



# **“They Want Us Exterminated”**

**Murder, Torture, Sexual Orientation and Gender in Iraq**

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## I. Introduction

### Summary

Hamid, 35, developed a speech impediment from strain and grief after the murder, in April 2009 in Baghdad, of his partner of ten years. We spoke to him three weeks later; he still could only haltingly force out words. Two friends who had helped him flee Baghdad accompanied him. All had been in hiding through the intervening time. He said:

It was late one night in early April, and they came to take my partner at his parents' home. Four armed men barged into the house, masked and wearing black. They asked for him by name; they insulted him and took him in front of his parents. All that, I heard about later from his family.

He was found in the neighborhood the day after. They had thrown his corpse in the garbage. His genitals were cut off and a piece of his throat was ripped out.

Since then, I've been unable to speak properly. I feel as if my life is pointless now. I don't have friends other than those you see; for years it has just been my boyfriend and myself in that little bubble, by ourselves. I have no family now—I cannot go back to them. I have a death warrant on me. I feel the best thing to do is just to kill myself. In Iraq, murderers and thieves are respected more than gay people.

Their measuring rod to judge people is who they have sex with. It is not by their conscience, it is not by their conduct or their values, it is who they have sex with. The cheapest thing in Iraq is a human being, a human life. It is cheaper than an animal, than a pair of used-up batteries you buy on the street. Especially people like us.

Hamid began to weep:

I can't believe I'm here talking to you because it's all just been repressed, repressed, repressed. For years it's been like that—if I walk down the street, I would feel everyone pointing at me. I feel as if I'm dying all the time. And now

this, in the last month—I don't understand what we did to deserve this. They want us exterminated. All the violence and all this hatred: the people who are suffering from it don't deserve it.

It is enough, enough that I was able to talk to you. <sup>1</sup>

A killing campaign moved across Iraq in the early months of 2009. While the country remains a dangerous place for many if not most of its citizens, death squads started specifically singling out men whom they considered not “manly” enough, or whom they suspected of homosexual conduct. The most trivial details of appearance—the length of a man's hair, the fit of his clothes—could determine whether he lived or died.

At this writing, in July 2009, the campaign remains at its most intense in Baghdad, but it has left bloody tracks in other cities as well; men have been targeted, threatened or tortured in Kirkuk, Najaf, Basra. Murders are committed with impunity, admonitory in intent, with corpses dumped in garbage or hung as warnings on the street. The killers invade the privacy of homes, abducting sons or brothers, leaving their mutilated bodies in the neighborhood the next day. They interrogate and brutalize men to extract names of other people suspected of homosexual conduct. They specialize in grotesque and appalling tortures: several doctors told Human Rights Watch about men executed by injecting glue up their anuses. Their bodies have appeared by the dozens in hospitals and morgues. How many have been killed will likely never be known: the failure of authorities to investigate compounds the fear and shame of families to ensure that reliable figures are unattainable. A well-informed official at the United Nations Assistance Mission for Iraq (UNAMI) told Human Rights Watch in April that the dead probably already numbered “in the hundreds.”

The killings leave families terrorized and bereaved. One Iraqi magazine, in an article sensationally promoting the need for supposed social cleansing, could not disguise or sideline the spreading grief:

A 45-year-old mother said that an armed group of individuals entered her house in Zayouna a week ago. They kidnapped her son from his room, pointed a gun in her mouth and imprisoned her sick husband who is a retired military officer in the bathroom of the house. She never saw her son again until, a few days ago, she found his corpse in the morgue. Crying, the mother described her son as a fashionable man who had done nothing unusual: a

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<sup>1</sup> Human Rights Watch interview with Hamid (not his real name), Iraq, April 24, 2009.

sensitive man pursuing his studies at the college of arts. ... Her son's friends had disappeared and she does not know anything about them, besides the list of phone numbers her son left on a spare phone card among his personal belongings.<sup>2</sup>

Different descriptions of the campaign's targets circulate. Most of the men whom Human Rights Watch interviewed for this report identified themselves as "gay." However, probably neither the murderers nor most ordinary Iraqis would recognize the term. Instead, many describe the victims and excuse the killings with a potpourri of words and justifications, identifying those they abominate in shifting ways—suggesting how concerns about an Iraq where men are no longer masculine drive the death squads, as much as fears of sexual "sin." "Puppies," a vilifying slang term of apparently recent vintage, implies that the men are immature as well as inhuman. Both the media and sermons in mosques warn of a wave of effeminacy among Iraqi men, and execrate the "third sex." Panic that some people have turned decadent or "soft" amid social change and foreign occupation seems to motivate much of the violence.

Shadowy militias with names like *Ahl al Haq* (the "People of Truth") have recently emerged into the media to claim responsibility for some of these murders. However, most people Human Rights Watch interviewed believed that the Mahdi Army, the militia led by Moqtada al-Sadr, bears primary responsibility, and launched the killing in early 2009. Tellingly, Sadr City—a center of the Mahdi Army's support, the giant Shi'ite slum in Baghdad named after al-Sadr's martyred father—has been a fulcrum of the murder campaign. Sadrist mosques and Mahdi Army officials have warned vividly about the spreading dangers of the "third sex."

Springing up amid the breakdown of security after the US-led 2003 invasion (and sometimes tacitly supported, sometimes combated by the occupation authorities), militias in Iraq feed on poverty and despair, recruiting young men who see violence as their only future. They are loose networks rather than disciplined entities; identifying either their members or clear accountability for crimes committed in their names is often difficult.<sup>3</sup> This is particularly true of the Mahdi Army, which strategically withdrew from visibility at the beginning of the 2007 US "surge," avoiding confrontation with American forces by melting into the population.

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<sup>2</sup> "The War Between the 'Puppies' and the Kidnappers," *Al-Esbuyia*, May 10-16, 2009.

<sup>3</sup> See Patrick Cockburn, *Muqtada: Muqtada al-Sadr, the Shia Revival, and the Struggle for Iraq* (New York: Simon and Schuster, 2008), for a detailed account not only of al-Sadr's career but of the Mahdi Army's ambitions and *modus operandi*.

Several people speculated to us that the Mahdi Army, striving to rebuild its reputation after this prolonged absence, sought to rehabilitate itself by appearing as an agent of social cleansing. It exploited morality for opportunistic purposes; it aimed at popularity by targeting people few in Iraq would venture to defend. One “executioner” told a reporter in May that he and his fellow killers were tackling “a serious illness in the community that has been spreading rapidly among the youth after it was brought in from the outside by American soldiers. These are not the habits of Iraq or our community and we must eliminate them.” He added—implicitly trying to counter one common complaint about the militias, that for years they had delivered only violence and chaos into Iraqi lives: “Our aim is not to destabilize the security situation. Our aim is to help stabilize society.”<sup>4</sup>

If the killings were a bid for popularity, they may have backfired. The grieving families found even among the Mahdi Army’s core communities in Sadr City lent no burnish to its image. In late May 2009, a Sadrist spokesman gave an interview pointing to ongoing public meetings the militia was holding to “fight the depravity and urge the community to reject” homosexual conduct; but he added that “al-Sadr rejects” violence, and that “anyone who commits violence against gays will not be considered as being one of us.”<sup>5</sup> At the same time, however, another Sadrist leader proclaimed homosexuality “a disaster that has come to the community,” saying “We must correct the morals of the nation.”<sup>6</sup> Human Rights Watch has received testimonies suggesting that in some areas Sunni militias were also joining, possibly competitively, in the campaign of threats and violence.

Iraqi police and security forces have done little to investigate or halt the killings. Authorities have announced no arrests or prosecutions; it is unlikely that any have occurred. While the government has made well-publicized attempts since 2006 to purge key ministries of officials with militia ties, including the Ministry of Interior, many Iraqis doubt both its sincerity and its success. Most disturbingly, Human Rights Watch heard accounts of police complicity in abuse—ranging from harassing “effeminate” men at checkpoints, to possible abduction and extrajudicial killing.

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<sup>4</sup> Quoted in Nizar Latif, “Iraqi ‘Executioner’ Defends Killing of Gay Men,” *The National*, May 2, 2009, <http://www.thenational.ae/article/20090503/FOREIGN/705029847/100>, accessed May 29, 2009. The man also claimed that he had been a Mahdi Army member “but was now working independently after the militia was disbanded by the leader of the Sadr movement, Muqtada al-Sadr.” However, al-Sadr never dissolved the militia, simply ordered it to stand down when the US surge began. It remains a recognizable and powerful force in Sadr City and elsewhere.

<sup>5</sup> Sheikh Wadea al-Atabi, quoted in “Iraq’s Sadr Wants ‘Depraved’ Homosexuality Eradicated,” *AFP*, May 29, 2009, <http://www.google.com/hostednews/afp/article/ALeqM5gyEDJh2jz2X-ocesB76vl6elJL6Q>, accessed May 30, 2009.

<sup>6</sup> Sheikh Dawud al-Enezi, quoted in *ibid.*

Police certainly spread stories to the media that belittled the murder campaign's scope, and tried to shift responsibility away from militia death squads to family and tribal violence.<sup>7</sup> "Honor"—and patriarchal and tribal values around masculinity, sexuality, and shame—indeed exacerbate prejudice and incite harm, as Human Rights Watch documents in this report. They do not, however, detract from the death squads' culpability as chief actors. Nor do they diminish the state's unfulfilled responsibility to investigate and prosecute murders, to punish those found responsible, and to protect the rights and lives of all Iraqis, without discrimination.

Human Rights Watch has previously reported on insurgent violence against civilians in Iraq—as well as on the refugee crises that violence produced, with hundreds of thousands of displaced Iraqis forced to flee their homes and country. This report does not contend that men suspected of being "gay," or of being insufficiently "manly," face worse violence now than many other Iraqis have in the past. However, the sharp spike in killings this year points to lethal failures that persist, despite the Iraqi government's and coalition authorities' self-congratulation on their supposed pacification of society. In Iraq, armed groups still are free to persecute and kill based on prejudice and hatred; the state still greets their depredations with impunity. The attacks on the "third sex" and "gay" men may be only the first round in a renewal of cycles of militia bloodshed. All Iraqis should be concerned about such a revival of killings. It is incumbent on the Iraqi government to speak out against it, and to stop it.

Many people have speculated, to Human Rights Watch or in the press, that a *fatwa* or ruling on religious law by Moqtada al-Sadr or another cleric had launched the campaign. A young man in Sadr City told an Iraqi columnist that "the killing operations are not crimes since they fall under the jurisdiction of a religious *fatwa*."<sup>8</sup>

Human Rights Watch was unable to find evidence that any explicit, recent *fatwa* exists. In fact, however, the killings violate the norms and procedural standards of *shari'a* law. It is true that the Ja'fari school of Shi'ite jurisprudence, along with all four schools of Sunni law, considers homosexual conduct between men (*liwat*) a crime. The penalty applied to a person convicted of *liwat* can be a fixed punishment (*hadd*), which may under certain

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<sup>7</sup> See, for example, Timothy Williams and Tareq Maher, "Iraq's Newly Open Gays Face Scorn and Murder," *New York Times*, April 7, 2009, <http://www.nytimes.com/2009/04/08/world/middleeast/08gay.html>, accessed May 2, 2009: "The chief of a Sadr City police station ... said family members had probably committed most of the Sadr City killings. He played down the role of death squads that had once been associated with the Mahdi Army, the militia that controlled Sadr City until American and Iraqi forces dislodged them last spring. 'Our investigation has found that these incidents are being committed by relatives of the gays — not just because of the militias,' he said. 'They are killing them because it is a shame on the family.'"

<sup>8</sup> Saeedoun Mohsen Damd, "By Saad," *Al-Rafidayn*, May 11, 2009, [http://www.alrafidayn.com/index.php?option=com\\_content&view=article&id=7554:2009-05-11-09-30-02&catid=7:opinion&Itemid=52](http://www.alrafidayn.com/index.php?option=com_content&view=article&id=7554:2009-05-11-09-30-02&catid=7:opinion&Itemid=52), accessed May 15, 2009.



circumstances extend to execution; or it can be a discretionary measure (*ta'zi*), which may range from death down to a warning. It is crucial to stress, however, that in either case Ja'fari law lays out conditions which must be met before a sentence can be imposed. These limitations are protections for privacy and reputation, and against arbitrary trials.

Four conditions are relevant here.

- High evidentiary standards are required. Homosexual acts can only be established by a confession repeated four times<sup>9</sup>; by the unimpeachable testimony of four male witnesses (*bayyina*); or by the judge's personal observation of the acts (*'ilm al-hakim*). If an accusation of *liwat* turns out to be false, the accusers themselves are punished as slanderers (*qadhafa*).<sup>10</sup>
- The judge must determine that the defendant is an adult, is capable of rational thought, and acted voluntarily.<sup>11</sup>
- The judge must investigate whether suspicious acts (such as sharing a bed) were the result of necessity, such as lack of space.<sup>12</sup>
- The punishment must be imposed by a qualified jurist.<sup>13</sup>

For execution to be imposed as a fixed punishment (*hadd*), three additional tests must be passed.

- Penetration must be proven: the *hadd* cannot be imposed for non-penetrative acts. (This is called the standard of *iqab*.)

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<sup>9</sup> Al-Hurr al-'Amili (d. 1693 CE), *Wasa'il al-Shi'a ila Tahsil Ahkam al-Shari'a* (Beirut: Mu'assat Al al-Bayt l-Ihya al-Turath, 1993), vol. 28, *Abwab Hadd al-Liwat*.

<sup>10</sup> *Ibid*, traditions 33451, 34453, and 34454.

<sup>11</sup> Some Ja'fari jurists also restrict the death sentence in cases of *liwat* to individuals who are married. The dominant Ja'fari view, however, rejects this restriction. Shaykh al-Ta'ifah al-Tusi (d. 1068 CE), *Tahdhib al-Ahkam fi Sharh al-Muqni'ah li-l-Shaykh al-Mufid* (al-Najaf: Dar al-Kutub al-Islamiyya, 1958), vol. 10, *Bab al-Hudud fi-l-Liwat*, traditions 194/3, 200/9, and 201/10; Al-Hurr al-'Amili, *Wasa'il al-Shi'a ila Tahsil Masa'il al-Shari'a*, vol. 28, *Abwab Hadd al-Liwat*.

<sup>12</sup> Shaykh al-Ta'ifah al-Tusi, *Tahdhib al-Ahkam* vol. 10, *Bab al-Hudud fi-l-Liwat*, tradition 207/16; Al-Hurr al-'Amili (d. 1693), *Wasa'il al-Shi'a ila Tahsil Masa'il al-Shari'a*, vol. 28, *Abwab Hadd al-Liwat*, chapter title and tradition # 34465.

<sup>13</sup> Thus Ayatollah Ruhollah Khomeini, writing on the principle of "*Wilayat al-Faqih*" or the "government of the jurist," emphasizes that fixed punishments (*hudud*) can only be applied by an established authority (either an *imam* or a credentialed jurist). Sunni jurists impose basically the same requirements for a conviction as Ja'fari law. However, while most Shi'ite theories of political authority—theories of who is empowered to apply the laws—take the figure of the *imam* as their ultimate model of just rule, Sunni theories treat legitimate government as derived from other models, such as "contract" or "necessity." See, for instance, Hamid Enayat, *Modern Islamic Political Thought* (London: Macmillan, 1982). In addition, Sunni jurists require only two witnesses to establish proof of *liwat* as opposed to four in Ja'fari law, though Sunni jurists require four witnesses to prove illicit heterosexual intercourse (*zina*).

- The slightest doubt of guilt must be eliminated, according to the legal principle of *dar' al-hadd bi-l-shubha* (“fixed punishments are thwarted by doubt”). Ja‘fari jurists writing on the fixed punishment for *liwat* stress that the *hadd* cannot be applied based on “possibilities” (*la hadd ma‘a al-ihtima*).<sup>14</sup> Uncertainty about the good character of alleged witnesses to the act, or discrepancies in their testimonies, should preclude a sentence.
- The accused must be given a chance to repent, and repentance can prevent a sentence of execution.<sup>15</sup>

The killings arbitrarily flout these limitations. Summary executions, without trial, based on rumor and accompanied by torture, at the hands of armed gangs—all these strike at *shari‘a* standards of evidence, legality, and justice.

They also strike at the principles of human rights. International human rights law safeguards the right to privacy, including the right to an intimate life undisturbed by surveillance or violence. It protects the right to free expression, including the right to express one’s personhood through dress and behavior. It absolutely prohibits, in all circumstances, all forms of torture and inhuman treatment. It guarantees the right to life, including the right to effective state protection.

Iraq’s leaders must be defenders of all its people. The Iraqi state must desist from silence, and fully and immediately investigate the murder and torture of people targeted because they do not correspond to norms of “masculinity,” or are suspected of homosexual conduct. It must appropriately punish those found responsible. It must take effective steps to restrain militia violence consistent with its own human rights obligations. It should dismiss any police or criminal justice officials who are found responsible for human rights abuses or who have been linked in the past to death squads or militia forces. It should properly vet and train members of the police, security forces, and criminal justice system, ensuring that

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<sup>14</sup> Al-Muhaqqiq al-Hilli (d. 1277 CE), *Shara‘i al-Islam fi Masa‘il al-Halal wa-l-Haram* (Beirut: Dar al-Adwa, 1403/1982), vol. 4, pp. 933 and 944.

<sup>15</sup> Shaykh al-Ta‘ifah al-Tusi, *Tahdhib al-Ahkam*, vol. 10, *Bab al-Hudud fi-l-Liwa*, tradition 198/7, tells how Amir al-Mu‘minin Imam Ali received a man who confessed to *liwat* three times. Amir al-Mu‘minin finally told him after his fourth confession that his punishment would be death. The man repented, however, leading Imam Ali to weep and set him free—telling him that his repentance caused the angels to weep as well.

Meanwhile, the Hanafi school of Sunni jurisprudence adds another limitation: applying death as a *hadd* for anal intercourse between men is restricted to cases when *liwat* has become an ‘*ada* or habit, as opposed to acts that occur only once. Ibn ‘Abidin (d. 1836 CE), *Radd al-Muhtar ‘ala al-Durr al-Mukhtar* (Beirut: Dar Ihya’ al-Turath al-‘Arabi, 1987), vol. 3, pp. 155-6.

trainings in human rights include issues of sexual orientation and gender. Over the longer term, the Iraqi government should establish and safeguard the rule of law, to ensure that no Iraqi need fear extralegal punishment by armed men enforcing their own prejudice and hatred.

The US and the US-led multinational forces in Iraq should assist the Iraqi government wherever possible in investigating these crimes. They should also end arbitrary detention without trial, including the arbitrary detention of suspected militia members, and provide appropriate services to released detainees to assist them to rejoin society, and ensure that they do not resume violence.<sup>16</sup>

Finally, as many Iraqis targeted in the killing campaign are forced to flee the country, the international community must recognize that they are under threat not only at home, but in the surrounding countries where they seek first refuge. As this report documents, nearly all those countries criminalize consensual homosexual conduct; all have social environments of severe prejudice. The United Nations High Commission on Refugees and the international community should prioritize prompt, and where necessary accelerated, resettlement in safe third countries for those endangered people.

## **Methodology, Terminology**

This report is based primarily on research conducted in Iraq from April 14-28, 2009 by Rasha Moumneh, researcher in the Middle East/North Africa division of Human Rights Watch, and Scott Long, director of the Lesbian, Gay, Bisexual, and Transgender Rights program at Human Rights Watch. During that visit, we interviewed 22 Iraqi men face-to-face; they told us stories of death threats, abductions, attempted assassinations and other forms of persecution. We communicated with and interviewed 24 other men in Iraq by telephone, e-mail, or internet chat. In July 2009, Scott Long interviewed an additional eight Iraqi men in Lebanon. All the men we spoke to requested that we not use their real names. We have concealed the locations in Iraq (and, in some cases, outside Iraq) where interviews took place, to protect the safety of these and others. Human Rights Watch also spoke to Iraqi human rights activists, journalists, and medical doctors in the course of its research.

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<sup>16</sup> The United States and the US-led coalition in Iraq have, in recent months, rapidly cycled out of detention people arbitrarily arrested during the surge, while apparently providing only nugatory support or services to prevent a return to violence. At the height of the surge, the US held over 26,000 prisoners in Camp Bucca, a detention camp near the Kuwaiti border; by March 2009, this number had reportedly fallen to under 10,000. See Anthony Shadid, "In Iraq, Chaos Feared as U.S. Closes Prison," *Washington Post*, March 22, 2009. The practice of arbitrary detention undermines efforts to build the rule of law in Iraq. If neither coalition authorities nor the Iraqi government accept any substantive responsibilities to assist detainees' reintegration upon their release, it also risks feeding the resurgence of militia violence.

All the survivors of militia violence Human Rights Watch interviewed for this report identified themselves as “gay.” Some reflection on terminology and identity is necessary here. The use of “gay” in English to describe men who have emotional or sexual relationships with other men is relatively recent, emerging out of a North American subculture in the twentieth century. (“Homosexual” does not much predate it in European languages; the term was coined by an Austro-Hungarian doctor in 1869.)

All the survivors we interviewed told us they first heard “gay” with that purport after the US invasion in 2003. Most said it had come to Iraq through the Internet or Western media, particularly TV and films. Its use cuts across classes: a doctor and a high-school dropout each employed it in talking to us about themselves. The men integrated the English word seamlessly into Arabic speech. The recent deployment in Arabic of *mithli* (plural *mithliyeen*) as a neutral, non-condemnatory equivalent of “homosexual” in English has not taken strong root in Iraq. Most of the men, if they were familiar with it at all, said it was rare.<sup>17</sup> “All of us use ‘gay’ among ourselves, never *mithli*,” a gay hospital employee told us. “Even doctors in speaking to each other won’t use the Arabic word for it—they’ll sometimes say ‘homosexual’ in English.”<sup>18</sup>

It is vital to stress two points. First, the fact that the *word* comes from beyond Iraq’s borders does not point to anything imported or foreign about the *phenomenon* people use it to describe. To the contrary: the conduct called “homosexual”—desires, erotic acts, or emotional relationships between people of the same sex— has always existed in Iraqi society, as in all societies. A new name for it is, by itself, only a shift in vocabulary, not in values or behavior.

Yet at the same time, no one should assume that the word bears exactly the same connotations in Iraq as it does elsewhere. That homosexual conduct has happened everywhere does not mean people interpret it in the same way, or give it the same individual or collective meanings. In fact, as Human Rights Watch has written:

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<sup>17</sup> Curiously, though, two people told us that the word was taken up in 2009 by the killers themselves. Once it appeared a poster seen in Sadr City calling for divine punishment on *mithliyeen*: Human Rights Watch interview with Fadi (not his real name), Iraq, April 18, 2009. In another case, according to a rumor, a corpse found near Sadr City “had *mithliyeen* carved on his back. Strange, this is the politically correct word. In Iraq the word *mithliyeen* doesn’t exist. I had never heard the word before.” Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009. Everything suggests the killers did their research, down to visiting gay websites, answering personal advertisements, and entrapping men there; in the process of such investigations, their dictionaries may have undergone diversification.

<sup>18</sup> Human Rights Watch interview with Haytham (not his real name), Iraq, April 18, 2009.

No one receives an identity—social or familial, as "son" or "chief," for instance—in pristine and undiluted form from society or tradition; it always takes on personal and internal meanings, as well as shadings from the social surroundings and the historical moment. Similarly, people who identify as "homosexual" or "gay" or "lesbian" in a cultural situation where the term is new do not merely adopt an unbroken set of imported associations. They creatively adapt the term and its meaning to their own conditions and their cultural inheritance.<sup>19</sup>

Many gay Iraqis we interviewed implied that, for them, having a "gay" identity is at least as much about how "masculine" or "feminine" they see themselves as about the object of their desire. Gender—the accumulated distinctions that societies and cultures impose, to demarcate what is "proper" to men and to women—is an important axis along which they situate their self-understanding.

Gender is also crucial to comprehending what propels the current campaign of violence. It is telling, as suggested above, to look at the words with which the Iraqi media and many ordinary Iraqis decry the people who call themselves "gay." Some of these terms voice moral disapproval predicated on certain specific kinds of conduct—such as *luti* or the "people of Lot," taken from the Quranic story and applied to people who practice *liwat* or "sodomy."<sup>20</sup> Other, more demotic slurs, however, involve whether a man looks "masculine." "The police at checkpoints always give us grief about our clothes, our jewelry," one man said. "They call us *kiki*—it means someone who's effeminate or soft."<sup>21</sup> The notion that "gays" embody not just a propensity for certain sexual acts, but a "third sex" threatening the other two, is rife. One newspaper article implicitly applauded the killers by warning that "The legacy of inherited beliefs regarding manhood and morality that characterize the Iraqi people must be transmitted. These ideals go against the feminization of boys and the practice of [men] applying makeup, which have spread among many Iraqi youth, eliciting disgust."<sup>22</sup> Enforcing

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<sup>19</sup> *More than a Name: State-Sponsored Homophobia and Its Consequences in Southern Africa*, a report by Human Rights Watch and the International Gay and Lesbian Human Rights Commission, 2003, p. 8.

<sup>20</sup> Even these terms, however, have gendered distinctions engraved in their histories—between those who take "masculine" and those who take "feminine" roles as expressed in sexual positions and practices. One historian notes that "The term *luti* was typically used of [the "active" partner in sex between men], while *mukhannath* or *ma'bun* or (more colloquially) *'ilq* was reserved for [the "passive" partner]. It is worth dwelling on this point, since there is a persistent tendency among some modern scholars to overlook this distinction and render the indigenous term *luti* as 'homosexual.' In Islamic law, the *luti* is a man who commits *liwat*... regardless of whether he commits it as an active or passive partner. However, in ordinary, non-technical language ... the term *luti* almost always meant ... [someone] thought to be interested in active-insertive anal intercourse..." Khaled al-Rouayheb, *Before Homosexuality in the Arab-Islamic World, 1500-1800* (Chicago: University of Chicago Press, 2005), p. 16.

<sup>21</sup> Human Rights Watch interview with Haytham, Iraq, April 18, 2009.

<sup>22</sup> Sabah Mohsen Kazem, "The Feminization of Young Men: Diagnosis and Treatment," *Al-Sabah*, May 7, 2009.

manhood at gunpoint, the murderers arrogate to themselves the power to control people's dress and appearance as well as their intimate lives. Men wearing cologne or walking the wrong way become victims of the crackdown.

Fear of “feminized” men reveals only hatred of women. No one should be killed for their looks or clothing. No one should be assaulted or mutilated for the way they walk or style their hair. The freedom to express oneself—in dress, appearance, and manner—is at stake in the crackdown, as much as the security of the person and the protection of private life. All these rights are essential to people's dignity.<sup>23</sup>

A glossary of some key terms can be found at the end of this report.

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<sup>23</sup> Moreover, international human rights law recognizes that restrictive social prescriptions dictating what men and women may do are a source of rights abuses. The Convention on the Elimination of All Forms of Discrimination against Women, in its article 5, calls on states “To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Iraq ratified the Convention in 1986.

## II. “They Are Massacring Us”: Survivors’ Voices

### A Spreading Campaign

A campaign of systematic killings gathered gradually in strength through the early months of 2009.

Militia attacks on men who look “effeminate,” or who are shadowed by suspicion of engaging in same-sex relations, have been an intermittent aspect of the murderous climate in Iraq for at least five years. Yet the people we interviewed testified to a radically new intensity to these attacks this year—an expanded scope and reach of killings, and a monitory public purpose: to enforce “morality,” or a brutal perversion of it, through murder.

Idris is 35 and a friend of Hamid. He has relationships with other men but also has a wife and children. He told us in April:

We’ve been hearing about this, about gay men being killed, for more than a month. It’s like background noise now, every day. The stories started spreading in February about this campaign against gay people by the Mahdi Army: everyone was talking about it, I was hearing about it from my straight friends. In a coffee shop in Karada they were talking about it; on the streets in Harithiya they were talking about it. I didn’t worry at first. My friends and I, we look extremely masculine, there is nothing visibly “feminine” about us. None of us ever, ever believed this would happen to us. But then at the end of March we heard on the street that 30 men had been killed already.<sup>24</sup>

Bilal, 27 years old, a street salesman in the Karada neighborhood of Baghdad, says that he first sensed an atmosphere of mounting danger when “A friend of mine was killed three months ago.”

He was very public, everybody knew he was gay. His family said his killers made a CD of how he was killed—they filmed it. They slaughtered him; they cut his throat. His family did not want to talk about it. And now they are killing people right and left in Shaab and al-Thawra. We heard 11 men were

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<sup>24</sup> Human Rights Watch interview with Idris (not his real name), Iraq, April 24, 2009.

burned alive in al-Thawra. Everyone is talking about the numbers of people killed. And they just keep rising.<sup>25</sup>

Hussein, 27 and from the Mansour district of Baghdad, told us that, through the first months of the year, the violence metastasized from target to target, running through a roster of supposed signs of nonconformity. First “they went after people with long hair, so people got short haircuts right and left. A friend of mine was threatened: he had long hair: he lived in a Shi’a neighborhood, Abu Chir, next to Dora. Someone told him on the street that he had to cut his hair or they would cut off his head.”

Then people started gossiping, saying, there are guys who wear sanitary pads to make their asses look bubblier—so anybody with tight jeans was a target. And then you heard that tight T-shirts meant you were a member of the third sex.

Everyone killed in the first period was in Shi’a neighborhoods—Hurriya, al-Bada’, Sadr City. But not anymore. For instance, three days ago in my neighborhood, Hayy al-Jami’a, they found the body of a gay man who was decapitated. The common talk about him in the neighborhood had always been that he was gay. And this story spread like wildfire. It’s a Sunni district. But the way they operate now is, it seems, they go into a neighborhood, kidnap someone, take him to Sadr City, and torture and kill him. And then they dump the body in Sadr City, or back where he lived.<sup>26</sup>

Tariq, 18, who lived in Baghdad al-Jadida, a development in the southeast part of the city, told Human Rights Watch,

At the end of March, I started to hear from friends that the Mahdi Army was killing gays. The newspapers also reported there was an increase in the “third sex” in Iraq, also known as “puppies” [*jarawi*]. Then on April 4, I found out that two of my gay friends, Mohammed and Mazen, had been killed. I think those were their names; within a gay group, gays rarely give out their real names. We were friends, we met in cafes or chatted on the Internet, and one day they just disappeared.

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<sup>25</sup> Human Rights Watch interview with Bilal (not his real name), Iraq, April 20, 2009.

<sup>26</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.



A few days later, I met the brother of one of them and he told me they were killed. They were kidnapped on the street and then their bodies were found near a mosque, with signs of torture. One was 18, one was 19.

A couple of days after that, on April 6 or 7, I was in my parents' house, and someone threw a letter at the door. I didn't see who. Inside the envelope was a bullet. It had brown blood on it, and the letter said, "What are you still here for? Are you ready to die?"

I think those two were tortured into giving my name, because two days after I learned they were killed I got this threat. ... I spoke by phone to a friend of mine yesterday night: he is also gay but he's very masculine and no one knows about him. He said, "Get out if you can and save yourself. They are killing gays left and right."

I said, "Who is doing it?" He said, "Everyone knows. Who do you think? The Mahdi Army."<sup>27</sup>

Talal, 26, lives in an area bordering Sadr City. "I hear people in the neighborhood talking about the issue," he told us, "and saying these people need to be killed. Then I heard from friends in March that the Mahdi Army had already killed 25 gay people in Sadr City. And in Mashtel [another area in East Baghdad], 13 people. And in Palestine Street, 10."<sup>28</sup>

Atif, 27, from the Zayouna area of Baghdad, fled for northern Iraq at the beginning of April. "I call people in Baghdad and they tell me, don't come back, they are massacring us: they are massacring gays here."<sup>29</sup>

## Death Lists

Hamid, who told us how armed militiamen kidnapped and murdered his boyfriend, said:

In the same days around my partner's murder, they [militia members] killed three other men within a few streets of each other, in Hurriya, next to

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<sup>27</sup>Human Rights Watch interview with Tariq (not his real name), Iraq, April 18, 2009.

<sup>28</sup> Human Rights Watch interview with Talal (not his real name), Iraq, April 21, 2009.

<sup>29</sup>Human Rights Watch interview with Atif (not his real name), Iraq, April 20, 2009.

Kadhimiya, a very religious neighborhood. They took two from their homes, including my boyfriend; they killed two more on the street.

The next day, after my boyfriend was murdered, they came for me. They came into my house and they saw my mother, and one of them said: “Where’s your faggot son?” There were five men. Their faces were covered. Fortunately I wasn’t there but my mother called me after they left, in tears. From then on, I hid in a cheap hotel for two weeks. I can’t face my family—they would reject me. I can’t go home.<sup>30</sup>

“The same day, a week after they came to Hamid’s house,” his friend Idris says, “they came to mine.”

They were in the same black outfits with masked faces. They came in early evening. At the time, my wife and children and I were all at my brother’s house, because the electricity was cut. The next day, we came back and found the house had been trashed, the windows smashed, and a lot of things stolen. The neighbors said four or five men fitting the same description [as those who came for Hamid] had come. The neighbors didn’t know why: but I did.<sup>31</sup>

Majid, 25, another friend of Hamid, says,

They came to my parents’ house a day later. I was out of the house when it happened. The neighbor’s son has the same given name and so they kidnapped the wrong guy. When they found out they let the boy go, but they beat him severely—they wanted to kill him. They tortured him with electricity, they beat him with cables. He looked like a roast chicken when he came home.

When I came back everyone was yelling and screaming that Majid, this boy Majid, had been taken. When he was released, he staggered home and said,

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<sup>30</sup> Human Rights Watch interview with Hamid (not his real name), Iraq, April 24, 2009.

<sup>31</sup> Human Rights Watch interview with Idris (not his real name), Iraq, April 24, 2009.

“They didn’t want me, they wanted the other Majid. They said he was gay.” I had to leave. My parents threw me out. I cannot face them anymore.<sup>32</sup>

Cafes and gathering spots where gays discreetly met, especially in Baghdad, have been a target of the crackdown. One journalist told us in late April how “A week ago at a café in Karada, known to be frequented by gay men, the militias threw a piece of paper in, for the owner, saying: ‘If you allow them to congregate here, we will blow up the café.’”<sup>33</sup> These watering holes also furnish trails for the attackers to follow. Majid, attacked at his home, says: “We think they got our names from the places where we used to go—from the owners.”

But anyway, in that neighborhood, if you ask around, people will tell you their suspicions. And they kidnap people and torture them for names—or for cell numbers. If they got my number off the phone of somebody they tortured or killed, in Iraq it’s very easy to trace the sim card.<sup>34</sup>

Several people told us that attackers had read them lists of men suspected of sexual relations with other men. Haytham, 28, is a young professional who has been in a relationship with his partner Adel, a 27-year-old student, for almost a year. “Starting sometime in February we heard about gays being murdered across Baghdad, especially in Sadr City. There was more and more talk about it, among straight people as well as gays.”

On April 1 these stories hit home: “I had been with Adel in a café in Karada,” Haytham recounted. “It was nighttime and we were on our way back, driving through Shari’a Qanat”—an east Baghdad neighborhood near Sadr City.

A car pulled us over. About six men carrying weapons stepped out and asked for our IDs. They were dressed in black, which is usually the sign of the Mahdi Army. I demanded, “Who are you to ask for our cards?” So they opened the door and pulled us out, humiliating us, calling us “puppies,” saying, “We see you in pervert places all the time.”

I tried to argue we were just friends, tried to convince them there was nothing between us. Then they pulled out a list and they started asking us about these names.

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<sup>32</sup> Human Rights Watch interview with Majid (not his real name), Iraq, April 24, 2009.

<sup>33</sup> Human Rights Watch interview with Samir (not his real name), Iraq, April 24, 2009.

<sup>34</sup> Human Rights Watch interview with Majid (not his real name), Iraq, April 24, 2009.

Most were women's names, the nicknames of gay men. They weren't names that either of us knew. At that point, a US [army] patrol car came by. The men hissed at us: "Your turn is coming next." They threw us against a wall, jumped in the car, and drove off.<sup>35</sup>

"After that I didn't leave the house for days," Haytham remembers. He only went to his job after almost two weeks, to fill out paperwork.

It was April 13 and I was driving on Qanat Street again, on the way back from my workplace. Suddenly I saw another car was following me. It was a car chase: I sped up and they sped up too. ... There were two men in the car, and they kept staring at me. I couldn't see if they were armed or not, but they were wearing black. They had pushed me over to the left side: if I continued there I would crash into these concrete barriers that were part of checkpoints. So I hit the brakes really hard before we reached the concrete barriers. I swerved and was able to take a side street

The point is, they knew where I worked as well. The men before had rifled through my wallet, so they'd seen my ID from my job: and these men were following me from my workplace.<sup>36</sup>

Mashal is 41, and until recently owned a small store in the Hayy Ur neighborhood. On March 6, militiamen kidnapped him for four days—and tortured him to extract more names for their lists.

It was about 4 p.m. and four men came inside the shop. They lingered and when I tried to get them to leave, they pulled out guns. They had three cars—one a black Daewoo—and they put me in one and covered my eyes.

It was the Mahdi Army—they are the ones who operate in the area. The place they took me to wasn't far away: it was very close to a mosque or actually in the courtyard, because I could hear the call to prayer very clearly. When they hauled me out of the car they beat me until I fell unconscious.

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<sup>35</sup> Human Rights Watch interview with Haytham (not his real name), Iraq, April 18, 2009.

<sup>36</sup> Ibid.

Late the next day, they came to me and said, “We know you are gay, we know you’re *farakhji*” [a derogatory term used in Iraq for men who have sex with men]. They pulled out a list of names and started reading them: you know these perverts, you know X and Y and Z. They gave the first name and the neighborhood where he lived. I knew four who were still alive. One they had already killed.

They had killed my friend Waleed in February, before I was kidnapped. He was walking down a big street between Hayy Ur and al Shaab [in northeast Baghdad near Sadr City] at dusk. I asked Waleed’s brother about it later, and he told me, “Waleed was slaughtered in the street. Don’t ask more.” I am sure he was killed because he was gay. He was walking with a bunch of straight friends, and he was killed, not them: he was the one they targeted. He was the first name on the list they read me.

There were many more names I didn’t know. I admitted knowing those four, but I said it was only because they were customers in my shop.

They interrogated me for three hours that night. They kept me blindfolded and gagged, and when they wanted me to speak, they took out the gag. They demanded I give them names of other gays. At night they got a broomstick, and they used it to rape me.

After that, they negotiated a ransom. They asked my family for \$50,000 USD. My brothers sold my shop, my car, everything I had to put together half that.

When they let me go they said, “We have our sources, and we know exactly what you do. If you step outside your house, you are dead.” I never left the house for more than a month, until I fled Baghdad. One of the people whose names they read to me ran away from Baghdad, with his parents. Two others I know are just hiding in their houses. A few don’t answer their phones and I don’t know what has happened to them.<sup>37</sup>

Hussein told us that “These people—the Mahdi Army—go to certain parties, to hunt down gay men.” In mid-March, he says,

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<sup>37</sup> Human Rights Watch interview with Mashal (not his real name), Iraq, April 20, 2009.

I went to a party in the Adhamiyah neighborhood. It's an area full of Sunnis, but near a Shi'a neighborhood. The party was all men, but mostly straight people; there was drinking and dancing. I am a good oriental dancer, and I danced all evening. All through the night, I kept seeing people in the crowd watching me, following with their eyes.

I left around 9 p.m. As I walked down the street, a black Daewoo Prince was following me—three men in it, with short beards.

They had been at the party. I was the only one dancing oriental style and it was very obvious I was gay. Oh, and they'd been drinking, too! These people find it OK to kill. It's not like they won't find it OK to sip a glass of wine.

One of them got out, and said, "Let us drop you off." From the accent, I could tell they were Shi'a.<sup>38</sup> I started to back off and they said more roughly, "Come with us." They insisted.

He grabbed me by the arm. I know these people, they look for someone soft, like me. I pushed him away: then a second man came, grabbed me, called me a son of a bitch, and pulled me into the car. I didn't know: were they going to beat me, to rape me, to kill me? I said, "Let me out or I'll start shouting"—the checkpoint was nearby. They were carrying guns and they took them out, and one of them hit me in the head with the butt of his gun.

When we spoke to him, Hussein still carried a suppurating wound on his forehead from the beating.

I started crying and they said, "We're going to fuck you." They were driving really fast and I was sitting by the door; I started struggling. They elbowed me, and I managed to get the door open and I rolled out onto the street, by the concrete barriers. And they left me there, and I woke up the next day; someone had dragged me to a hospital.

Hussein says: "The scar on my head is the sign: I'll be killed. They hate me. I want to live."<sup>39</sup>

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<sup>38</sup> Accents from the south of Iraq, where the vast majority of the population are Shi'ite, suggest but do not confirm a sectarian affiliation.

<sup>39</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.

## Torture and Threats: “A Slaughterhouse on the Streets”

“Three were killed two days ago,” the doctor, who identifies as gay, told us in mid-April—“I heard it from a friend. I heard their bodies were hung over a wall.” He lives near Sadr City, and is almost but not quite inured to the regular reports of gay men murdered in the area.

The same thing that used to happen to Sunnis and Shi’ites is now happening to gays. Till now, my friends and I know of 10 or 15 who have been killed, mostly around Sadr City. They sometimes get people in other places, and bring them there to be killed. About two months ago it started. Day after day they are more prominent. Now it is massive. At first they did it secretly; but now they stop you—they stopped me this way—and search you on the street, in front of others.

He fled Baghdad in mid-April, for his own safety. The stories pursued him relentlessly, though: not just in his personal but in his professional capacity. On April 18, he related to us:

A fellow doctor—a colleague, a classmate of mine, who works at al-Kindi hospital—told me over the phone that more were killed yesterday. Four were brought in with their genitals cut off. And some were brought in, not dead, with glue in their anuses.<sup>40</sup>

A few days later, he said colleagues in Baghdad had warned him “that bodies keep coming into the hospital. One day there were two bodies; the next, four. Two or three of the dead bodies have glue up the anus. And there are living people, a lot, who have been tortured badly, with bones broken.”<sup>41</sup>

Tayyib, 24, lived for several years with other men in a “safe house” in Baghdad, funded by the London-based diasporic group Iraqi LGBT. He says that of sixteen men he shared those quarters with, only nine are left: the rest have been murdered or have disappeared. Friends and family told him that “the Mahdi Army threw my friend Mustafa off the top of a building: then they shot and killed him.” Also in early 2009,

The Mahdi Army killed Khaldoun in Baghdad al-Jadida. I heard that Khaldoun was tortured, beaten and disfigured, and finally hung on the street. One of

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<sup>40</sup> Human Rights Watch interview with Fadi (not his real name), Iraq, April 18, 2009.

<sup>41</sup> Human Rights Watch interview with Fadi (not his real name), Iraq, April 23, 2009.

the tortures they used on him was a very strong glue to close his anus, after which he was given a laxative causing diarrhea that killed him.<sup>42</sup>

Perhaps the most disturbing aspect of the campaign is its publicity and impunity. The death squads treat murder as a message, aimed at other presumed “deviants” and at the population at large. The brutality of the killings, the proliferation of mutilated corpses discarded in the trash, not only conveys the power of the killers and the dispensability of the victims, but makes the dead a savage example. Bodies—castrated, broken, tortured—become billboards, on which punishment is less imposed than inscribed. As one man told us, “It is a slaughterhouse on the streets.”<sup>43</sup>

The excruciating killing of victims by injecting glue in their anuses reached the press on April 19, in an *al-Arabiya* article that quoted the Iraqi women’s rights activist Yanar Mohammad condemning “an unprecedented form of torture against homosexuals.”<sup>44</sup> Other doctors in Baghdad confirmed the practice to Human Rights Watch. One, at Chawader Hospital in Sadr City, told us that he had seen four men’s dead bodies brought to the hospital:

I knew one of them. One of the bodies was found in the garbage in the Kasra wa Atash area and the others were found in several other streets. .... Two of the bodies I saw were glued. I heard that happened in one of the car workshops in Sadr City but I don't think there have been any investigations.<sup>45</sup>

That is only one method, though, for staging a theater of humiliation. Mashal said: “Friends told me that last week in separate incidents they killed two guys, one from Sadr City, one from Ur—my area. They stripped them naked and put diapers and bras on them. Then the Mahdi Army beat them to death. They filmed at least one of the killings; I saw a video circulating via Bluetooth.”<sup>46</sup>

These stories reinforce an atmosphere of terror, and are themselves reinforced by the videos of atrocity and insult that fly virally, from mobile phone to mobile phone, throughout Iraq. Tariq told us, “Just recently a new insult started, a new name for gays: *jeru* [puppy]. My friend

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<sup>42</sup> Human Rights Watch interview with Tayyib (not his real name), Iraq, April 25, 2009.

<sup>43</sup> Human Rights Watch interview with Atif (not his real name), Iraq, April 20, 2009.

<sup>44</sup> Hayyan Neyouf and Ali Al-Iraqi, “Seven Gays’ Bodies in Baghdad Morgue,” *Al-Arabiya*, April 20, 2009, [http://www.alarabiya.net/save\\_print.php?print=1&cont\\_id=71071](http://www.alarabiya.net/save_print.php?print=1&cont_id=71071), accessed April 21, 2009.

<sup>45</sup> Human Rights Watch interview with a doctor who asked not to be named, Iraq, May 15, 2009.

<sup>46</sup> Human Rights Watch interview with Mashal (not his real name), Iraq, April 20, 2009.



showed me a video on his mobile with a very effeminate man speaking and it was dubbed with a puppy's barks. There are a lot of videos like this going around."<sup>47</sup>

Fadi told us that, in his neighborhood near Sadr City, "I've seen a poster on the wall: 'Stop the immoral and anti-Islamic acts of the pervert homosexuals [*mithliyeen*], and mete out the appropriate divine punishment."<sup>48</sup> Similar signs have appeared in Najaf, the city that is home to the al-Sadr family. A doctor said that names of men suspected of homosexual conduct had been written on walls "in three different locations in Sadr city: Kasra wa Atash, al-Fallah Street and the end of al-Dakhel Street."<sup>49</sup> *Al-Arabiya* also alleged that public threats against named individuals had appeared in the district:

A previously unknown group, *Ahl al-Haq* (the People of Truth) has stepped up the persecution of Iraqi homosexuals [*mithliyeen*] after several were murdered in recent days. Sources say that "Three lists, each with the names of ten gay men, were circulated in Sadr City for a few hours." The lists included a message: "Lecherous ones [*fajireen*], we will punish you!"<sup>50</sup>

Fadi added that private threats are also part of the repertory: "If they [the Mahdi Army] are not quite sure about you, they say, 'You have to stop it or you will be killed.' If they are confident, they just kill you." He relates,

A friend of mine, an engineer, was threatened directly. He told me that they told him his family would be killed with him if he didn't stop this. I haven't heard from him in ten days. ...

I have been threatened directly too. I became acquainted with a person who is well known to be gay. I think then some people in the neighborhood began to suspect that I might be gay too. Around April 12, I was on the street and I saw some Mahdi Army thugs beating up a guy they were accusing of being gay. They spotted me and they shouted: "We know you and we will kill you next."<sup>51</sup>

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<sup>47</sup> Human Rights Watch interview with Tariq (not his real name), Iraq, April 18, 2009.

<sup>48</sup> Human Rights Watch interview with Fadi (not his real name), Iraq, April 18, 2009.

<sup>49</sup> Human Rights Watch interview with a medical doctor who asked not to be named, Iraq, April 25, 2009.

<sup>50</sup> Hayyan Neyouf and Ali Al-Iraqi, "Seven Gays' Bodies in Baghdad Morgue," *Al-Arabiya*, April 20, 2009, [http://www.alarabiya.net/save\\_print.php?print=1&cont\\_id=71071](http://www.alarabiya.net/save_print.php?print=1&cont_id=71071), accessed April 21, 2009.

<sup>51</sup> Human Rights Watch interview with Fadi (not his real name), Iraq, April 18, 2009.

Several people told us they had received death threats by phone or in notes. Talal said, “Starting in December [2008] I began getting text messages that had obscenities in them.” Reluctant to say the words aloud, he writes them instead: *tanta* [“queen” or effeminate man], *firakh* [boy].

And the messages would say, “We know you if we see you,” “We know where your house is and we’re going to come there,” “If we see you, we will kill you.” And I got calls from random numbers saying the same thing.<sup>52</sup>

Bilal, a salesman in Karada, told us that “Three weeks ago I was walking on the street, and a car pulled up to me. There were three young men in the car, teenagers. They started making obscenities and following me—‘shame, shame, *shazz* [pervert], *duda* [worm].”

When I go to my work, I am afraid. It is a gamble each time I go. Two months ago, some guy came and was stalking me. He kept hanging around the area where I work, giving me dirty looks—I was afraid I would be kidnapped or killed.<sup>53</sup>

Bilal left Baghdad for another part of Iraq. In May, he informed Human Rights Watch that someone sent his family a note saying that “they” were waiting for him, and that he would be killed if he returned to his Karada neighborhood.<sup>54</sup>

The threats extend beyond Baghdad. We spoke to two men who had been in a relationship for five years; they lived in Najaf, the site of the tomb of Imam Ali, one of the holiest places of Shi’ite Islam. It is also a home of Moqtada al-Sadr, and a city dominated by the Mahdi Army. Ja’far, 41, had owned a shop near the mosque of Ali. When we met him, he was so traumatized by months of harassment and abuse that he could not leave his room and could barely talk. His partner Mohammed, 34, told most of his story.

“They did many things to us, the Mahdi Army,” Mohammed said:

It started in October 2008. Men came into Ja’far’s shop and offered him a drugged drink or candy. When he started to drive home with his earnings, one of them got in the car with him, and he was too drugged to stop them;

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<sup>52</sup> Human Rights Watch interview with Talal (not his real name), Iraq, April 21, 2009.

<sup>53</sup> Human Rights Watch interview with Bilal (not his real name), Iraq, April 20, 2009.

<sup>54</sup> E-mail to Human Rights Watch from Bilal, May 12, 2009.

they kidnapped him, beat him, and stole all he was carrying—tens of thousands of dollars. He disappeared for days; he won't say what happened to him. I didn't see him until two weeks after and there was still a bloody scar on his head from the beatings.

Another time they kidnapped him for six days. He will not talk about what they did to him. There were bruises on his side as if he was dragged on the street. They did things to him he can't describe, even to me.

They wrote in the dust on the windshield of his car: "Death to the people of Lot and to collaborators." They sent us veiled threats in text messages: "You are on the list." They sent Ja'far a piece of paper in an envelope, to his home: there were three bullets wrapped in plastic, of different size. The note said, "Which one do you want in your heart?"

I know who they are. The envelope came from the Mahdi Army's technical expert in Najaf—he does their websites. One day he met me on the street and asked me, "Did you receive my gift?"

I want to be a regular person, lead a normal life, walk around the city, drink coffee on the street. But because of who I am, I can't. There is no way out.<sup>55</sup>

Mustafa, 37, told us that in early 2009 in his home city of Basra, a militia member entrapped him in a bathhouse:

There is a *hamam* [bath] in Basra that gays frequent. I entered, but I was very careful how I looked and acted. I took a shower, and then this man approached me. He started talking about the situation in Iraq: how people should be more open, accept changes and change with them. He was very clever in his questions!

He asked if I watched satellite TV. I said yes. He asked if I watched the European channels. I denied that I did.<sup>56</sup> He said, "The Internet is a good thing; it is good that it came to our country." He asked what websites I

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<sup>55</sup> Human Rights Watch interview with Mohammad and Ja'far (not their real names), Iraq, April 21, 2009.

<sup>56</sup> "European channels" have a reputation for pornography among some Iraqis.

visited. I just said, various ones. He asked if I went to porn sites. I denied it. Then he asked if I used Manjam [a personals site popular among gay men]. He was very smart: that website is only known among the gays, I thought. When he said that, I trusted him; I admitted it.

He smiled for a couple of minutes, a very neutral, slick smile, just looking at me. Then he grabbed me by the hair and started beating me, shouting, “You are gays.” That was how he said it: *gays*. He dragged me out of the shower; I begged him to let me put my clothes on, and he let me dress, but then he dragged me onto the street, shouting “You sodomite!” [*Enta luti*].

People gathered around us while he was hitting me, and tried to interfere. They said, “How do you know he is a sodomite? Did you see him practicing *liwat*?” The man said, “I have my own ways of finding out!” I was begging them to help, and while they were trying to reason with him, I took advantage of the confusion and ran away. We were on a narrow, winding street; I must have run 300 meters before I reached a shop where they sell rope. I shouted *dakhilak* [a cry for asylum]. The owner let me hide in his shop.

He put me in the cellar, but even there I could hear the man shouting, “Where is he?” and other voices joining him. Two hours later, the owner told me he had to close the shop. He said the man was from the Mahdi Army and the militia was searching for me up and down the street. I pleaded with him to let me stay overnight, and so he shuttered the shop up and let me hide there. In the morning, after dawn prayer, he came and said it was safe and I ran away.<sup>57</sup>

Hanif, 25, fled Basra in April because of an atmosphere of vigilante menace. Two weeks later, his mother got a note addressed to him, reading:

Message to one of Basra’s puppies

Know that the *shari’a* law will be executed on you and it is our duty to carry it out quickly

No matter when you disappear, the compensation [*thawab*] we will get from killing you will be ours

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<sup>57</sup> Human Rights Watch interview with Mustafa (not his real name), Beirut, Lebanon, July 10, 2009.

It was signed *Ahl al-Haq*—the “People of Truth.”<sup>58</sup>

Another man, from Kirkuk, told us that Sunni militias had threatened him there in April 2009.

They had some suspicion about my behavior and my clothes, and they were always watching me till one night when they stopped me in the street when I came back from work to my home at night. They called me bad things and names (*tanta* and *firakh*) and threatened me with guns. They told me to change my way of dressing and my voice and never meet any one, and they told me that they know what I am, and one of them hit me on my face. Because of that I left my work and the city.<sup>59</sup>

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<sup>58</sup> E-mail to Human Rights Watch from Hanif (not his real name), April 29, 2009.

<sup>59</sup> E-mail to Human Rights Watch from Youssef (not his real name), Iraq, May 5, 2009.

### III. Extortion and the State: Nuri's Story

Consensual homosexual conduct between adults is not a crime under Iraqi law. The 1969 Criminal Code, still in force, expressly mentions homosexual conduct only in paragraph 393, titled "Rape, Homosexual Acts (*Liwat*) and Assault on Women's Honor (*Hatk el 'Ard*)."<sup>60</sup> Despite the heading, however, the article is an attempt at a gender-neutral rape law. Its substance reads:

Any person who has sexual relations with a woman against her consent or has homosexual relations with a man or a woman without his or her consent is punishable by life imprisonment or temporary imprisonment.<sup>60</sup>

Some sweeping and unspecific provisions in the criminal code give police and prosecutors broad scope to punish people whose looks, speech, or conduct they simply dislike.

- Paragraph 401 punishes "Any person who commits an immodest act" [*fi'lan moukhillan bil haya*] in public with up to six months in prison.
- Paragraph 402 punishes "any person who makes indecent advances to another man or woman" [*man talab oumouran moukhalifa lil aadab*] with up to three months in prison.
- Paragraph 501 punishes "any person who washes themselves in a city, town or village in an indecent manner or appears in a public place in an indecent state of undress" by up to 10 days' detention or a fine.
- Paragraph 502 imposes the same punishment on "any person who loiters in a public place or observes such a place with indecent intent or for an indecent purpose."

Other provisions could be enlisted to restrict freedoms of expression, association, and assembly, or to penalize human rights defenders who take up unpopular issues.

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<sup>60</sup> *Criminal Code: Law Number 111 of 1969 and its Amendments (Third Edition)*, ed. Nabeel Abdelrahman Hiyawi (Baghdad: Legal Library, 2008). Amnesty International has reported that in November 2001, as part of a moral cleansing campaign, the Revolutionary Command Council (RCC)—the country's highest executive body under the Saddam regime—"issued a decree to provide the death penalty for the offences of prostitution, homosexuality, incest and rape." ("Iraq" in *Amnesty International Annual Report 2002: The State of the World's Human Rights*.) Human Rights Watch has been unable to find the exact text of this decree. Amnesty International believes the decree was temporary (email to Human Rights Watch from an Amnesty International researcher, June 11, 2009), and in any case Revolutionary Command Council decrees are no longer in force under Iraq's post-invasion government.

- Paragraph 200 (2) punishes with up to seven years' imprisonment anyone who promotes any "movement" that seeks to "change the fundamental principles of the constitution or the basic laws of society."
- Paragraph 210 prohibits disseminating any information or idea that, among other things, "disturbs the public peace."
- Paragraphs 403 and 404 permit prison terms (up to two years under the first paragraph, up to one year under the second) for "obscene or indecent" publication or speech.<sup>61</sup>

Kurdish Regional Government prosecutors have used paragraph 403 against publicly raising issues of homosexuality. On November 24, 2008 an Erbil court sentenced Adel Hussein, a doctor as well as freelance journalist, to six months' imprisonment for indecent expression, because two years earlier he had published an article in the independent weekly *Hawlati* about health issues for men who have sex with other men.<sup>62</sup>

Where the rule of law has neither respect nor reach, however, the letter of legal provisions is largely irrelevant. Many police may be ignorant of exactly what the law permits or proscribes. In April 2009, the *New York Times* quoted an officer at a Karada police station in Baghdad as saying "Homosexuality is against the law. And it's disgusting." He claimed that, for four months, the police had waged a "campaign to clean up the streets and get the beggars and homosexuals off them."<sup>63</sup>

Meanwhile, prejudice and corruption drive police repression even in the absence of legal justification. Several people told Human Rights Watch they had witnessed police harassing or beating "effeminate" men. "About four months ago in the Bab Sharqi neighborhood [of Baghdad]," one journalist said, "on the way to work I personally saw the police rounding up four 'she-males' and being very physically abusive to them—pulling their hair, kicking them, and throwing them into the back of a police van."<sup>64</sup>

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<sup>61</sup> *Criminal Code: Law Number 111 of 1969 and its Amendments (Third Edition)*, ed. Nabeel Abdelrahman Hiyawi (Baghdad: Legal Library, 2008).

<sup>62</sup> Reporters Sans Frontieres, "Doctor Jailed in Kurdistan for Writing about Homosexuality," December 2, 2008. Kurdish Regional Government president Masoud Barzani freed Hussein two weeks later as part of a seasonal spate of pardons: Reporters San Frontieres, "Kurdish President Pardons Doctor who Was Jailed for Writing about Homosexuality," December 8, 2008, both at [http://arabia.reporters-sans-frontieres.org/article.php3?id\\_article=29508](http://arabia.reporters-sans-frontieres.org/article.php3?id_article=29508), accessed May 2, 2009.

<sup>63</sup> Timothy Williams and Tareq Maher, "Iraq's Newly Open Gays Face Scorn and Murder," *New York Times*, April 8, 2009.

<sup>64</sup> Human Rights Watch interview with Samir (not his real name), Iraq, April 24, 2009.

Iraqis we interviewed accuse the police of turning a blind eye to, or colluding with, militia violence. Mashal, kidnapped by militias in April 2009, says, “There was a police patrol right next to my store when they kidnapped me; they saw everything that was happening, but they didn’t intervene. Everyone believes the police [in the area] are under the control of the Mahdi Army.”<sup>65</sup>

Most importantly, as one man remarked to us, “Police look at gay people and they see money.”<sup>66</sup> A military officer told Human Rights Watch that “Through my contacts in both the military and the Ministry of Interior, I have seen incredible examples of administrative corruption. They will do anything, destroy anybody, to get their hands on some money—through threats, extortion, torture. And gay men are especially easy for them to blackmail.”<sup>67</sup>

One young man told us a story in which official corruption and brutality intertwine. In early 2009, as the broader militia campaign was getting underway, Ministry of Interior officers kidnapped and tortured him in a murderous shakedown, to extort money because they knew he worked with an LGBT organization abroad. He paid and escaped. He says he saw the bodies of five men killed because they could not pay.

Nuri, 21 and born in Baghdad, had gotten in touch with the London organization Iraqi LGBT when he was 17. In the succeeding years, on their behalf, he rented and ran two homes in Baghdad; these served as “safe houses” for mostly-young men who had been thrown out by their families or faced violence on the streets because they were “effeminate,” or suspected of sex with other men. The London group periodically sent him small sums to maintain the houses, and that inevitably drew the authorities’ attention. “One day in February 2009,” he says,

I was in a taxi in the middle of Karada when special police [*maghawij*] stopped the car, asked me for my ID, and searched me. They took my phone and my wallet, and handcuffed me. They put a bag over my head, hit me and put me in a car. They took me to the Ministry of Interior.

Once we got there, I heard them talking on a walkie-talkie: they were telling people from the intelligence service what had happened.

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<sup>65</sup> Human Rights Watch interview with Mashal (not his real name), Iraq, April 20, 2009.

<sup>66</sup> Human Rights Watch interview with Haytham (not his real name), Iraq, April 13, 2009.

<sup>67</sup> Human Rights Watch interview with Wahid (not his real name), Iraq, April 23, 2009.



They put me in a room, a regular room, took the bag off my head, and there I was with five other gay men. I didn't know them previously, but I found out we had mutual friends. They gave their female names but not their real names. Gay men in Iraq are very cautious that way.

Then two hours later, they separated us and put each in a room. After they separated us, I didn't know anything about the fate of the other five men. And then a police officer came and said. "Do you know where you are? You are in the interrogation wing of the Ministry of Interior." He told me, "If you have ten thousand US dollars, we will let you go."

I said I didn't have that kind of money.

The next day at 10 a.m., they cuffed my hands behind my back. Then they tied a rope around my legs, and they hung me upside down from a hook in the ceiling, from morning till sunset. I passed out. I was stripped down to my underwear while I hung upside down. They cut me down that night, but they gave me no water or food.<sup>68</sup>

"I was kept in a solitary cell," Nuri says:

It was a little over two meters high: I could reach the ceiling. There was no space for me to lie down. I had to sleep semi-standing. It was like a metal box.

Next day, they told me to put my clothes back on and they took me to the investigating officer. He said, "You like that? We're going to do that to you more and more, until you confess." Confess to what? I asked. "To the work you do, to the organization you belong to, and that you are a *tanta*" [queen].

"The officers talked about religion," Nuri says, "that what I did was against religion. Whenever they brought up religion they would get really aggravated and beat me more." But he adds that money was foremost on their minds. "They knew the name 'Iraqi LGBT'—and

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<sup>68</sup>This quotation and those following are from Human Rights Watch interviews with Nuri (not his real name), Beirut, Lebanon, April 15 and 27, 2009.

they knew it helped *mithliyeen* financially. They knew about the safe houses. All they wanted to know was, ‘Who’s paying? And why are they helping you?’”

When I was questioned, they said, “You have to confess.” And I said, I have nothing to confess. Then they showed me a police report. I read it and it showed everything about me from 2005 until the day I was arrested. ... They knew personal details, through gay informants. And then they took me into another room, and began torturing me again.

There were guards in army uniforms all over the Ministry building, but those who interrogated me were wearing civilian clothes. During the “business hours” they had official uniforms; but these investigations all happened after 3 p.m. when the offices closed. The interrogations were very violent: I guess they didn’t want people screaming while people were visiting the building.

For days there were severe beatings, and constant humiliation and insults. I was in prison 25 days and the torture lasted 25 days. They were nine in all, working in groups of three, and every day they changed the group of three. Every day there was a ranking officer, and two of a lower rank. The three would torture me every day, for four or five hours.

It was the same form of abuse every day. They beat me all over my body; when they had me hanging upside down, they used me like a punching bag. That happened every day. Now I have a migraine because I spent so much time upside down. I have tremors, headaches. They used electric prods all over my body.

Then they raped me. Over three days. It was toward the end of the period. The first day, fifteen of them raped me; the second day, six; the third day, four. There was a bag on my head every time.

Nuri, sobbing, showed us scars above his hands. “I tried to cut my wrists with a plastic spoon after the rapes.”

There was one officer among the nine who tried to help. He was part of the torture team. But he said he had avoided sending the police report on me to

the judge who he said would pass the sentence. He told me he would save my life if I gave him a five thousand dollar bribe.

One day, they took me up to the top floor, where there was a little window, straight onto the courtyard. They gave me binoculars to look. I could see: there were the five men from the cell when I was first arrested. They were lying dead. They'd been executed.

Then they showed me a piece of paper and said it was the court order for their execution. I said, give me the phone. And I called my friend in London.<sup>69</sup>

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<sup>69</sup>Although Nuri says the officers called the paper a “court order,” he did not see it, nor did the police say what alleged crime had led to the death sentence. Secret executions by judicial sentence have apparently been widespread in Iraq since 2003. (See for instance Brian Bennett, “The Secrets of Iraq’s Death Row,” *Time*, November 12, 2006, <http://www.time.com/time/magazine/article/0,9171,1558285,00.html>, accessed May 3, 2009.) However, if the men were executed judicially, it is not clear what the charges might have been. Among the laws listed above—ones that might be invoked against homosexual conduct or against rights defenders addressing gender or sexual orientation—the highest penalty (under paragraph 200) is seven years’ imprisonment.

In April 2009, Iraqi LGBT shared with Human Rights Watch a copy of a note allegedly smuggled out of an Iraqi detention center. The writer said Ministry of Interior forces had arrested him:

They beat me heavily and asked me strange questions. They spoke badly to me and kicked me on my head and my buttocks to elicit false information from me because of my membership in Iraqi LGBT. They then transferred me to the criminal court in al-Koukh and after an extremely speedy trial they sentenced me to death without giving me the opportunity to defend myself or appoint a lawyer. ... Two days later they informed me that the execution will take place in the next two weeks. ... I send you this appeal, is there anyone who can help me before it is too late? (Scan of the note, in Arabic, on file with Human Rights Watch)

The note was not dated and did not mention the charges (if the victim even knew them). Iraqi LGBT also told us they had received, from Baghdad sources, the names of four other Iraqis also detained and facing death. It is possible that this information dated back to February and that these five were the men whose corpses Nuri saw.

Human Rights Watch wrote to the Iraqi Ministry of Interior and Ministry of Human Rights on April 3, asking urgently for information about the five men’s whereabouts and fates. We did not receive a reply.

If the note is authentic, it still cannot be confirmed that the “trial” was an actual judicial process—or that the “court order” police flashed before Nuri was real. These may have been extrajudicial killings carried out by Ministry forces.

On March 27, 2009, Iraqi LGBT went public with the information in that note, to forestall what it believed were the pending executions of the five. It warned that “Urgent action is needed to halt the execution of 128 prisoners on death row in Iraq. Many of those awaiting execution were convicted for the ‘crime’ of homosexuality” (Iraqi LGBT, “Stop Executions of Gay Iraqis: Members of Iraqi LGBT Group on Death Row: Action Needed to Halt Judicial Executions,” March 27, 2009, at <http://iraqilgbtuk.blogspot.com/>, accessed May 29, 2009). These numbers came from an alert issued earlier that month by Amnesty International, on the imminent execution of 128 convicts in Iraq (Amnesty International, “128 Face Execution in Batches of 20,” March 12, 2009, at <http://www.amnesty.org/en/for-media/press-releases/iraq-128-face-execution-batches-20-20090312>, accessed May 4, 2009). Amnesty had no indication that *any* of those men were accused of homosexual conduct. Nonetheless, Iraqi LGBT—which had not spoken to Nuri since his release—assumed that the five were alive and among the larger number on death row.

Based on the evidence, Human Rights Watch concludes that if the five named by Iraqi LGBT were executed, it happened earlier, when Nuri was arrested in February. However, the Iraqi LGBT news release, claiming that “many” of the 128 had been convicted of “homosexuality,” inadvertently led to confusion among activists and bloggers in the US and Europe. A petition was launched “to save the lives of 128 prisoners sentenced to death because they are homosexual,” and the false claim that *all* those on death row were “gay” received wide currency. (See Everyone Group, “Petition to save the lives of 128 homosexuals sentenced to death in Iraq,” April 3, 2009, [http://www.everyonegroup.com/Everyone/MainPage/Entries/2009/4/3\\_Petition\\_to\\_save\\_the\\_lives\\_of\\_128\\_homosexuals\\_s](http://www.everyonegroup.com/Everyone/MainPage/Entries/2009/4/3_Petition_to_save_the_lives_of_128_homosexuals_s)

The friend in London sent money to an acquaintance of Nuri in Baghdad, who gave it to the officer.

After that, at 3 a.m. one night, the officer came and gave me army fatigues, and a head mask—a baklava where you could only see my eyes. There are rotations of guards, where some come and go, and I escaped by leaving with the soldiers—I was limping because of the torture but he showed me how to walk like a soldier so I couldn't be suspected. He took me out and put me in the trunk of a car and dropped me off on some road on the edges of the city. I walked for three hours after that.

When he asked me for a bribe, I thought he would take it and kill me. I didn't believe I was going to live until I got out of the trunk of the car.

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entenced\_to\_death\_in\_Iraq.html, accessed April 14, 2009). Iraqi LGBT soon clarified that it believed only five of the 128 were "gay." However, the misimpression still spread.

## IV. Pretext and Context: Moral Panic, Political Opportunism

The militia killings beginning in early 2009 invoke morality as a cause. In fact, though, they have sunk a taproot into a deeper stream of social anxieties about “traditional” values and cultural change. These fears, springing up in the daily press as well as in Friday sermons, center around gender—particularly the idea that men are becoming less “manly,” failing tests of customary masculinity.

Stanley Cohen, a British sociologist, wrote almost forty years ago that “Societies appear to be subject, every now and then, to periods of moral panic,” irrational surges of fear when “A condition, episode, person or groups of persons emerges to become defined as a threat to societal values and interests.” In such moments, deep uncertainties about rapid change gather to a head, with a strength that sidelines the usual processes—political or civic or personal—through which those communities can debate or settle their stresses. People look for scapegoats: not just to explain, but to incarnate the unsettling transmutations around them, shifts that they cannot fully articulate but are determined to stop.<sup>70</sup>

Cohen calls moral panics “condensed political struggles to control the means of cultural reproduction.”<sup>71</sup> In simpler terms: they are battles to define who belongs in a community and who does not. The confrontations are waged with the weapons of opinion, in newspaper columns and places of worship—and sometimes with the tools of lynching, the noose and the gun. The murders in Iraq point to such a complex of fears.

In May 2009, while the killing campaign was at its height, the Iraqi magazine *Al-Esbuyia* acknowledged that “kidnappers” were targeting *mithliyeen* or homosexuals. However, the journal blamed not the murderers but the “puppies,” men who do not act like men.

A wave of feminization is sweeping Baghdad neighborhoods, turning young men into women or approximations of women through imitating the opposite sex. They are homosexuals [*mithliyeen*] or *jarawi* (the local term for faggots [*mukhanatheen*]), and they suffer at the hands of squads that hunt them down and kill them. In most cases, the police stand by and do nothing ...

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<sup>70</sup> Stanley Cohen, *Folk Devils and Moral Panics* (London: Routledge, 2002, third edition), p. 1.

<sup>71</sup> *Ibid.*, p. xxxv.

In Sadr City, we looked for puppies without success. One of [Sadr City]'s residents, Ali Hassan ... claims that this month has been witness to events that changed many things, the first of which was young men giving up the fashion of wearing tight clothes, growing their hair and removing it from their faces. Everyone says that there are special squads or groups that kill anyone who uses face whitening creams, and pharmacies have emptied their stocks of female hormones that were plentiful in the past period. Ali insists that he has not seen any acts of violence, but there are very strong rumors of the existence of groups that keep tabs on men who use female hormones, use face whitening creams, or wear their hair long, so that they may kidnap them from their homes late at night. ...

Yaser Hameed, a coffee shop owner in Bab al-Mo'them, kicks out anyone he suspects of being of "those types." He also forbids his sons from buying strange clothes that have proliferated in the market, such as tight shirts and tight, low-waisted pants. He sees these things as indicative of moral decline.

Baha' Ja'afar, a social science professor at the University of Baghdad, says: "This phenomenon of behavioral social change is of two types: the first is deliberate and political, and the second is arbitrary, caused by the hybridization of cultures and the loss of their moral ideals in favor of politics, personal interest, and power. One of the negative consequences of the intertwining of religion into the quagmires of politics and power struggles and armed conflict is that a lot of social groups turn to these types of behaviors after being let down and feeling disillusioned and disappointed." The professor has noticed a change in students from roughness to an exaggerated softness to the extent that he sometimes has difficulty telling his male students from his female ones. Unless these behaviors are stopped, he expects them to become entrenched in society. The problem is that there are no laws prohibiting these deviant phenomena, and there is no legal text specifically prohibiting men from imitating women or vice versa, particularly in terms of outward appearance.<sup>72</sup>

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<sup>72</sup> "The War Between the 'Puppies' and the Kidnappers," *Al-Esbuyia*, May 10-16, 2009.

Similarly, *Al-Sabah* newspaper warned in May about “The Feminization of Young Men: Diagnosis and Treatment,” claiming that effeminacy “has become evident in cities where sexual perverts [*shazooz*] engage in it”:

Moral responsibility rests upon scientists, teachers, scholars, intellectuals, and parents in collaboration with secondary school authorities, social workers, counselors, psychologists, and mentors. ... Globalization in fashion and subtitled sitcoms and soap operas have a strong influence on young people, who try to emulate what they see in terms of dress, actions, and fashion.

However, the religious outlook and moral values traditional to Arab society must reach across generations. .... These ideals go against the feminization of boys and the practice of [men] applying makeup, which have spread among many Iraqi youth, eliciting disgust. They result in an unhealthy society lacking prosperity in terms of its culture, economy, and scientific knowledge, leading to lower levels of education and intellect.<sup>73</sup>

A sudden spike within a month in the prevalence of men wearing hair below the shoulders is unlikely. Many of the men we spoke with told us, however, that the ebb of violence in the last two years had, over time, allowed gay-identified men greater visibility as well as safety. One said:

Since 2006, gays started becoming a bit more relaxed; it was still very underground and super secret, but you could meet through the Internet, and you had some cafes; you had some semblance of a gay life. Of course if anyone found out about you, you were in big trouble, with stigma for life; but you could meet without being killed. Then last month, things got bad.<sup>74</sup>

A military officer told us that “I have heard other officers talking about what is behind this specific campaign. About a year ago, when the violence was a bit subdued and security was more or less under control, gay men, especially effeminate ones, started going out to cafes in groups and being obviously gay. I heard there was a lot of anger over it, and this is one of the things that sparked the recent campaign.”<sup>75</sup>

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<sup>73</sup> Sabah Mohsen Kazem, “The Feminization of Young Men: Diagnosis and Treatment,” *Al-Sabah*, May 7, 2009.

<sup>74</sup> Human Rights Watch interview with Haytham (not his real name), Iraq, April 18, 2009.

<sup>75</sup> Human Rights Watch interview with Wahid (not his real name), Iraq, April 23, 2009.

Technology helped spread the panic over “effeminate” men. Videos of one particular incident may have been especially virulent in their effects. “In the summer of 2008,” Nuri says, “there was a big gay party in Palestine Street in Baghdad. There was a lot of dancing, and drag as well: it was very obviously a gay party. And people started filming the party on their mobile phones. And it spread by Bluetooth and onto CDs that were sold in various places around Baghdad: especially Sadr City.”<sup>76</sup> Human Rights Watch obtained two such videos, showing men dancing together at the party. A journalist told us that since early 2009, “gay pictures or videos have been cropping up very quickly. People would take pictures of ‘she-males’ on mobile phones and they would go from phone to phone like crazy.”<sup>77</sup>

Friday sermons at Shi’ite mosques, particularly those associated with al-Sadr and the Mahdi Army, began condemning an intractable “effeminacy” among men in early 2009. Haytham says, “I’ve personally heard sermons preached, starting about a month ago, in the mosque in Baghdad al-Jadida, which is heavily influenced by al-Sadr. They say, ‘This is bad and sinful’; they don’t say kill them specifically, but they say, ‘We need to end this phenomenon.’ Almost every week they include something on this in their sermons now.”<sup>78</sup>

In the Baghdad neighborhood of Nahrwan, Talal told us, “it’s been a constant subject of debate. Religious people and militias hold meetings there and talk about this issue, the need to control sodomy and the people of Lot.” In one local school in early April, he says, “The Mahdi Army people came in, and talked to the teachers and the administrators, and then held a meeting for the whole school saying, ‘We need to control this phenomenon.’ A friend of mine who is a teacher there told me about it. The local municipality itself organized this meeting!”<sup>79</sup>

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<sup>76</sup> Human Rights Watch interview with Nuri (not his real name), Beirut, April 15, 2005.

<sup>77</sup> Human Rights Watch interview with Samir (not his real name), Iraq, April 24, 2009.

<sup>78</sup> Human Rights Watch interview with Haytham (not his real name), Iraq, April 18, 2009. The *New York Times* reported in April that “clerics associated with Moktada al-Sadr ... have devoted a portion of Friday prayer services to inveighing against homosexuality. ‘The community should be purified from such delinquent behavior like stealing, lying and the effeminacy phenomenon among men,’ Sheik Jassem al-Mutairi said during his sermon last Friday.” Timothy Williams and Tareq Maher, “Iraq’s Newly Open Gays Face Scorn and Murder,” *New York Times*, April 8, 2009. Even Sunni preachers shared in the fears, and loudly; one (Christian) man told Human Rights Watch that “while passing on the street, I heard a Friday sermon in a Sunni mosque about this soap called *Noor*, and the sheikh was shouting about the lead actor and saying, ‘All the women want to fall in love with him but he is of the third sex; and how can this be happening?’” Human Rights Watch interview with Tariq (not his real name), Iraq, April 18, 2009. *Noor*, a dubbed-in-Arabic version of the Turkish soap opera *Gümüş*, is wildly popular throughout much of the Middle East, with plots tackling such issues as premarital sex and abortion. The male lead, Muhannad, is in fact heterosexual, but he supports his wife’s independence and career. The (long-haired) actor who plays him has become not just a sex symbol but a symbol of non-traditional sex and gender roles. Religious traditionalists in many countries vociferously condemn the show.

<sup>79</sup> Human Rights Watch interview with Talal (not his real name), Iraq, April 21, 2009.



The panic and the killing focus as much on how one looks and dresses—whether or not men seem “masculine” enough—as on imputations about what ones does in bed. Moreover, in a country plunged into poverty over the last twenty years, resentments around class intertwine with rigid requirements about gender. Many people stressed to us that decadence—not just femininity but an aura of possessions or privilege—is one of the stereotypes about the “third sex.”

The lethal myths about what alien habits look like have forced close self-scrutiny on many people in recent months. “Why do they target me?” Hussein asked himself. He had spent his last few dinars on a box of cigarettes; he was still conscious that, to some fellow Iraqis, he looked rich enough to kill. “A lot of it also has to do with my appearance—looking neat, dressing carefully. If the Mahdi Army saw I had a gold earring or long hair, they would slaughter me. Look at me: I’ve cut my hair short. Yet if I walked out in Baghdad even now, for an hour, I would be killed.”

What makes people think you are gay? If I make my hair spiky or gel it—many people say that’s it. If I wear a tight T-shirt or a tank top. If I wear a single bit of jewelry or gold. ... It’s class hatred in certain ways. The men they target wear nice clothes, express themselves nicely. It’s resentment against those they see as privileged. ... For example, if you are wearing cologne, the first thing you get asked is, “Where did you get the money to buy this?” If I say—and it’s true—I don’t eat for three days so that I can buy the cologne, or afford this T-shirt, it only makes them angrier.

Gay people are an easy target. They have no social support, and they are obvious to pick out. Those people can pour their class resentment into targeting these men. They become a focus.<sup>80</sup>

Many suggested to us that the Mahdi Army see the “third sex” as not just an easy target, but a useful one. Underneath moral opprobrium, political opportunism feeds.

After taking a visible lead in purging Baghdad neighborhoods of Sunnis during the near-civil-war of 2004-2006, the Mahdi Army cannily declined to confront US forces openly during the troop surge that began in 2007. Its forces hid their arms and blended back into their neighborhoods. For practical purposes, the formerly omnipresent militia disappeared.

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<sup>80</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.

Preserving its strength through a strategic stand-down, however, came at a cost to its public image of intransigence. Rumors that Moqtada al-Sadr (whose vehement Iraqi nationalism was a family inheritance) had not only retreated from the American army but sought refuge in Iran worsened the damage.<sup>81</sup> A doctor we talked to speculated that the campaign started because the Mahdi Army “have no authority on the street: so they want to use this as a way to restore their credibility.”<sup>82</sup>

Homosexuality “has spread because of the absence of the Mahdi Army, the spread of sexual films and satellite television and a lack of government surveillance,” Sheikh Ibrahim al-Gharawi, a Shi’ite cleric from the militia’s office in Sadr City, told a Western news service in April when asked about the killings.<sup>83</sup> His message was clear: the militia is back, its involuntary truancy led to burgeoning moral lapses, and its renewed services are needed to reinstitute a moral rigor the state cannot supply. Cleansing Iraq of people few would care openly to defend gives the militia a revitalized sheen of incontrovertibly urgent purpose. “Now they are done with the Sunni and Shi’a thing,” Hussein says of the al-Sadr forces. “So they have a new thing, that’s the gay thing ... They have found someone new to kill.”<sup>84</sup>

A journalist commented, “The Mahdi Army no longer have a clear project. Getting rid of the Sunnis and the Americans is less important, so they are turning to other targets.” He adds,

A lot of the Mahdi Army are not there because they are religious. I know militiamen who drink, take drugs, have sex. They are there because their hearts are dead. They can just kill people without thinking twice.

They are products of violence and they pass it along. They learned violence from poverty and from the time of Saddam, and it’s all they know.<sup>85</sup>

For the militias, the killing campaign is arguably a political tool. For the individual killers, many of whom are likely from the ranks of the most desperate and dispossessed, it gives them unchecked authority over the intimate and vulnerable aspects of others’ existence.

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<sup>81</sup> Patrick Cockburn, *Muqtada: Muqtada al-Sadr, the Shia Revival, and the Struggle for Iraq* (New York: Simon and Schuster, 2008), pp. 187-198.

<sup>82</sup> Human Rights Watch interview with Fadi (not his real name), Iraq, April 18, 2009.

<sup>83</sup> Wisam Mohammed and Khalid al-Ansary, “Gays Killed in Baghdad as Clerics Urge Clampdown,” *Reuters*, April 4, 2009, <http://uk.reuters.com/article/gco5/idUKTRE53312Q20090404>, accessed April 5, 2009.

<sup>84</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.

<sup>85</sup> Human Rights Watch interview with Samir (not his real name), Iraq, April 24, 2009.

“There is nothing you can hide in Iraq,” Hamid, whose partner was kidnapped and killed, said. “Anything about you can become public knowledge.”<sup>86</sup> Wahid explained that Iraq has experienced “a constant invasion of people’s privacy: by militias, by political forces, by everyone—to the extent that if a man is Shi’ite and his wife is Sunni, they will force him to divorce, just to control them. There’s a desire to invade and dominate every part of people’s lives.”<sup>87</sup>

Hussein summed it up:

This is how it spreads: the killing gives people power over other people. If anybody suspects I am gay, they can get anything from me: money, sex, whatever. And if they want something from anybody, they can say, “You are gay.”

The campaign and the fear become something you can use against anybody, for pure power.<sup>88</sup>

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<sup>86</sup> Human Rights Watch interview with Hamid (not his real name), Iraq, April 24, 2009.

<sup>87</sup> Human Rights Watch interview with Wahid (not his real name), Iraq, April 23, 2009.

<sup>88</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.

## V. Family, Gender, “Honor”

Idris, whom militiamen tried to kidnap and kill, told us that “I come from a tribal family. And my fear is from them even more than the militias.”<sup>89</sup> His friend Majid, whose parents and neighbors learned he was gay when the militia invaded his home, says, “If I am safe from the Mahdi Army, I will never be safe from my family—never. They will kill me right away.”<sup>90</sup>

If a diffuse anxiety over endangered masculinity perturbs mosques and media alike, the pressure to “be a man” begins at home. Violence enforces it. Many we spoke with pointed to the intense patriarchal values of tribal structures, in which each member’s conduct can inflict the status of the entire extended unit. A 25-year old professional from Baghdad said hesitantly,

My father is the head of the tribe, and he started spying on me and reading my text messages on my phone, and listening whenever was on the phone. He got more suspicious, and he beat me up. ... My brother told me, “If our father finds proof you are a pervert he will kill you immediately.” We are a tribal family: it is completely unacceptable.<sup>91</sup>

Under Saddam Hussein—and especially in the regime’s crisis years after 1991—the government fostered tribal hierarchies, augmenting their authority and legal status in the hopes that clan heads could seal and deliver their members’ loyalties. The state gave tribal sheikhs power to settle disputes and decide internal affairs, in what some called a “retribalization” of Iraq.<sup>92</sup> The impoverishment of a once-prosperous society in the 1990s by Western sanctions, and the implosion of security after the 2003 invasion, both compounded the resurgence of tribalism. They compelled much of the population to rely on blood connections for subsistence, patronage, and protection. Tribal ties have become not just a material requirement but, in the process, a key psychological component of identity for many Iraqis. Outside their rural heartlands, they define the terms of urban life: Ali Allawi estimates that “up to 164 different tribes and clans,” and over 300 local tribal leaders, were represented in the vast slum of Sadr City after Saddam’s fall. Broader, sectarian-identified

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<sup>89</sup> Human Rights Watch interview with Idris (not his real name), Iraq, April 24, 2009.

<sup>90</sup> Human Rights Watch interview with Majid (not his real name), Iraq, April 24, 2009.

<sup>91</sup> Human Rights Watch interview with Nadim (not his real name), Iraq, April 22, 2009.

<sup>92</sup> See Faleh A. Jabar, “Shaykhs and Ideologues: Detribalization and Retribalization in Iraq, 1968-1998,” *Middle East Report* 215 (2000).

and cross-tribal forces like the militias had to find ways to co-opt or cooperate with tribal structures, even while seeing them as competing centers of authority.<sup>93</sup> Signs suggest that the Mahdi Army may have curried tribal leaders' favor in embarking on its morality campaign. A Sadrist-affiliated "executioner" told a reporter in May 2009 that "We had approval from the main Iraqi tribes here [in the Shaab area of Baghdad] to liquidate those [men] copying the ways of women."<sup>94</sup>

Saddam's regurgitated version of tribal legal principles took possibly its most damaging form in 1991, when he amended the Criminal Code to read (in paragraph 128) that "The commission of an offence with honorable motives or in response to unjustified and serious provocation by a victim of an offence is considered a mitigating excuse."<sup>95</sup> This provision is still in place.<sup>96</sup>

As in many other countries, so-called "honor crimes" thus have a privileged status in Iraqi penal law. Worldwide, such crimes typically take the form of violence against women, including murder, motivated and justified because she has "dishonored" the male members of her family. Standards of "honor" almost always include norms of sexual purity: women who have sex, or are believed to have sex, with men before or outside marriage violate them. There are other ways, however, in which women can endanger the status and reputation of parents or husbands. Dressing or walking the wrong way can subtly infringe against gendered expectations for how women should behave.

Despite wide acknowledgement that violence against women is a serious crisis in Iraq, state authorities have ignored it, and most NGOs have concentrated on "public," political patterns of attacks on men.<sup>97</sup> Amid this neglect, the question of whether and how violence targets

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<sup>93</sup> Ali A. Allawi, *The Occupation of Iraq: Winning the War, Losing the Peace* (New Haven: Yale University Press, 2007), pp. 267-70.

<sup>94</sup> Quoted in Nizar Latif, "Iraqi 'Executioner' Defends Killing of Gay Men," *The National*, May 2, 2009, <http://www.thenational.ae/article/20090503/FOREIGN/705029847/1002>.

<sup>95</sup> *Criminal Code: Law Number 111 of 1969 and its Amendments (Third Edition)*, ed. Nabeel Abdelrahman Hiyawi (Baghdad: Legal Library, 2008).

<sup>96</sup> In 2000, however, the Patriotic Union of Kurdistan repealed the provision in the territory it controlled, and in 2002 the Kurdistan Parliament did so throughout the territory of the Kurdistan Regional Government (KRG). Despite this, however, fears remain that prosecution and sentencing for honor crimes in the KRG are still inadequate in practice. In a 2009 report, Amnesty International voiced concern that "at least in some cases [KRG] criminal courts have continued to pronounce inappropriately lenient sentences for men convicted of killing a female relative": *Hope and Fear: Human Rights in the Kurdistan region of Iraq*, an Amnesty International report, MDE 14/006/2009. Moreover, tribal courts or *komalayeti* often hear cases that never reach Kurdish government courts; the dispensation of justice by patriarchal elders further limits the impact of the reforms.

<sup>97</sup> See, however, *Trapped by Violence: Women in Iraq*, an Amnesty International report, MDE 14/005/2009. Several works by Iraqi and Western authors have tried to bring attention to violence against women in the country, both during the Saddam period and under the occupation. See Nadjie Sadig al-Ali, *Iraqi Women: Untold Stories from 1948 to the Present* (London: Zed

women for *non-heterosexual* behaviors has been doubly neglected. In researching this report, Human Rights Watch was unable to locate or interview women in Iraq who have experienced intimate or sexual relationships with other women. The pressures to marry and to conform make those women invisible. Only anecdotal accounts suggest what they might face. Mashal, for example, told us:

I heard about one girl—her cousin killed her at the entrance of her house because she is a lesbian. He cut her throat the same way you would slaughter a sheep. He opened the door so people could see the body, a public show of cleansing. I know someone who saw it.<sup>98</sup>

Men, however, also bear the “honor” of their families and tribes. Human Rights Watch heard testimonies from Iraqi men who faced violence or murder because they were not “manly” enough, incurring shame on the whole extended household. These stories suggest the importance of treating “honor” as an issue, and an incitement to rights violations, that cuts across genders. They also show how urgent it is to investigate gender-based violence and honor crimes in Iraq in all their forms—including the unexplored area of attacks against women suspected of sex with other women, or women whose dress or bearing brand them as not “feminine.”

Punishments for not being “man” enough start when young. “Since I was 12, my father and my brothers beat and insulted me for my feminine appearance and behavior,” Tayyib, 24, from Baghdad, told us. “My father beat me all the time, and he also burned my hands and arms with heated metal. My brothers would beat me up whenever they saw me playing with girls, for example. My mother tried to protect me, but she couldn’t do anything to stop it.”<sup>99</sup>

Ramiz, 30, who grew up in the southern city of Amara, left first his home town and then the country after years of family violence:

From the time I was very little, my family knew I was different. I had artistic inclinations; I liked to write and draw and design fashions. Because of this, I was always severely insulted and abused at home, especially by my two older brothers. They beat me about it all the time, to control what I could do.

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Books, 2007); Nadjé Sadig al-Ali and Nicola Pratt, *What Kind of Liberation? Women and the Occupation of Iraq* (Berkeley: University of California Press, 2009); and Haifa Zangana, *City of Widows: An Iraqi Woman's Account of War and Resistance* (New York: Seven Stories, 2007).

<sup>98</sup> Human Rights Watch interview with Mashal (not his real name), Iraq, April 20, 2009.

<sup>99</sup> Human Rights Watch interview with Tayyib (not his real name), Iraq, April 25, 2009.

They would tell me, “You are a failure at everything: you will never be anything.” My middle brother, older than me, was especially cruel. Several times he pulled a machine gun on me.

It gets to you, it gets inside you, but I managed to hold myself together. Before the [2003] war, I knew of a lot of abuse of gay men that happened in families. But there were no killings that I heard of; the regime was very severe for people who committed murder.

In Amara in 2003, immediately after the war, two gay friends of mine were killed in honor killings by their families, and the police were paid to keep quiet. My fears got to the point where I had a nervous breakdown. ... Now my mother is the only person I’m in contact with. I have no contact at all with the rest of my family. <sup>100</sup>

Mu’ayyad was born in Baghdad. Although his parents have lived and worked abroad since his early youth, he pursued his studies in Iraq from elementary school through medical school. We spoke to him in another country in the region after he escaped his homeland. “All through my childhood,” he told us, “people would call me a sissy, a faggot, even though I cut my hair short and changed the way I walk. They hated the way I talked, they hated everything about me, and I had no friends.”

My uncles on my father’s side despised me. ... They used to put me in the middle of the living room and make jokes about me: “See how he looks, see how he holds his head!” I begged my mother to get me out, to take me to where she lived. She said, “Iraq is a manly society and maybe they’ll make you a man.”

I lost interest in life. My uncles on my father’s side are heads of the tribe; they told me I shamed the tribe because I was not a man. I would bring them gifts and try to make them like me, and they would put me on a chair in the garden and not let me go inside.

Then I met a man and I thought he loved me. I gave him my all.

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<sup>100</sup> Human Rights Watch interview with Ramiz (not his real name), Beirut, Lebanon, April 28, 2009.

After four years, suddenly he turned evil, and started to blackmail me, demanding more and more money. He told me: “If you don’t pay up, I will use the pictures I have of you.” He said, “I know where all your uncles live.” I thought it was a sick joke.

One day, in mid-2007, we had a quarrel. And later that day my sister called me downstairs. She was shaking; I will never forget her face. She said, “I have just gotten a call from your aunt”—one of my uncles’ wives. “All your family is meeting at your oldest uncle’s house.”

Each of my uncles had found a CD with a paper under his door. The CD had pictures of me with my lover, kissing and hugging, that made clear I was gay. The paper said that I was one of the biggest gays in Baghdad, and that everywhere I went with gays I used my tribe’s name and told people I was so proud to be a member. And it said, “See the shame he has brought you.”

My uncle’s wife liked me a little bit. She told my sister that my uncles were deciding how to kill the shame. They wanted to take me to a small town north of Baghdad; they were discussing who would start the work of slaughtering me in public there.

I was crying. My sister said, “There is no time to talk. I’d want you to be anywhere else rather than see your name on a grave.” I took only the most important things I had and some money. ... My uncle’s neighborhood was far away and they needed to cross lots of checkpoints to reach me. I had time to escape.

Mu’ayyad fled to a neighboring country, where he was able to use his medical education to get a hospital job.

My parents knew about the crisis but my sister, who felt I was sick and couldn’t help it, persuaded them that the CD was faked. ... But my dad cannot stop my uncles at all. It is a matter of shame. And in Iraq if anything is between two lips, it will be between two thousand. Scandal always spreads; my uncles know if I set foot in Iraq, they will not be man enough to head the tribe.



For the next six months, I was interning in a hospital, and I thought I was safe; I thought my uncles wouldn't care as long as I wasn't in their sight.

Suddenly one day in March 2007, during my break, I saw six of my eight uncles down in the reception area. The receptionist was pointing the way to where I was. Obviously they had come for me.

I jumped, I ran immediately. I went to my apartment near the hospital. I just grabbed my bag and some money and left everything else. The next morning I took a bus and fled the country. My sister later told me she may have slipped and mentioned to someone on my mother's side of the family where I was, and then it reached my uncles. But I had never believed they would come all that way, that they would hunt me down to kill me.<sup>101</sup>

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<sup>101</sup> Human Rights Watch interview with Mu'ayyad (not his real name), April 26, 2009.

## VI. Past Attacks

Sporadic reports of targeted killings of men seen as “effeminate,” or suspected of homosexual conduct, have reached the Western press from Iraq since 2005. Although everyone we spoke to called the latest campaign of murders vastly more organized and extensive than those earlier assaults, testimonies demonstrate that fears about morality corrupted and masculinity undermined are of long standing, and transgress sectarian lines.

Several Western reports since 2005 have pinned main or exclusive responsibility for killings of gay men in Iraq on Grand Ayatollah Ali al-Sistani, supposedly operating through the Badr Organization, a shadowy militia affiliated with the Supreme Islamic Iraqi Council (formerly known as the Supreme Council of the Islamic Revolution of Iraq or SCIRI), and based, during most of the Saddam era, in Iran.<sup>102</sup> The Badr Organization has engaged in death-squad killings and other egregious human rights abuses since 2004.<sup>103</sup> However, Human Rights Watch found no clear evidence to support speculation that they have targeted men suspected of homosexual conduct, or that killers of “gay” men took a direct impetus from Ayatollah Sistani. While those claims cannot be definitely disproved, only one Iraqi we interviewed suggested that the Badr Organization might be a key force in the killings, or that it acted on an initiative from Sistani. He knew of no gay men who had actually been killed by Badr Organization members.

Grand Ayatollah Sistani is an independent religious scholar widely regarded as one of the highest-ranking clerics in the Shi’a world. While he has supported attempts to unify Iraqi Shi’ites into a cohesive political movement, he has avoided direct identification with particular Shi’ite factions, including SCIRI. He has his own website, [www.sistani.org](http://www.sistani.org); like the cybersites of many Shi’ite imams, the forum fields questions and furnishes religiously-predicated answers about everyday life, taking up whatever issues its followers submit, on subjects alternately momentous and trivial. (Most of the answers are almost certainly drafted and posted by apprentice clerics.)

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<sup>102</sup> See, for instance, Doug Ireland, “Iraqi Gay Murders Surge; World Finally Takes Note,” *Gay City News* (New York), April 16, 2009, at [http://www.gaycitynews.com/site/news.cfm?newsid=20299642&BRD=2729&PAG=461&dept\\_id=568864&rft=6](http://www.gaycitynews.com/site/news.cfm?newsid=20299642&BRD=2729&PAG=461&dept_id=568864&rft=6), accessed May 2, 2009; “anti-gay death squads of the Badr Corps ... [have] been responsible for a large majority of the murders of gays” in Iraq.

<sup>103</sup> SCIRI founded the Badr Brigade while in exile in Iran in the 1980s. After the 2003 invasion, this group renamed itself the Badr Organization for Reconstruction and Development. It failed to honor promises to disarm, and developed close ties to Iraq’s Ministry of Interior; it is not certain, but is widely suspected, that its infiltration of the ministry survived attempts to purge government offices of militia members during the US “surge.” See Edward Wong, “Leaders of Iraq Support Militias and Widen Rift,” *New York Times*, June 9, 2005, and Council on Foreign Relations, *Iraq: Militia Groups*, at [http://www.cfr.org/pub8175/lionel\\_beehner/iraqmilitia\\_groups.php](http://www.cfr.org/pub8175/lionel_beehner/iraqmilitia_groups.php), accessed April 10, 2009.

In late 2005, the site responded to a question about “What is the judgment for sodomy?” by calling it “forbidden” and punishable by “the worst kind of death.”<sup>104</sup> The call to violence was extralegal and reprehensible. It clashed with the norms of rule of law that Sistani himself had endorsed. The statement was a *fatwa*, as is any answer from a qualified religious scholar on a question of Islamic law. Unlike Sistani *fatwas* on issues of clear public concern in Iraq, such as the form of the post-occupation government, this one stayed confined to an obscure part of his website; his organization never publicized it. Activists based in Europe called on him to retract it, and it disappeared from the site in early 2006.

It received little or no notice in the Iraqi press. One man told us that “I only heard about Sistani’s *fatwa* on US websites on the Internet.”<sup>105</sup> Its domestic impact cannot be gauged, but as a Western journalist experienced in Iraq reminded us, “The militias don’t need a *fatwa* to kill people they don’t like.”<sup>106</sup>

Instead, most people maintained to us that the Mahdi Army had always been the main actor in the violence, turning its attention at irregular intervals since 2004 to what it saw as sexual immorality in Iraq. Intermittent violence by Sunni militias, particularly al-Qaeda in Mesopotamia, accompanied this in Baghdad and elsewhere.<sup>107</sup> “Killings of gays in Baghdad started in 2004, and that campaign lasted for about a year,” Munir remembered. “And then the militias became distracted with other issues, Shi’a and Sunni.”

In May 2004, we heard about the first group of gay people who were killed. I knew three of them personally, but there were more I didn’t know. We didn’t think much of it: people were being killed all the time then, and we didn’t think that it was a gay thing. But it became clearer to me when five of my friends were killed, all within one month, with hand grenades. And they also came after me.

It was in a gym in Baghdad. I was with a friend named Mazen, and it was the Sadrists who came after us.

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<sup>104</sup> The text has disappeared from Sistani’s website, but is on file with Human Rights Watch.

<sup>105</sup> Human Rights Watch interview with Omar (not his real name), Iraq, April 25, 2009.

<sup>106</sup> Human Rights Watch interview with Nir Rosen, Beirut, Lebanon, April 29, 2009.

<sup>107</sup> Al Qaeda in Mesopotamia is a loose grouping of Sunni insurgent forces (originally founded as the Group for Monotheism and Struggle by the Jordanian militant Abu Musab al-Zarqawi) that fought its way to prominence attacking occupation forces in 2004.

I was in the bathroom; I asked Mazen to get me a bottle of water. He went out to get it, and that was when they shot him. There were three who killed him. They were Sadrists driving red Opal cars, and wearing the *dishdashi* [long white robe] and slippers, with green bands on their arms. People in the gym came and said, “Hide, they are after you.” I hid in the bathroom for eight hours while the police came, till the gym owner told me, “Get out.”

This was the first time I was attacked or threatened. My friends told me, be careful, they might be after nicely dressed, effeminate men. Another friend of mine was killed in a Sadr-controlled neighborhood. But two others were killed in an area that was Qaeda-controlled. At that time there was no problem between the Sadr militia and al-Qaeda. The killings of gays lasted only until the tensions between Sunni and Shi’ite militias started; then they started fighting each other.<sup>108</sup>

Mustafa lived in Basra, but travelled periodically to Baghdad to visit places where gay men congregated. This became more dangerous after Saddam’s overthrow. “I tried going to the Sindbad Cinema,” he says of one visit in 2003 or 2004, “and the first day, nothing happened, but the second day I met an old friend in the theater.”

Then, all at once, some men with their faces shrouded in black stopped the movie. Someone from the audience started pointing out people—nine of us, including me and my friend. And the men in black took us out of the theater. They said, “You are sodomites [*luti*] and you will be taken and hanged.”

You can recognize the Mahdi Army from their black outfits; these were Sadrists, all right. We were standing there waiting to die. Then someone screamed that the American forces were coming. The militia got scared and we took advantage of the situation to try to run away. They shouted after us, “Stop or we’ll shoot.” One of the militia threw a grenade. Shrapnel hit me in the backside; the Americans thought the Sadrists were firing at them, and they started shooting back. In the crossfire I got away.<sup>109</sup>

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<sup>108</sup> Human Rights Watch interview with Munir (not his real name), Iraq, April 20, 2009. The Mahdi Army cooperated, at least in a limited way, with al-Qaeda in Mesopotamia along with other Sunni militias early in the resistance to the occupation, in 2004. These alliances broke down by 2005, as sectarian civil war erupted across Iraq.

<sup>109</sup> Human Rights Watch interview with Mustafa (not his real name), Beirut, Lebanon, July 10, 2009. The famous Sindbad Cinema in Saadoun Street, later destroyed, was known for showing Western films which Islamists considered “pornographic.” A grenade attack on it in May 2003 was reported in the Western media: see Philip Sherwell, “Baghdad’s Cinemas and Shops

Internet use spread after Saddam's overthrow and became an important social medium for people who desired, for whatever reason, to guard their anonymity.<sup>110</sup> The Mahdi Army quickly found ways to infiltrate cyberspace in search of behaviors they reprobated. Samir says that in 2004, "I decided to meet this guy whom I had got to know over [Internet] chat. I went to his apartment, and I found four men there, with black clothes and beards—the signs of the Mahdi Army. They beat me up and slashed my face and hands with knives." He showed us scars: "They said, 'Next time we will kill you; this scar on your face is a warning.'"<sup>111</sup>

As Munir indicated, however, other militias also engaged in periodic murders. Wahid, from a Sunni area of Baghdad, says al-Qaeda in Mesopotamia killed his boyfriend in 2004, when there was a "general cleansing of people they thought were immoral. Barbers who pluck out hairs with a string could be targeted because that was *haram* [forbidden]. They murdered ice-sellers because there was no ice in the time of the Prophet." They liquidated him in the al-Dora neighborhood:

He was hanging out on a street corner with a bunch of friends, and they saw a group of bearded men pull up in a car. They asked for him by name. He tried to run but they surrounded and cornered him. They tried to get information from him, asking for names of gay friends. People came up and saw there was a disturbance—so they just shot him and drove away.<sup>112</sup>

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Attacked by Islamic 'Enforcers,'" *Telegraph*, June 1, 2003, <http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/1431686/Baghdads-cinemas-and-shops-attacked-by-Islamic-enforcers.html>, accessed June 10, 2009.

<sup>110</sup> In postwar Iraq as in many other countries around the world, chatrooms and personals websites for gay-identified men combined the opportunity for social outreach with the apparent promise of security. One told us:

The Internet is very important for gays in Iraq because it seems to offer safety. Before that, you would have to meet very discreetly in public places: you'd see a guy and go across to talk to him, and you didn't know if he was gay or straight or pretending to be gay, if he would beat you up or rob you. With the Internet, you can sort of check out people before you reach out to them or give them personal information.

Human Rights Watch interview with Hanif (not his real name), Iraq, April 25, 2009.

<sup>111</sup> Human Rights Watch interview with Samir (not his real name), Iraq, April 24, 2009. Bilal says that "Two years ago, one of my friends was kidnapped through Yahoo [Messenger]. He was chatting with someone who said, 'I want to meet you': when he went to the meeting place, there were two men waiting and they kidnapped him. They stole his phone with all the numbers on it, blindfolded him and beat him, kicked him, pulled out his fingernails. This was the Mahdi Army—they told him so; they said, 'We clear the community of people like you.' They wanted a ransom from his family; they ask each time for twenty or thirty thousand US dollars. But they told him they would kill him the next day anyway. They were on the first floor, so he threw himself out the window and escaped." Human Rights Watch interview with Bilal (not his real name), Iraq, April 20, 2009.

<sup>112</sup> Human Rights Watch interview with Wahid (not his real name), Iraq, April 23, 2009.

Omar is from Samarra. In 2006, “the Sunni militias killed my boyfriend,” he says—dating the attack a few months after the massive February 22 bombing of the al-Askari mosque, one of the holiest sites in Shi’a Islam, an assault widely attributed to al-Qaeda in Mesopotamia. “I had led a very secluded life, with my boyfriend.”

But one day I got a threat, a piece of paper stuck on my door, saying, “Stay away from this man, or we will kill you.” Then they kidnapped me: four people, masked so I couldn’t see their faces. They beat me, hit me with the butt of a gun over and over, and tried to get information from me. They wanted me to confess to a sexual relationship with my boyfriend; I told them, we are just friends, there is nothing between us. They held me one day and when they realized they would get no information, they let me go.

Six days after they released me, my boyfriend was kidnapped. He was a hairdresser; we had been together for four years. I heard he had been killed from his family. His corpse was found in the street. The next day, I ran away to Baghdad.<sup>113</sup>

Abductions were a recurrent tool of intimidation as well as gathering information. Yehia related how Mahdi Army militiamen kidnapped him in 2005:

I could tell it was them, they dominated the whole Zafaroni area [of Baghdad] where I lived. They were dressed in black with masks over their faces, and they took me to a mosque called Husseineya Sadrayn; the Mahdi Army was sort of occupying it. They must have heard in the neighborhood about me. They asked me: “Why are you dressed like this? Why do you have your eyebrows plucked? Why is your hair so long, why is your ear pierced?” They said, “We are Muslims, and people like you should be killed.”

At the mosque, a *sheikh* accused me of having sex with men. I denied it. They let me go on the third day. But the militiamen went to my parents and said, “Your son is gay and is drinking alcohol.” They told them I was a bad Muslim and should be punished. My parents were very shocked. I had to

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<sup>113</sup> Human Rights Watch interview with Omar (not his real name), Iraq, April 25, 2009.

leave home. My father and brothers warned me if they saw me, they would kill me.<sup>114</sup>

Nuri, kidnapped by Ministry of Interior forces in 2009 as recounted in detail above, told of a brush with the Mahdi Army almost three years earlier:

I was walking in Karada in July 2006, when [men in] two BMWs stopped me, beat me up, and put me in the trunk. There were a whole lot of men in the cars, all armed and squashed in. It was around dusk. They took me to a *husseineya* [prayer hall] in Sadr City. Everybody knows that when the Mahdi Army arrest someone, they take them to Sadr City and kill them.

They took me out in front of the mosque and beat me, and then they took me in, to the *sheikh* of the mosque. They told him I was a sexual pervert and asked, should they kill me or just punish me? I thought the Mahdi Army do not execute people under 18. I was just 18, but I told them I was 17 when they asked.

The Sheikh told them to burn me with coals from a *narghile* [water pipe]. They shaved my head and burned me with coals. And then they flogged me 90 times.

He showed us scars still marking his arms from the embers.<sup>115</sup>

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<sup>114</sup> Human Rights Watch interview with Yehia (not his real name), Beirut, Lebanon, July 10, 2009.

<sup>115</sup> Human Rights Watch interview with Nuri (not his real name), Beirut, Lebanon, April 27, 2009.

## VII. The Situation of Refugees

Pervasive social prejudice, family repression, lack of any effective legal protection, and sudden outbursts of lethal violence all mean that suspect men in Iraq are in steady danger.

Few Iraqis have altogether escaped the spreading circles of sectarian, retaliatory, or random violence since the occupation began, just as the state's ferocity under Saddam left few citizens wholly unscathed. Men seen as effeminate or suspected of homosexual conduct are not necessarily more intensely targeted than other groups or identities have been in recent years. However, they have certain specific disadvantages.

Their isolated circles, organized round a few networks of friends or anonymous aliases on the Internet, constitute nothing like a cohesive community that could furnish mutual support. Nor, in most cases, are their families willing to offer any help or protection, even if they could. Many men who identify as gay have nowhere to turn, and no recourse but to leave the country.

For most this means going to another, nearby country in the region. There, their best hope is to register with the office of the United Nations High Commissioner for Refugees (UNHCR). They must then endure the time-consuming procedure of refugee status determination, in which the UNHCR evaluates their case and decides whether their claim is valid. After that comes the long and uncertain wait to be resettled elsewhere; the UNHCR must present the refugee's file to sympathetic governments and ask them to accept him. During these processes, which can last years, the applicants must stay where they are.

*For Iraqis who have already faced persecution based on sexual orientation or gender identity, no country around Iraq is safe.*

Years of violence in Iraq since 2003 have generated a massive crisis of displacement. UNHCR estimates that nearly 2 million Iraqis have fled the country, most to surrounding states.<sup>116</sup> Of these, 291,000—about 14 percent of the estimated total—are registered with UNHCR; only some 72,400 of these have so far been referred for resettlement, and only 28,200 of them have actually been resettled.<sup>117</sup> The vast majority of the estimated 2 million

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<sup>116</sup> United Nations High Commissioner for Refugees, "Iraq: Country Operations Profile, 2009," at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486426>, accessed May 2, 2009.

<sup>117</sup> United Nations High Commissioner for Refugees, "Iraq Situation Update," May 2009.



are in Syria (which UNHCR estimates hosts around 1,200,000 Iraqis now, although only 206,000 have been registered) and Jordan (with an estimated 450,000, of whom 52,000 are registered).<sup>118</sup>

No figures are available—or are likely to become so—for what proportion of any of these numbers have fled persecution based on sexual orientation or gender identity. The UNHCR does not disaggregate data according to the grounds of refugee claims. The relevant numbers are almost certainly quite small as against the overall, overwhelming flood of people on the move. However, lesbian, gay, bisexual, and transgender (LGBT) Iraqis in the refugee system face, once again, specific dangers.

Consensual homosexual conduct is illegal in all the countries surrounding Iraq except Turkey and Jordan. In Iran and Saudi Arabia it is punished, under certain circumstances, by death. Refugees fleeing persecution in Iraq because of their sexual orientation and gender identity may face renewed persecution in virtually all the countries where they can find interim refuge. Moreover, the absence of an open and substantial LGBT community capable of providing even the barest mutual assistance, and the lack of any family support for most LGBT people forced to flee, continue to restrict their resources and leave them unprotected in the Diaspora.

Turkey has no legal penalties for homosexual conduct, but violence against LGBT people is pervasive.<sup>119</sup> Although (unlike Syria and Jordan) Turkey has signed both the 1951 Refugee Convention and its 1967 Protocol, it has limited its accession to refugees of European origin, thus precluding all Iraqi refugees from government grants of asylum in Turkey. In order to keep them out of major cities, the Turkish authorities routinely require asylum seekers and refugees to remain in secondary cities and towns where support services (and civil society organizations) are few and far between—and where a conservative social climate puts LGBT people at risk of discrimination and abuse.<sup>120</sup> (Partly due to these restrictions, Turkey now hosts only 8,300 Iraqi refugees.)<sup>121</sup>

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<sup>118</sup> *Ibid.*

<sup>119</sup> “*We Need a Law for Liberation*”: *Gender, Sexuality, and Human Rights in a Changing Turkey*, a Human Rights Watch report, 2008, <http://www.hrw.org/en/reports/2008/05/21/we-need-law-liberation-o>.

<sup>120</sup> Human Rights Watch conducted extensive research among LGBT Iranian refugees in Turkey in 2007 and 2008. See also Helsinki Citizens’ Assembly-Turkey and Organization for Refuge, Asylum, and Migration (ORAM), *Unsafe Haven: The Security Challenges Facing Lesbian, Gay, Bisexual and Transgendered Asylum Seekers and Refugees in Turkey*, a 2009 report, <http://oraminternational.org/sites/default/files/pdf/Unsafe%20Haven%20Final.pdf>, accessed July 10, 2009.

<sup>121</sup> United Nations High Commissioner for Refugees, “Iraq Situation Update,” May 2009.

Meanwhile, although Jordan also has no criminal penalties for homosexual conduct, the social and political climate is still more repressive than Turkey's. One man described how Jordanian security forces blackmailed and illegally expelled him in 2008 because of his sexual orientation:

My situation in Jordan was completely legal. I had a work visa and a legal job, and I had just registered with the UNHCR, where they gave me a card with a number. Then the Jordanian *mukhabarat* [security] called me on the phone. "We want to see you." I thought, maybe they knew I went to some gay parties, or saw me at a particular mosque and thought I was an extremist or something.

They asked me: "Are you gay?" I said, no. They said: "Yes you are." I gave the [UNHCR] card to the *mukhabarat* and showed them the legality of my visa. They said, "We don't care. You are a *mennyak* [fucker], a faggot, and we don't want you in our country."

They twisted my arms hard behind me. They took my passport, and wanted me to inform on Iraqis in Jordan—all kinds of Iraqis, not just gay ones. They said, "Come back tomorrow."

The next day I returned and I refused [to cooperate]. They cuffed my hands behind me and put me in a cell: "Why the fuck do you make this shame with yourself?" they asked. I said: "Never, never!"

They took me to another jail or prison, and I spent seven or eight days there. And then they sent me back to Iraq.<sup>122</sup>

Syria has been generous in receiving displaced Iraqis, but its security and surveillance apparatus makes the strict legal penalties against homosexual conduct a severe threat to LGBT refugees. One man, registered with the UNHCR in Damascus—where he and a few fellow claimants received periodic support from the London-based Iraqi LGBT group in the form of money transfers—told us how security forces there deported him:

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<sup>122</sup> Human Rights Watch interview with Hussein (not his real name), Iraq, April 23, 2009.

I think someone told the *mukhabarat* about us. They called me to come and questioned me, asking me about Iraqi LGBT and our relationship to this organization and why they are sending us money.

They asked if I am gay and about my relationship with my friend Munir, because we lived in the same apartment and were together a lot. I denied everything. There was a lot of verbal abuse; they were very harsh with me. They asked me questions about people who had been visiting us—it was obvious we'd been under heavy surveillance. And then, after two days, they deported us.<sup>123</sup>

Their deportation almost cost his friend Munir his life. Munir recounts:

When I was deported from Syria, the Syrians had written [on my file] that it was because I was gay. And on the Iraqi side of the border, they read that took my passport, and told me, “We will give you to the Ministry of the Interior”—and that meant instant death. The border control people said, “You were kicked out of Syria because of prostitution [*di'ara*] and we are going to kill you.”

They did it because they wanted money from me— \$2,500 USD to give my passport back. Because my file said I was gay, I was easy pickings. I was at the Iraq border, then, for four days, without a cent. I couldn't go forward; there was a checkpoint right in front of me, and without my passport they would kill me.

So I made a deal with the Iraqi border guards: one of them would take my passport and come with me to Baghdad, and I'd get the money together there and pay him. I called every friend I had in Baghdad and they somehow assembled the cash. He travelled all the way to Baghdad with me, and I paid him and got my passport and my right to live back.<sup>124</sup>

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<sup>123</sup> Human Rights Watch interview with Omar (not his real name), Iraq, April 25, 2009.

<sup>124</sup> Human Rights Watch interview with Munir (not his real name), Iraq, April 20, 2009. Two other gay Iraqis who had lived in Syria, but had not applied for refugee status with the UNHCR, told us how Syrian police arrested them on the street in Damascus in December 2006: their story illustrates the dangers that “effeminate” foreigners may face. The police stopped them, demanding “Are you boys or girls?”

UNHCR has recognized the seriousness of persecution based on sexual orientation in Iraq. Its 2009 Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers observe that “While homosexuality is not prohibited by Iraqi law, it is a strict taboo and considered to be against Islam. Since 2003, Iraq’s largely marginalized and vulnerable lesbian, gay, bisexual and transgender (LGBT) community has frequently been targeted for attacks in an environment of impunity.”<sup>125</sup>

The threats and difficulties those people face in the surrounding countries of first asylum, however, demand attention. They can only be resolved by a commitment—on the part both of the UNHCR and of Western governments that have made paper promises about refugee protection—to remove lesbian, gay, bisexual, and transgender Iraqi claimants from danger, and resettle them expeditiously in safe countries.

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They pulled down our pants to see what sex we were, then beat us on the street in front of everybody. Then they took us to the Bab Mousalla police station. In a day or so, they took us to the Bashar Asad hospital, to do tests to see if we were gay. The doctor asked us to take our pants down and we had to kneel in front of him. He asked each of us to count to ten and inserted his thumb in the anus. Then he said, “They’re gay.”

After that, it was back to the police station, and they put us each in a solitary cell as small as a WC. Then there were three days of torture. In the morning, they beat us up and electroshocked us from 10 to 12 a.m. At night, from 10 to midnight, we were showered in cold water and stretched with our hands and feet tied, and they whipped us.

Then we were taken to court. We didn’t have a lawyer. They charged us with *fujur* [debauchery]. The prosecutor said we had had sex with American marines and Iraqi militias back in Iraq. The judge said: “We don’t like you Iraqis; why do you come to this country?” We were sentenced to prison for six months. From the prison, we managed to hire a lawyer, and he got us set free, but expelled from the country. We were expelled in February 2007, and we cannot go back for five years. They just took us to the Iraqi border and left us there.

Human Rights Watch interview with Yehia and Abbas (not their real names), Beirut, Lebanon, July 10, 2009. In its reporting on other countries, Human Rights Watch has documented the intrusive and abusive practice of spurious anal examinations to “prove” homosexual conduct; see *In a Time of Torture: The Assault on Justice in Egypt’s Crackdown on Homosexual Conduct*, a Human Rights Watch report, 2004. As Human Rights Watch shows there, when conducted in carceral conditions without consent, such examinations constitute torture.

<sup>125</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers*, April 2009, “Sexual Orientation,” pp. 193-195, <http://www.unhcr.org/refworld/docid/49f569cf2.html>, accessed May 2, 2009.

## VIII. Conclusion

Hamid said of the killers who had murdered his boyfriend: “They say that they are Muslims, but they have nothing of Islam. They use religion as a disguise to do what they want.”<sup>126</sup>

If, as some believe, the killing campaign began as a way for militia forces to recuperate their reputations and gain the luster of defending morality, it has not worked. The invasions of privacy, the arbitrary murders, the brutality and torture have flouted religion and morals alike. They have left a growing number of Iraqis—even those who are not grieving their relatives and sons—appalled. In May 2009, one reporter wrote courageously in *Sawt al-Iraq* that the Mahdi Army “has once again sharpened its claws”:

They are bullying civilians who have otherwise been safe, in various forms of oppression, discrimination, and killing ... Once again, they are intruding in every small and simple detail of everyday life; they prevent the people from practicing daily activities that are normal in most theocratic religious systems even in Saudi Arabia and Iran. ... Individuals are violated, assaulted, and encroached upon in an agonizing way. In addition to death threats against any man who grows his hair a couple of centimeters longer than the Sadri standards that are measured exactly and applied harshly, there are threats against those wearing athletic shorts or tight pants. ... These standards are being used simply as a justification for killing homosexuals. ... The slogan is to kill and kill, then kill again for the most trivial and simplest things.

And he concluded,

In the meantime, we know that God is kind and cannot be anything but merciful and loving to all beings. Even if he disapproves of certain people or creatures, as a father does with his children, in any religion he must be merciful. Religion should protect human life and should not call for killing people because they wear long hair or shorts...

Human beings came into existence before the birth of any ideology or religious beliefs. Thus, the holiness of life itself and the human being should

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<sup>126</sup> Human Rights Watch interview with Hamid (not his real name), Iraq, April 24, 2009.

be held above the holiness of any particular ideology or belief. It is illogical that the holiness of the ideology or belief created by human beings is more holy than human life itself.<sup>127</sup>

An 18-year-old who had been threatened with death, and knew several friends who had been killed, made much the same point when he told us:

God created people in all shapes and sizes. And you just have to accept that this exists. If you don't like gay people, you're free to condemn them; but you can't kill them. Don't talk to them. Don't associate with them. But don't massacre them. This is just wrong. It has to stop.<sup>128</sup>

## International Law

The government of Iraq has legal obligations under international human rights treaty law and customary law. It is bound by its own treaty commitments and those of previous Iraqi governments.<sup>129</sup>

Most notable among Iraq's treaty obligations are those laid out by the International Covenant on Civil and Political Rights (ICCPR), which Iraq ratified in 1971.<sup>130</sup> The ICCPR's protections place a mandate for action upon Iraqi authorities, including officials who bear responsibility for enforcing security and the law in Iraq.

### *The Right to Life and Security*

Article 9 of the ICCPR affirms that “Everyone has the right to liberty and security of person.” (Similarly, the Arab Charter on Human Rights, adopted in 1994 by the Council of the League of Arab States, of which Iraq is a member, states in article 5 that “Every individual has the right to life, liberty and security of person. These rights shall be protected by law.”) This right to security places an obligation on the Iraqi authorities not to ignore known threats to the life of people within their jurisdiction, and to take reasonable and appropriate measures to

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<sup>127</sup> Mahdi Qassim, “Nothing New Under the Darkness of the Sadrists,” *Sawt al-Iraq*, May 11, 2009, <http://www.sotaliraq.com/printerfriendly-articles.php?id=39044>, accessed May 15, 2009.

<sup>128</sup> Human Rights Watch interview with Tariq (not his real name), Iraq, April 18, 2009.

<sup>129</sup> The Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 115 U.N.T.S. 331, establishes that obligations under international agreements are not terminated by a change in government.

<sup>130</sup> The International Covenant on Civil and Political Rights (ICCPR), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316, 999 U.N.T.S. 171, December 16, 1966.

protect them.<sup>131</sup> It mandates them to act where there are clear and identifiable threats against individuals or groups—for instance, by fully investigating those threats with the aim of putting an end to them. The UN Human Rights Committee (charged with authoritatively interpreting the ICCPR and monitoring countries’ compliance with it) has repeatedly found states in violation of their obligations under Article 9 if they have failed to take adequate steps to protect people in the face of repeated death threats. The Committee has also criticized states’ failure to protect people from sexual-orientation-based violence.<sup>132</sup> The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has noted that where the criminal justice system has failed to investigate murders based on sexual orientation or gender identity, the “state bears responsibility under human rights law for the many who have been murdered by private individuals.”<sup>133</sup>

### *Protection against Torture and Inhuman and Degrading Treatment*

The ICCPR prohibits any form of torture and inhuman treatment, in its articles 7 and 10. Iraq is also a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).<sup>134</sup> The prohibition of torture is deeply rooted in customary international law. The Arab Charter on Human Rights also affirms, in its article 13, that “The States parties shall protect every person in their territory from being subjected to physical or mental torture or cruel, inhuman or degrading treatment. They shall take effective measures to prevent such acts and shall regard the practice thereof or participation therein, as a punishable offence.”

The ICCPR and the Convention against Torture detail what states must do to enforce the prohibition, including the duty to investigate, prosecute, and provide effective remedies when violations occur.<sup>135</sup> The UN Human Rights Committee has also made clear that the duty to protect people against torture or inhuman treatment extends not only to acts by

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<sup>131</sup> See, for example, Communications nos. 195/1985, *Delgado Páez v. Colombia*, adopted July 12, 1990; 314/1988, *Bwalya v. Zambia*, adopted July 14, 1993; 468/1991, *Oló Bahamonde v. Equatorial Guinea*, adopted October 20, 1993; 449/1991, *Mojica v. Dominican Republic*, adopted August 10, 1994; 916/2000, *Jayalath Jayawardena v. Sri Lanka*, adopted July 26, 2002; 859/1999, *Vaca v. Colombia*, adopted April 1, 2002; 821/1998, *Chongwe v. Zambia*, adopted November 9, 2000; and 1250/2004, *Arachchige Lalith Rajapakse v. Sri Lanka*, adopted September 5, 2006.

<sup>132</sup> *Ibid.*, and Human Rights Committee, “Concluding Observations: El Salvador,” CCPR/CO/78/SLV, July 22, 2003, para. 16.

<sup>133</sup> “Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mission to Guatemala,” A/HRC/4/20/Add.2, February 19, 2007.

<sup>134</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987. Iraq’s Presidency Council on August 17, 2008 approved a parliamentary decision to accede to the Convention against Torture. See [http://www.iraqipresidency.net/news\\_detial.php?language=arabic&id=6067&type=news](http://www.iraqipresidency.net/news_detial.php?language=arabic&id=6067&type=news), accessed July 10, 2009.

<sup>135</sup> See for example Communication no. 322/1988, *Rodríguez v Uruguay*, adopted July 14, 1994; 328/1988, *Blanco v Nicaragua*, adopted July 20, 1994; 1096/2002, *Kurbanov v Tajikistan*, adopted November 6, 2003.

government officials, such as police, but also to acts inflicted by people in a private capacity.<sup>136</sup>

### *Non-Discrimination and Fundamental Rights*

Article 2 of the ICCPR requires a state party to “ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind.” Article 26 guarantees that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” The UN Human Rights Committee has made clear on several occasions that sexual orientation is a status protected against discrimination under these provisions.<sup>137</sup> Unequal protection against violence, and unequal access to justice, are prohibited under international law. The ICCPR affirms the right to privacy (article 17), the freedom of expression (article 19), and the freedom of assembly (article 21). These rights entail the freedom to lead an intimate life peacefully; the freedom to express oneself, including one’s gender identity, through clothes or comportment; and the freedom to move and meet in public without fear of harassment or assault. The state must protect people in the enjoyment of these rights. Persecution or harassment of people for exercising those freedoms must be prevented where possible, and punished where it occurs.

Iraqi laws regulating any of these rights can only impose such limitations as are consistent with international legal standards—that is, they must be strictly necessary to achieve a legitimate purpose. As the UN Human Rights Committee has advised, “Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.”<sup>138</sup> Any restrictions must also strictly observe the principle of non-discrimination.

No such restrictions should ever be used to penalize the work of human rights defenders, including those who take up issues of sexual orientation or gender identity. Both the Special

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<sup>136</sup> Human Rights Committee, “General Comment 20, Article 7” (Forty-fourth session, 1992), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994).

<sup>137</sup> See *Toonen v Australia*, Communication no. 488/1992, adopted April 4, 1994; *Young v Australia*, Communication no. 941/2000, adopted September 18, 2003. The Human Rights Committee has also urged states to pass anti-discrimination legislation that expressly includes sexual orientation, and to prohibit in their constitutions all discrimination based on sexual orientation and gender identity. Human Rights Committee, “Concluding Observations: Slovakia,” CRC/C/SVK/CO/2, June 8, 2007, para. 28; “Concluding Observations: Namibia,” CCPR/CO/81/NAM, July 30, 2004, para. 22; Concluding Observations: Trinidad and Tobago, CCPR/CO/70/TTO, November 3, 2000, para. 11; “Concluding Observations: Poland,” 66th Session, CCPR/C/79/Add.110, para. 23.

<sup>138</sup> General Comment 16/32, in ICCPR/C/SR.749, March 23, 1988, para. 4. See *Toonen v Australia*, para. 8.3.



Representative to the Secretary General on Human Rights Defenders and the UN Special Rapporteur on Torture have noted (in the former's words) the "greater risks ... faced by defenders of the rights of certain groups as their work challenges social structures, traditional practices and interpretation of religious precepts that may have been used over long periods of time to condone and justify violation of the human rights of members of such groups. Of special importance will be ... human rights groups and those who are active on issues of sexuality, especially sexual orientation ... These groups are often very vulnerable to prejudice, to marginalization and to public repudiation, not only by State forces but other social actors."<sup>139</sup>

## **Recommendations**

Human Rights Watch makes the following recommendations to key actors:

### **To all militias including the Mahdi Army:**

- Cease all attacks against civilians and the civilian population, including people targeted because they do not correspond to norms of "masculinity," or are suspected of homosexual conduct;
- Condemn such violence explicitly and publicly.

### **To political, cultural, and religious leaders in Iraq and other countries who have expressed support for militia and insurgent forces in Iraq:**

- Publicly condemn all violence against civilians and the civilian population, including violence against people targeted because they do not correspond to norms of "masculinity," or are suspected of homosexual conduct;
- Publicly condemn militia groups that engage in such violence, and voice public support for the rule of law.

### **To the government of Iraq:**

- Investigate all reports of militia or other violence against people targeted because they do not correspond to norms of "masculinity," or are suspected of homosexual conduct, and appropriately punish those found responsible;
- Publicly and expressly condemn all such violence;

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<sup>139</sup> "Report of the Special Representative to the Secretary General on Human Rights Defenders," UN Doc. E/CN.4/2001/94 (2001), at para. 89g; cited in "Report of the Special Rapporteur on the Question of Torture and other Cruel, Inhuman and Degrading Treatment or Punishment," UN General Assembly, A/56/156, July 3, 2001.

- Investigate whether ties continue between the Ministry of Interior and militias that have operated in the past as quasi-independent security forces under the Ministry's protection, including the Mahdi Army;
- Investigate all claims of abuse by police or security forces, including abuses against people because they do not correspond to norms of "masculinity," or are suspected of homosexual conduct, and appropriately punish those found responsible;
- Investigate and prosecute all Ministry of Interior officials involved in death squad killings or other unlawful acts, including torture, assault, and extortion;
- Properly vet and train all police, security forces, and criminal justice officials, ensuring that this entails training in human rights inclusive of issues of sexual orientation and gender expression and identity, and establish effective monitoring and accountability mechanisms;
- Take all appropriate measures to end torture, disappearances, summary killings, and other abuses, including abuses based on sexual orientation and gender expression and identity;
- Repeal article 128 of the Criminal Code, which identifies "The commission of an offence with honorable motives" as a "mitigating excuse";
- Examine vague articles of the Criminal Code, including paragraphs 401, 402, 501, 502, and 200(2), that could justify arbitrary arrest or harassment of people due to their sexual orientation or gender expression and identity, or could be used to prevent civil society from addressing unpopular or stigmatized issues; repeal or modify them if necessary, or otherwise ensure that they are not applied in an arbitrary or discriminatory manner contrary to international human rights law;
- Create and support an independent National Human Rights Commission;
- Support the development of domestic independent human rights non-governmental organizations with the capacity to monitor the full range of human rights violations, and ensure that they can operate without state harassment or interference;
- Train all criminal-justice authorities in effective responses to gender-based violence against women and men;
- Promote gender equality by embodying in legislation explicit guarantees for women's equal rights to marriage, within marriage, at the dissolution of marriage, and in inheritance.

**To the US and the US-led multinational forces in Iraq:**

- Assist the government of Iraq wherever possible in investigating militia or other violence against people targeted because they do not correspond to norms of “masculinity,” or are suspected of homosexual conduct;
- End arbitrary detention without trial, including the arbitrary detention of suspected militia members; provide appropriate services to released detainees to assist them to reintegrate into society and ensure that they do not return to violence;
- Assist the Iraqi government with vetting and training police; ensure that all training programs contain a human rights component and that human rights standards relating to privacy, protection against torture, and other relevant issues are explicitly treated as containing no exceptions for sexual orientation and gender expression and identity.

**To the governments of all states in the region:**

- Ensure that no Iraqi refugees are subject to refoulement, either at the border (by refusing to grant access) or after entering the host country;
- Ensure that all government agencies treat all Iraqi refugees within your borders with dignity and respect for their human rights, without exceptions, including exceptions based on sexual orientation or gender identity.

**To the UN High Commission for Refugees:**

- In coordination with the United Nations Assistance Mission to Iraq, closely monitor and report on attacks and abuses based on sexual orientation and gender expression and identity in Iraq;
- Intervene actively to protect lesbian, gay, bisexual, and transgender asylum seekers and refugees from abuse in countries of first asylum within the region, and to prevent any threatened refoulement;
- Secure rapid resettlement of those refugees in countries outside the region, with the active cooperation of countries of first asylum and resettlement countries.

**To other concerned governments and international agencies:**

- Insist that all states in the region treat lesbian, gay, bisexual, and transgender Iraqis fleeing the country in full accordance with international standards;
- Recognizing that lesbian, gay, bisexual, and transgender Iraqi refugee claimants are in situations of legal danger and face severe social prejudice in all surrounding

countries, provide rapid and where necessary accelerated resettlement in third countries;

- Assist with legal reform in Iraq in accordance with all international human rights standards, including those relating to sexual orientation and gender identity;
- Monitor and assist the performance of criminal justice, police, security, and counterterrorism institutions and personnel in Iraq to ensure full compliance with international human rights standards;
- Support the development in Iraq of an independent National Human Rights Commission and local independent human rights non-governmental organizations with the capacity to monitor the full range of human rights violations.

## Glossary of Terms

**Biological sex:** the biological classification of bodies as male or female, based on such factors as external sex organs, internal sexual and reproductive organs, hormones, or chromosomes.

**Gender:** the *social* and *cultural* codes (as opposed to biological sex) used to distinguish between what a society considers "masculine" or "feminine" conduct.

**Gender expression:** the external characteristics and behaviors that societies define as "masculine" or "feminine"—including such attributes as dress, appearance, mannerisms, speech patterns, and social behavior and interactions.

**Gender identity:** a person's internal, deeply felt sense of being male or female, or something other than male and female.

**Gender-based violence:** violence directed against a person on the basis of gender or sex. Gender-based violence can include sexual violence, domestic violence, psychological abuse, sexual exploitation, sexual harassment, harmful traditional practices, and discriminatory practices based on gender. The term originally described violence against women but is now widely taken to include violence targeting both women and men because of how they experience and express their genders and sexualities.

**Sexual orientation:** the way in which a person's sexual and emotional desires are directed. The term categorizes according to the sex of the object of desire—that is, it describes whether a person is attracted primarily to people of the same or opposite sex, or to both.

**Heterosexual:** a person attracted primarily to people of the opposite sex.

**Homosexual:** a person attracted primarily to people of the same sex.

**Gay:** a synonym for homosexual in English and some other languages, sometimes used only to describe males who are attracted primarily to other males.

**Lesbian:** a woman attracted primarily to other women.

**LGBT:** lesbian, gay, bisexual, or transgender; an inclusive term for groups and identities sometimes also associated together as "sexual minorities."

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