Iraq since 2005 when UNAMI launched activities aimed at promoting the idea of establishing a national commission for human rights enshrined in article 102 of the Iraqi Constitution. These efforts bore fruit with the adoption of a law<sup>22</sup> in November 2008 establishing the IHCHR. UNAMI continued to support the establishment of the Commission. Article 7 of the law stipulates that UNAMI be represented in the committee of experts entrusted with the selection of commissioners.

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<sup>22</sup> Law No 53 of 16 November 2008, published in the Official Gazette No. 4103 on 30/12/2008.

65. By the end of the reporting period, the Council of Representatives, the Council of Ministers, the High Judicial Council and civil society organizations had not appointed their representatives to the committee of experts. In addition, the state budget failed to provide funding for the IHCHR for the financial year 2009-10. UNAMI and the Human Rights Committee of the Council of Representatives will continue to seek alternative sources of initial funding.

#### **IV. RULE OF LAW**

##### **Death Penalty**

66. UNAMI noted with concern that in May the Government of Iraq resumed the executions of prisoners sentenced to death. UNAMI recorded the last executions of prisoners with capital sentences to have taken place in August 2007 before the resumption of executions on 3 May 2009. On 3 May, 12 persons were hanged, followed by another group of 19 (18 men and 1 woman) on 10 June. Official correspondence from the Ministry of Human Rights noted security conditions as a reason for resumption. The secrecy surrounding the executions remained an additional issue of concern. Iraqi ministries remained largely unresponsive to UNAMI's and OHCHR's call for information regarding the executions and the death penalty cases.

67. Meanwhile, the number of persons who received capital sentences increased. According to information received from the High Judicial Council, between 1 January and 31 May, Iraqi courts (excluding the Kurdistan Region) passed 324 death sentences, with the highest number of 102 capital punishments issued in Diwaniyah governorate. Some 60% of the death sentences were issued for crimes under the Anti-Terrorism Law. By the end of the reporting period, officially provided data indicated that 150 cases have exhausted all available appeals procedures, and that more than 100 execution orders may have been signed by the Presidency Council.

68. In light of UNAMI's and OHCHR's repeated concerns regarding the administration of justice and violations of due process rights in criminal trials, UNAMI and OHCHR issued a public statement on 6 April urging the Government of Iraq to declare a moratorium on all executions until the judicial and rule of law institutions can sufficiently guarantee fair trial procedures in accordance with article 14 of the ICCPR. It is of particular concern that many persons are convicted on the basis of confessions often gathered under duress or torture, while their right not to be compelled to testify against oneself or to confess guilt is often violated. Until these violations are addressed, the imposition of the death penalty by Iraqi courts will remain arbitrary and contrary to the international human rights standards.

69. An execution arising from a trial where the international standards for a fair trial have not been respected constitutes a violation of the right to life under Article 6 of the ICCPR. The UN advocates for the abolition of the death penalty in all circumstances and have recommended that the Government of Iraq consider re-establishing a moratorium on the death penalty pending a thorough review of Iraqi legislation including the Penal Code, the Law on Criminal Proceedings, the Law for Combating Terrorism, the Military Penal Code and the numerous former

Revolutionary Command Council Decrees in accordance with UN General Assembly resolution 62/149.

### **Criminal justice, detention and internment**

70. The treatment of detainees, especially those in pre-trial detention, remained of great concern to UNAMI. According to the figures provided by the Ministry of Human Rights, the KRG and MNF-I, the total number of detainees, security internees and sentenced prisoners held in Iraq was 43,600 at the end of June 2009. Those under the control of the Iraqi government (not including those in the KRG) increased from 26,249 at the end of December 2008 to 29,871 at the end of June 2009 including 1,283 juveniles. At the same time, the number of detainees/internees held by MNF-I decreased from 15,058 at the end of December 2008 to 10,866 at the end of June 2009. According to the figures provided by the KRG's Ministry of Human Rights, this reporting period saw an increase in the total number of detainees, security internees and sentenced prisoners under the control of the KRG authorities from 2,671 at the start of the reporting period to 2,863 at the end of June.

71. The chart below indicates the total number of detainees by month and authority.

<b>TOTAL DETAINEE FIGURES: JANUARY - JUNE 2009</b>						
<b>Detained By:</b>	<b>Jan.</b>	<b>Feb.</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>
Ministry of Justice	17,180	17,149	17,471	17,642	17,846	18,576
Ministry of the Interior	7,916	6,461	8,163	8,057	10,437	9,035
Ministry of Defense	1,629	1,843	1,556	1,465	1,354	1,356
MoLSA	741	774	802	841	868	904
<b>Total held in Iraqi custody</b>	<b>27,466</b>	<b>26,227</b>	<b>27,992</b>	<b>28,005</b>	<b>30,505</b>	<b>29,871</b>
MNF – I	15,112	15,112	15,143	15,143	11,068	10,866
KRG	2,671	2,759	2,768	2,829	2,824	2,863
<b>Overall Total Detainees</b>	<b>45,249</b>	<b>44,098</b>	<b>45,903</b>	<b>45,977</b>	<b>44,397</b>	<b>43,600</b>

### **Detention under the Authority of the Government of Iraq**

72. The increase in numbers of detainees in the custody of the Iraqi Government placed additional burden on the capacity of detention authorities to accommodate detainees and on the judicial authorities to process the number of new cases.

73. The chart below show a breakdown of the numbers of detainee facilities run by the Government of Iraq per ministry concerned.

<b>IRAQI GOVERNMENT DETAINEES BY MINISTRY</b>					
<b>Month</b>	<b>Justice</b>	<b>Defense</b>	<b>MoLSA</b>	<b>Interior</b>	<b>Total</b>
<b>January</b>	17180	1629	741	7916	<b>27466</b>
<b>February</b>	17149	1843	774	6461	<b>26227</b>
<b>March</b>	17471	1556	802	8163	<b>27992</b>
<b>April</b>	17642	1465	841	8057	<b>28005</b>
<b>May</b>	17846	1354	868	10437	<b>30505</b>
<b>June</b>	18576	1356	904	9035	<b>29871</b>

74. The UN remains particularly concerned that during the reporting period it continued to receive reports of prolonged periods of detention without charge, access to judicial review or to legal counsel and the use of torture or physical abuse against detainees to extract confessions. In a number of detention facilities, many detainees have complained of being physically abused by security forces.

75. Protests took place in June by detainees in several prisons across the country against lengthy detention without trial, abuse and corruption in law-enforcement agencies. These incidents prompted further promises by public figures to investigate and improve the situation. Inmates at the central prison of Maysan governorate in Amarah went on an eight-day hunger strike in early June to put pressure on the judicial authorities to advance their cases, prompting a visit from a group of judges and members of the Human Rights Committee of the Council of Representatives on 7 June. The next day the Ministry of the Interior promised that it would decide on the cases of detainees within 60 days. Similar protests took place in the town of Shatra (Thi-Qar governorate). A hunger strike of 300 Sadrists detainees was reported from Rusafa (eastern Baghdad), which led to the Human Rights Committee conducting a visit with the Baghdad Operations Command.

76. On a positive note, it was reported in the media on 7 June that the Ministry of Interior decided to launch an inquiry into allegations of torture and slow processing of cases in two prisons in Amarah (Maysan governorate) and Diwaniyah (Qadissiyah governorate). Mr. Jawad al-Bulani, Minister of Interior, announced on 16 June that 43 Rusafa-based police officers would be prosecuted for alleged human rights violations. Calls to address deficiencies in the pre-trial detention system were also made by the High Judicial Council when it met on 16 June. The office of the Ministry of Human Rights in Nasiriyah (Thi-Qar governorate) has reportedly raised concern over severe overcrowding and a lack of air-conditioning as the hot Iraqi summer started.

77. On 25 June, UNAMI met with representatives of the Ministries of Justice, Interior, Defense and Human Rights, under the chairmanship of the Senior Military Advisor to the Deputy Prime Minister. The lack of improvement in the law enforcement system raised as a concern by UNAMI was discussed and the

participants made recommendations to urgently improve the situation. The transfer of detainees held by the Ministry of Defense to facilities run by the Ministry of Justice—as long standing recommendation of UNAMI—was also discussed but remains to be completed. The representatives of the Ministry of Defense acknowledged that the detention of civilians is not within the jurisdiction of the Ministry of Defense.

### **Detention under the Authority of the Multinational Force in Iraq (MNF-I)**

78. There was a substantial decrease in the number of detainees held in MNF-I custody, which continues the trend seen in previous reports. From 23,229 in July 2008, the number had fallen to 15,058 by the end of December 2008 and to 10,866 by the end of June 2009. However, most of the detainees who remained in custody have not had their cases judicially examined/tried.

79. Under the terms of the Iraq-United States Bilateral Security Agreement, MNF-I is no longer authorized to detain suspects unless specifically requested by an Iraqi decision issued in accordance with Iraqi law. A plan is envisaged for the release or transfer of all detainees, except for some 5,000 detainees, to Iraqi custody by mid-summer 2009. MNF-I announced that it would provide the Government of Iraq with 1,500 files of detainees on the first day of each month. The Government then has thirty days to respond after which the detainees are either released or transferred to Iraqi custody at the request of the Iraqi authorities. By the end of June, 9,250 detainees' files were presented to a joint committee composed of representatives of the Ministries of Justice, Interior, the Human Rights Committee of the Council of Representatives and MNF-I tasked to review the files. However, administrative and logistical problems have delayed the handover of many detainees: the Ministry of Human Rights reports that only 841 detainees have been transferred to Iraqi custody. The number of detainees released during the reporting period was approximately 5,000.

80. MNF-I has also declared that the detention centre located at Camp Bucca near Basra is to be permanently closed in September.<sup>23</sup> MNF-I will then transfer the remaining detainees to the newly-built al-Taji prison in Baghdad, a facility currently supervised by MNF-I, and to the detention centre located at Camp Cropper. In January 2010 the prison at al-Taji will be handed over and only Camp Cropper will remain in MNF-I control then turned over to the Government of Iraq in summer, 2010.

### **Detention under the Authority of KRG**

81. The KRG Anti-Terrorism Law (2006), which in practice forms the legal basis for many arrests, has been extended into mid-2010. Claims by detainees of insufficient legal assistance and of long delays in investigations and trial proceedings have been common and frequent. Of particular concern to UNAMI is the practice of keeping some persons in *de facto* unlimited administrative detention. UNAMI has met with persons detained for five years or more. Many stated to have lost hope of ever being released. The KRG authorities make little effort to justify or explain this grave violation of human rights.

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<sup>23</sup> Camp Bucca officially shut down detainee operations on 17 September, 2009.

82. The situation of detainees in the KRG, under the authority of the KRG Ministries of Interior, Social Affairs and the intelligence agency known as the *Asayish* remains of great concern to the UN. Figures for the total number of detainees held by the KRG were made available to UNAMI by the KRG Ministry of Human Rights. According to the figures provided, the total number of detainees, security internees and sentenced prisoners increased from 2,671 at the start of the reporting period to 2,815 at the end of May. The figures indicate a slight increase in the number of detainees, security internees and sentenced prisoners compared with the last six months of 2008.

83. During the first half of 2009, UNAMI carried out ten visits to prisons and detention centres in Erbil, Dahuk, and Sulaymaniyah in the KRG region.<sup>24</sup> UNAMI staff was able to inspect the premises and interview inmates and prison authorities. Serious violations of the rights of detainees by the KRG authorities have been documented. These include beatings during interrogation, torture by electric shocks, forced confessions, and the lack of medical attention. Ill-treatment and abuse are often reported to be committed while detainees are blindfolded. Some detainees were reluctant to disclose information for fear of retaliation. Others spoke freely about overcrowded conditions, the lack of hygiene, poor access to medical services and lack of recreational activities, or insufficient family visits amongst other concerns. In several detention locations, however, many inmates interviewed by UNAMI made no serious complaints about their treatment. This essentially came from detainees who had been under arrest for petty crimes, or from convicts who were no longer subject to interrogations.

84. UNAMI welcomes the KRG authorities' efforts to modernize and renovate buildings used as prisons or detention facilities, which have led to clear improvements in some locations,<sup>25</sup> and further appreciates the creation of a governmental sub-committee to monitor the human rights compliance in *Asayish* detention facilities.<sup>26</sup> UNAMI also notes positively that many KRG officials consistently pledge, publicly and privately, to uphold human rights and condemn all forms of abuse.<sup>27</sup>

85. However, serious challenges remain to be addressed. UNAMI continues to receive testimonies from persons alleging that family members were arrested by *Asayish* personnel and then disappeared.<sup>28</sup> There are also consistent allegations that

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<sup>24</sup> *Asayish* Koya (Koysinjaq district, Erbil governorate) on 22 January, *Asayish Gishiti* in Sulaymaniyah on 23 March, Muaskar Salam prison in Sulaymaniyah on 25 March, Women and Juvenile Rehabilitation Centre in Dahuk on 29 March, Zarga prison in Dahuk on 29 March, *Asayish* Dahuk on 30 March, Women and Juvenile Rehabilitation Centre in Erbil on 19 April, Al-Mahata prison in Erbil on 26 May, *Asayish Gishiti* Erbil on 2 June and Fort Suse prison on 14 June.

<sup>25</sup> E.g. *Asayish* Koya (Koysinjaq district, Erbil governorate) and Zarga prison in Dahuk. Fort Suse, too, has been under renovation for two years, which has led to overcrowding since certain parts of the facility cannot currently be used.

<sup>26</sup> UNAMI talks with the KRG Coordinator for UN Affairs Dindar Zebari on 28 January.

<sup>27</sup> UNAMI talks with the KRG Coordinator for UN Affairs Dindar Zebari on 28 January; talks with Qader Hama Jan Azeez, Director-General of *Asayish Gishiti* Sulaymaniyah, on 23 March 2009; speech of Dindar Zebari to the UN Human Rights Council in Geneva on 6 March 2009. In contrast, former Sulaymaniyah *Asayish* Director-General Saifadeen Ali complained to *Rudaw* newspaper on 9 March about human rights criticism in the US State Department's human rights report and disputed its figures.

<sup>28</sup> The most recent testimony of this type, referring to a disappearance in 2007, was given to UNAMI in late January 2009.



persons arrested by the security forces, especially those held under the Anti-Terrorism Law (2006), are tortured soon after arrest and during initial interrogations, often to extract confessions. These interrogations are often said to take place in makeshift or improvised locations that are not official detention facilities. *Asayish*, the Kurdish Democratic Party intelligence agency *Parastin* and the PUK intelligence agency *Dazgay Zanyari* allegedly run such secret interrogation facilities.<sup>29</sup> UNAMI also continues to receive testimonies from detainees or former prisoners who allege ill-treatment or even torture from areas outside the Region of Kurdistan in which *Asayish* personnel operate, such as Mosul.<sup>30</sup>

86. Considerable procedural shortcomings remain to be rectified in the KRG's criminal justice system. During the reporting period many detainees voiced the same concerns that UNAMI has been receiving for years, e.g. courts overwhelmed by their workload, rushed proceedings, biased judges, inaccessible or inadequately trained defense lawyers, delays in advancing cases and interference by outsiders.<sup>31</sup> Nonetheless, some progress seems to have been made, in particular in ensuring that arrests are backed by judicial warrants and that some cases of long-term detention without trial are resolved.<sup>32</sup>

87. UNAMI was alerted about a case of torture from women detained in Erbil. Two women were reportedly detained in a police station for a week and continuously subjected to torture, including electric shocks, beating, being forced to expose their bodies in front of other men and acts constituting sexual assault. UNAMI wrote to the Ministry of the Interior raising concerns about the length of detention and the torture claims. As a result, the Ministry of the Interior removed the investigating officer and judge from the case. This case remains before the court and the victims have filed a complaint against the police officers.

88. UNAMI also received complaints of the rape of female prisoners and detainees by the Director of the Rehabilitation Centre for Juveniles and Women in Dahuk. An investigation has been launched and one woman testified that she was asked for sexual favors in return for privileges. After the hearing, the Director was arrested under section 393 of the Penal Code for rape. The charges were later changed to Section 417 (abuse of power). He is currently awaiting trial.

## V. CAPACITY BUILDING ACTIVITIES

89. In line with its mandate, UNAMI in coordination with OHCHR continued its efforts in supporting the Government of Iraq and civil society organizations (CSO)

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<sup>29</sup> The KRG authorities have repeatedly denied the existence of any secret detention facilities, e.g. in a press conference by the KRG Coordinator for UN Affairs Dindar Zebari on 30 April. However, *Asayish Gishtî* Sulaymaniyah admitted to UNAMI that KRG Deputy Prime Minister Emad Ahmed had on 28 March instructed *Asayish* to abolish all secret or private detention facilities.

<sup>30</sup> UNAMI received multiple testimonies in March 2009, covering incidents in 2007 and 2008 in Mosul.

<sup>31</sup> The KRG Minister of Justice, Faruq Jameel, admitted in an interview with *Rozhnama* newspaper on 12 March, continuing undue interference in court proceedings, chiefly by political party officials, as a major problem in the Region of Kurdistan.

<sup>32</sup> For example, the Human Rights Unit of *Asayish Gishtî* Sulaymaniyah told UNAMI on 23 March that 17 persons detained in Sulaymaniyah's Kani Goma prison for more than two years as of 16 June 2008 had been released in the meantime.

through capacity building activities in human rights related issues. These activities aim at helping the development of an Iraqi led and owned human rights protection system and at consolidating a culture of human rights in Iraq, prioritizing the rule of law, empowering women, promoting child protection, Iraq's reporting obligations before UN human rights treaty bodies, and reconciliation and transitional justice.

90. In January, the UNAMI and the United Nations Office on Drugs and Crime (UNODC) held a national legislative expert workshop on the ratification and implementation of the universal legal instruments against terrorism. Representatives from the Human Rights, Defense and Legal Committees of the Council of Representatives attended the event in Baghdad and agreed to form a joint working committee to advance the ratification process of the ten remaining legal conventions against terrorism not ratified by Iraq to date and to amend the existing anti-terrorism legislation in order to bring it in line with the global legal framework against terrorism and internationally recognized human rights standards.

91. In February, as a continuation of the project entitled "Supporting the Ministry of Interior and the Ministry of Defense in Mainstreaming Human Rights into their Work and Structure", UNAMI and UNDP held two training workshops in Erbil for personnel from the Ministry of Defense and the Ministry of Interior. The aim of the training was to introduce security personnel to human rights concepts, standards and training skills, which can be further disseminated through training within the Ministry. In April, a training workshop for the Ministry of Defense focused on international humanitarian law, rights of detainees and prisoners and methods of conducting human rights training sessions for Iraqi military forces, was conducted in Erbil. The last activity of this project commenced in May and consists of the preparation of a human rights manual supplementary to the workshops, which will be distributed to the training sections of both ministries.

92. In March, UNAMI together with UNOPS held a conference entitled "Still Paying the Price, Iraqi Women after Years of Wars, Sanctions and Internal Conflict" on strategies to promote women's rights in Iraq. High-level Iraqi officials, representatives from civil society and guests from the Arab region attended the event conducted in Jordan and produced recommendations to Iraq's Government and Parliament on issues affecting women's rights and equality. In the conference, two research studies commissioned by the UNAMI, one on public perceptions of honour-related violence in the Sulaymaniyah<sup>33</sup> governorate and another on the situation of minority women in Iraq, were launched.

93. In April, the project to support the Ministry of Human Rights in exhumation techniques was approved by the International Reconstruction Fund Facility for Iraq (IRFFI) and its implementation started in May in cooperation with UNOPS and the International Commission on Missing Persons (ICMP). The project will train and equip a team of 25 experts within the Ministry to conduct mass grave exhumation and post-mortem analysis. As part of the training, the team will conduct actual exhumations of an identified mass grave site. Upon completion of the project, the Ministry of Human Rights will possess the technical capacity to exhume other mass

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<sup>33</sup> Full text available at [http://www.uniraq.org/documents/asuda\\_report\\_5jun2009.pdf](http://www.uniraq.org/documents/asuda_report_5jun2009.pdf).

grave sites, including the recovery of the remains of over 800 missing Kuwaiti prisoners of war from the 1990-1991.

94. In May, the project to support the Government of Iraq and Iraqi civil society organizations in the preparation of the reports to be presented before the Human Rights Council for the Universal Periodic Review (UPR) in February 2010 was approved. The project, in partnership with UNOPS, consists of providing technical assistance to government officials responsible for drafting the governmental report and CSOs that will be preparing the report of the civil society. A team of five experts from the Ministry of Human Rights attended the proceedings of the Human Rights Council in Geneva from 8-11 June. The team also received training on the preparation of the government report for the UPR and on other human rights treaty based reporting obligations.

95. On 3 June the IRFFI approved a project for “Strengthening Justice and Protection for Children and Young People in Iraq” which will be implemented by UNAMI, UNICEF and UNFPA. This project aims to provide technical support to the Government of Iraq through the Ministries of, Education, Health, Justice and Interior, the MoLSA and the High Judicial Council to strengthen the juvenile justice system and increase children and young people’s access to justice and protection. The proposed programme focuses on enhancing protective legislation through an assessment of the juvenile justice system and review of the Juvenile Care Law combined with strengthening service delivery for children in conflict with the law. The project will also invest in developing the capacities of key actors in the administration of juvenile justice as well as in improving systems for collecting and managing information on children and young people entering the formal justice system.

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