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# Report on Human Rights in Iraq: 2011

UNAMI Human Rights Office/OHCHR,  
Baghdad



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UNAMI HUMAN RIGHTS OFFICE

and

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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# Map of Iraq



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# Recommendations

## To the Government of Iraq

1. Ensure the Independent High Commission for Human Rights is established in accordance with the principles established by UN General Assembly resolution 48/143 (1993) (The Paris Principles);
2. Review the reservations made by Iraq upon accession to international human rights treaties and consider accepting individual complaints procedures;
3. Consider acceding to the Optional Protocol to CAT and Optional Protocols to the ICCPR, among other instruments;
4. Consider acceding to the 1951 Convention on the Status of Refugees (and the 1967 Protocol); the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; the Additional Protocol II to the Geneva Conventions 1949; and ratify the Rome Statute of the International Criminal Court.

### **Ongoing armed conflict**

5. Ensure compliance by Iraqi armed forces actively participating in military operations with legal obligations under international humanitarian law and international human rights law.
6. Ensure compliance by police and all officials engaged in law enforcement and the administration of justice with Iraq's obligations under international human rights law with respect to persons detained in relation to the armed conflict
7. Undertake full investigations of extra-judicial killings effectively, promptly, thoroughly and impartially and ensure that all efforts are made to ensure that individuals allegedly responsible of carrying out, abetting, aiding and / or ordering such killings are investigated and prosecuted in accordance with domestic and international law
8. Ensure adequate protection and assistance, including psycho-social and physical care and relief is provided to the victims and witnesses of violence.
9. Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice; and provide effective remedies to victims, including reparation,

### **Detention and rule of law**

10. Devote appropriate resources to ensure the physical conditions of detention and prison facilities conform to international standards;
11. Undertake legal and institutional reform to ensure all prisons and places of detention are under the authority of one Ministry, preferably the Ministry of Justice and that they are serviced by a dedicated staff accountable to that Ministry;
12. Ensure compliance by all State officials or their representatives with Iraq's international obligations in relation to preventing torture and other ill-treatment and ensure that all allegations of torture or other ill-treatment are promptly, properly and independently investigated, that perpetrators are charged and tried according to law, and that victims are appropriately and adequately compensated including by providing appropriate medical, social and other assistance; and
13. Ensure access by UNAMI/OHCHR, as well as the Ministry of Human Rights to carry out regular, unrestricted and independent inspection visits to all detention and prison facilities.

### **Death Penalty**

14. Declare a moratorium on the use of the death penalty in accordance with UN General Assembly resolutions 62/149 (2007), 63/168 (2008) and 65/206 (2010) and consider acceding to the Second Optional Protocol to the ICCPR aimed at abolishing the death penalty;

15. Implement international standards that provide safeguards of the rights of those facing the death penalty as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984 until the death penalty is abolished in Iraq; and
16. In the interim, progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed; including a thorough review of the Penal Code and the Criminal Procedure Code to restrict the application of the death penalty to the most serious crimes.

#### **Women's rights**

17. Undertake legal and regulatory reform to abolish 'honour' as a mitigating excuse in relation to crimes of violence committed against women;
18. Ensure adequate resources are devoted to the social and medical support of women who are victims of domestic or other violence;
19. Ensure that all allegations of violence against women are properly investigated by officials responsible for law enforcement and the administration of justice and that perpetrators are dealt with according to law;
20. Ensure appropriate training of all State officials responsible for law enforcement and the administration of justice on gender issues, particularly violence against women, and how to deal appropriately and sensitively with such cases;

#### **Children's rights**

21. Ensure the protection and care of all children who are victims of violence;
22. Ensure that children charged or convicted of criminal offences are not detained or imprisoned in facilities designed for adults, but in separate facilities specifically designed for their needs and that in all cases alternatives to detention are considered and applied in relation to children;

#### **Minority rights**

23. Undertake legal and institutional reforms to ensure that all laws and policies promote equality and respect for all persons, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, sexual orientation, property, birth or other status;
24. Undertake revision and reform of the school education curricula to introduce educational programmes aimed at promoting equality and respect for all persons, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status;
25. Ensure the accountability, according to law, of any person who incites or promotes hatred, acts of violence, or intolerance against persons based on race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status;

#### **Freedom of expression and opinion**

26. Undertake review of all laws and policies to ensure these provide and protect the rights of freedom of expression and opinion of all persons, including the repeal of sections of the criminal laws concerning criminal libel;
27. Ensure that all legislation respects and protects the rights of all citizens to receive and to impart information freely and without hindrance, unless restricted for legitimate purposes as permitted by international law to which Iraq is a Party; and
28. Ensure that journalists are protected against harassment and violence and that all allegations of such harassment or violence are promptly investigated and those responsible are held accountable according to law.

#### **Freedom of assembly**

29. Ensure that the right of citizens to demonstrate peacefully is fully respected by the police and other authorities

#### ***Specific recommendations to the Kurdistan Regional Government***

1. Release all long term detainees held without charge, or ensure that they are charged with recognized criminal offences and brought to trial promptly and in full accordance with international standards of due process and fair trial;

2. Ensure that the law establishing the Independent Board of Human Rights is expeditiously implemented, consider a transparent procedure in selecting the members of the Board, and ensure the Board is provided with adequate resources to operate independently;
3. Suspend sections of the criminal laws concerning criminal libel;
4. Ensure that police and security services receive appropriate training on dealing with civilian demonstrations and crowd control;
5. Fully investigate allegations of abuse of journalists and others arrested in connection with demonstrations and where violations are found to have occurred, hold those accountable according to law;
6. Suspend the death penalty.

# Executive Summary

This report, covering the period from 1 January 2011 to 31 December 2011, is published by the Human Rights Office of the United Nations Assistance Mission in Iraq (UNAMI) in cooperation with the UN Office of the High Commissioner for Human Rights (OHCHR).

Levels of violence in Iraq (outside of the Kurdistan Region) remain high, and the number of civilians killed or injured in conflict-related incidents has only slightly decreased compared with figures for 2010. UNAMI figures show that during 2011 some 2,771 civilians were killed<sup>1</sup> and some 7,961 civilians were wounded<sup>2</sup>. Most of the violence was concentrated in and around Baghdad, Ninawa and Kirkuk. Violent incidents also occurred in Anbar and Diyala, while the south around Basra saw very few such incidents. Despite a decline in the overall number of incidents compared with 2010, those that did occur were often more deadly, with a few such attacks claiming scores of victims. As in 2010, attacks specifically targeting political leaders, government officials and security personnel, as well as of community and religious leaders, and legal, medical and education professionals continued. A destabilising factor in relation to security was the steady withdrawal of remaining United States forces (USF-I) – a process completed by 18 December 2011.<sup>3</sup> Shifting relationships between various political blocs, parties and factions, compounded by tribal, ethnic, and religious differences also contributed to a deterioration in the human rights environment.

Civilians continued to suffer from attacks based on their ethnic, religious and other affiliations. There were several large-scale attacks on Shi'a pilgrims and on places of worship. Members of the Christian community were also targeted – as were members of the Turkoman community (particularly around Kirkuk) and members of other religious and ethnic minorities, such as Yezidi, Shabaks, Sabian Mandeans, and Manichaeans. Members of sexual minorities also suffered from killings and widespread social and State sanctioned discrimination – with Iraqi security forces and other State institutions failing to protect them.

The administration of justice and the rule of law remained weak. Iraqi citizens continued to suffer from arbitrary arrest and detention. A large number of arrests took place from the end of November and continued until the end of 2011 involving persons accused of being former members of the Ba'ath Party and allegedly linked to terrorist activities. UNAMI received credible reports that many of these detainees have been held without access to lawyers or family members. It is alleged that many have been detained because of political, ethnic or sectarian affiliations, and that some have been subjected to threats, abuse and mistreatment in order to force them into signing confessions

Conditions in some prisons and detention facilities remain of serious concern, with many falling below accepted international standards in terms of overcrowding, lack of hygiene and lack of prisoner rehabilitation programmes. In many detention centres convicted prisoners were not adequately separated from those awaiting trial – and alternatives to detention for prisoners on remand remained under utilised. UNAMI continued to receive reports from detainees and their relatives that many face abuse and mistreatment, and on occasion, torture. State prosecutors were often under resourced, contributing to a

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<sup>1</sup> The total figure of 4,649 includes 1,052 members of the Iraqi Security Forces who were killed, 50 foreign workers, 52 Iraqi officials, 164 civil defence force members. 247 recorded deaths were unidentified, 267 members of armed opposition groups were killed, and 46 members of the United States Forces in Iraq were killed. Figures were compiled by UNAMI from direct monitoring, media and official government sources.

<sup>2</sup> Also wounded, according to UNAMI figures, were 2,596 members of the Iraqi Security Forces, 403 foreign workers, 33 Iraqi officials, 185 civil defence force members, 50 members of armed opposition groups.

<sup>3</sup> Agreement Between the United States of America and the Republic of Iraq on the Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq, signed on 17 November 2008 by the Iraqi Foreign Minister Hoshiyar Zebari and U.S. Ambassador Ryan Crocker and ratified by the Iraqi Parliament on 27 November 2008.

lack of due diligence in investigation of accused persons and in bringing such persons to trial in a timely manner. While in some instances trials were conducted professionally, the judicial system continued to be plagued by under-resourcing – and there continued to be an over-reliance on confessions to found convictions, even when there is information or evidence suggesting that such confessions were obtained through coercion. There is on-going deep concern at implementation of the death penalty in Iraq.

Violence perpetrated against women and girls, including so called ‘honour crimes’, is of serious concern. The Government of Iraq has made no attempt to repeal sections of the Iraqi Criminal Code which permits honour as a mitigating factor in relation to crimes of violence against women. Low awareness of women’s rights and the existence of deep-rooted cultural norms are important factors in perpetuating a culture of violence and disregard for the rights of women.

Widespread poverty, high unemployment, economic stagnation, environmental degradation, and lack of basic services continued to affect large sections of the population. Demands for greater opportunities and an improvement in the delivery of essential services fuelled demonstrations in various cities throughout Iraq. While many demonstrations were held peacefully, there are concerns that the Iraqi security forces responded in a heavy-handed, and at times disproportionate, manner in using force against protestors. There were isolated reports of some demonstrations turning violent – but whether this was in response to the actions of the Iraqi security forces or other factors is difficult to ascertain. Protestors claimed that the Iraqi Government attempted to control and suppress some demonstrations by restricting movements, arresting activists, and imposing curbs on media freedoms. There were credible reports that some activists detained in relation to protests were beaten and abused by security forces. Particular concern relates to the mistreatment of journalists reporting on the demonstrations and issues related thereto – and a number alleged they were detained and suffered abuse at the hands of Iraqi security forces or those connected with them.

While conditions of IDPs saw some improvement with the registration of IDPs, thereby permitting better access to basic services, the Government continued to under-serve IDP camps owing to the perception that IDPs are motivated by economic factors, as opposed to comprehending that the reason of movement is the on-going armed violence or conflict in the country.

The Iraqi Government made some progress in tackling some of the above issues. Following the formation of the Government at the end of 2010, the Council of Representatives re-initiated the process for establishing the Iraqi Independent High Commission for Human Rights (IHCHR) by appointing a Committee of Experts (CoE) to undertake the process of nomination of commissioners. The Committee was appointed in April 2011 and was endorsed by the COR in May 2011. At the end of 2011 the CoE was continuing its work.

An important development was the decision by the Government of Iraq to implement the 135 recommendations accepted by it during the Universal Periodic Review (UPR) done in Geneva in February 2010. Due to the slow Government formation process through 2010, there had been no progress on implementation of the UPR recommendations. Through the Ministry of Human Rights (MoHR) the Government drafted a National Action Plan on Human Rights (NAP) which addressed the UPR recommendations through a programme of legislative, institutional and policy reforms aimed at addressing gaps in the respect and protection of human rights in Iraq. The draft NAP was submitted to a National Consultation Conference held in Baghdad between 5-7 June 2011, at which delegates from Government, the Judiciary, and civil society made amendments and recommendations on the draft. Following this, the Government amended the draft NAP to incorporate the consultation conference’s recommendations. The National Action Plan was formally adopted by the Government in December 2011.

Some legislative measures were passed during the reporting period; however some, such as the *Journalist Protection Law* were of concern as they fell below international legal standards. Also of concern were the

plans announced by the Government to introduce legislation on “crimes of the internet”. The Parliament also failed to pass a comprehensive freedom of information law during the reporting period.

Iraq finally lodged the instrument of ratification of the Convention against Torture (CAT), but it had not yet acceded to the Convention on the Rights of Persons with Disabilities by year’s end. There was no commitment to ratify the Additional Protocol II of 1977 to the Geneva Conventions of 1949<sup>4</sup>, the Statute of the International Criminal Court (ICC)<sup>5</sup>, or a range of additional protocols to the existing human rights treaties to which Iraq is a Party.

### *Kurdistan Region*

The overall human rights situation in Kurdistan Region continued to improve, although challenges remain, including concerns over the respect for freedom of assembly and freedom of expression and the protection of journalists.

The Kurdistan Region continued to experience low levels of insurgent violence, although a significantly higher number of incidents was reported compared to 2010. During the second half of 2011 military operations conducted by foreign forces along the border areas of neighbouring countries caused at least ten civilian deaths and damage to civilian infrastructure.

The situation regarding rule of law and detention continued to improve, with conditions in prisons ameliorated by the construction, of new detention facilities and plans to introduce rehabilitation programmes although there were some instances of overcrowding noted. Reports of abuse remained low and the Kurdistan Region Government (KRG) showed itself generally to be proactive in investigating allegations of abuse or mistreatment within its facilities. Concerns remain, however, at the treatment of those accused of committing acts of terrorism, many of whom continued to be held for extended periods without charge or trial, and in relation to some persons and journalists detained in connection with demonstrations that took place in the region during the year.

UNAMI has serious concerns relating to the handling and treatment of demonstrations that took place within the Kurdistan Region during the reporting period. Initially the Kurdistan Region security forces showed a heavy handed and at times disproportionate response to civilian demonstrators – some of which was linked to inexperience and lack of capacity within the security forces in dealing with civilian demonstrations. However, UNAMI received a number of reports of persons who suffered abuse and mistreatment at the hands of the security forces either during the demonstrations or while in detention. On a positive note, the KRG and leading political parties did embark on dialogue aimed at addressing the grievances of demonstrators and at finding a political solution.

There are continuing concerns about the freedom of expression in the Kurdistan Region, with some reports of journalists being targeted for prosecution, and at times threats and intimidation on account of their reporting. Of particular concern was the treatment of journalists reporting on the civilian demonstrations, some of whom alleged they were physically mistreated by security forces after being detained.

The KRG introduced some significant legislative reforms, including a landmark domestic violence law which does much to address violence against women and children – however, Female Genital Mutilation (FGM) remains of concern, which the KRG needs to address through social education programmes and legislative reform. There were also reports of honour killings of women, although the exact levels and

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<sup>4</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, opened for signature on 8 June 1977, 1125 UNTS 3 (“API”); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature on 8 June 1977, 1125 UNTS 609 (“APII”)

<sup>5</sup> Rome Statute of the International Criminal Court, A/CONF.183/9, Adoption: 17 July 1998 (entered into force on 01 July 2002)

prevalence of the problem were difficult to ascertain. The KRG previously suspended sections of the Criminal Code which permitted honour as a mitigating factor in relation to murder in domestic contexts. The region has been proactive in addressing issues that confront the full enjoyment by women of their rights with the establishment of the Kurdistan Region High Advisory Committee on Women to recommend legal and social reforms and to coordinate KRG action on these issues.

Of significance, the KRG embarked on drafting a regional action plan on human rights, aimed at formulating a programme of legal, institutional and policy reforms to address gaps in the protection of human rights within the Kurdistan Region identified as a priority. However, the establishment of the Kurdistan Region Independent Board on Human Rights remains stalled.

# Human Rights in Iraq: 2011

## 1. Introduction

### 1.1 Overview

This report is published by the Human Rights Office of the United Nations Assistance Mission in Iraq (UNAMI) in cooperation with the United Nations Office of the High Commissioner for Human Rights (OHCHR) under their respective mandates. Information for this report, covering the period 1 January to 31 December 2011, has been gathered from direct monitoring by UNAMI as well as from a variety of other sources including Government, United Nations agencies, civil society, individuals, and media reports.

The human rights situation in Iraq remains fragile as the country continues its transition from years of dictatorship, conflict, and violence, to peace and democracy. Many of the trends noted in UNAMI's report on Iraq for 2010 continued in 2011. Faced with significant challenges, the Government of Iraq (GoI) made some progress in implementing measures to protect and promote the human rights of the Iraqi people, but the impact of these measures on the overall human rights situation remained limited. Levels of violence, respect for the rule of law and administration of justice, accountability for breaches of humanitarian law and human rights standards committed over many years, implementation of the death penalty, respect for the rights of women and children, corruption and lack of access to basic services, and respect for the rights of freedom of expression, opinion and assembly, all remain of concern.

The GoI attempted to address some of these problems. In a significant move, it commenced a process for implementation of the recommendations accepted by Iraq in the Universal Periodic Review process (UPR) conducted in Geneva in February 2010 through development of a National Action Plan on Human Rights. The Government also restarted the process for establishing the Independent High Commission for Human Rights (IHCHR). The Council of Representatives (COR) established a Committee of Experts which is charged with appointing the Commissioners. Other legislative reforms were made. However, some of these were not fully compliant with international human rights obligations, and other proposed legal amendments were of concern.

In Kurdistan Region the overall human rights situation continued to improve, although challenges remain. There are concerns over the respect for freedom of assembly and freedom of expression and the protection of journalists. While the region suffered little violence in relation to insurgency, there are concerns about the impact of military operations conducted by foreign forces in the border areas of Iran and Turkey on civilians.

The Kurdistan Region Government (KRG) made some significant legislative reforms, including a landmark domestic violence law which does much to address violence against women and children, including banning the performance and incitement of female genital mutilations. However, rates of reported incidents of violence against women, including "honour killings" remain of concern. In a positive move, the KRG established a special High Committee on Women's Affairs aimed at better coordinating the Government response to problems confronting the full enjoyment by women of their rights. The KRG also committed to the implementation of a Kurdistan Region action plan on human rights aimed at addressing key gaps in the promotion and protection of human rights within the region, and there are plans to hold a consultation conference in Erbil. However, establishment of the Kurdistan Region Independent Human Rights Commission remains stalled.



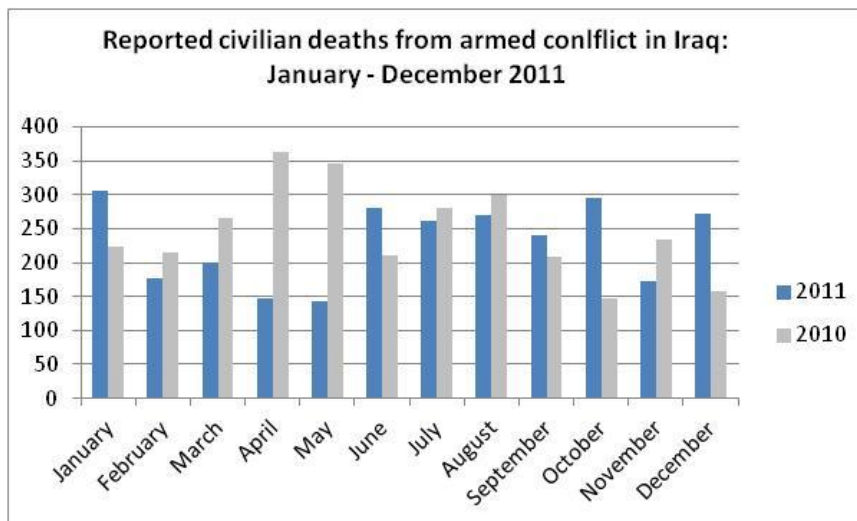
## 2. Armed Conflict and Civilians

Armed conflict impacted negatively on civilians and civilian infrastructure, leading to disruption of access to basic services, arbitrary loss of life, and injury. Civilians continued to be the victims of violent campaigns waged by armed opposition groups and insurgents. Deliberate targeting of civilians constitutes serious violations of domestic criminal law, international human rights law and international humanitarian law. There were also a small number of reports of civilian deaths caused by the Iraqi security forces and/or its allies in the conduct of operations.

### 2.1 Civilian casualties

UNAMI documented indiscriminate attacks against civilians and civilian objects, attacks targeting Iraqi security forces that resulted in civilian deaths and injuries - including the deliberate targeting of public officials, judges, religious figures, education professionals and members of diverse ethnic groups and minorities.

Ascertaining precise numbers of civilians killed and wounded as a result of violent conflict is difficult in Iraq. Figures from UNAMI's direct monitoring indicate that a minimum of 2,771 Iraqi civilians were killed and 7,961 were injured in armed conflict and violence during 2011.<sup>6</sup> This represents a slight decrease compared to 2010, when UNAMI recorded 2,953 civilian deaths. According to the Ministry of Human Rights (MoHR) during 2011 around 2,781 civilians were killed in conflict related circumstances, including 184 women and 96 children. A further 10,386 civilians were injured, including 833 women and



382 children. The Iraq Body Count (IBC)<sup>7</sup> recorded 4,087 civilian deaths from violence in Iraq during the year under review, slightly higher than the 4,045 civilian deaths recorded in 2010.

Irrespective of the precise figures, Iraq has one of the highest number of conflict-related civilian casualties per capita. Identifying trends is extremely challenging, although most sources are in agreement that the rate of decline in civilian casualties

has considerably slowed since 2009, compared with the significant reduction in civilian casualties seen from the height of the violence in 2007, when almost 18,000 people were reportedly killed, and in 2008, when under 7,000 died. The frequency of violent incidents, particularly the use of Improvised Explosive Devices (IEDs) and Vehicle-Borne Improvised Explosive Devices (VBIEDs) by insurgent and terrorist groups, suggests a pattern of sustained, *ad hoc* violence which has the potential to continue for the foreseeable future. On an average day during 2011, UNAMI data shows that there were some 21 violent incidents in Iraq, the most common being IEDs and small arms fire resulting in 7.5 civilian deaths.

<sup>6</sup> UNAMI relies on direct investigation, along with credible secondary sources, in determining civilian casualties. UNAMI figures are conservative and may under-report the actual number of civilians killed and injured for a variety of reasons. Where different casualty figures are obtained for the same incident, the figure as verified by UNAMI is reported.

<sup>7</sup> Iraq Body Count, "Documented civilian deaths from violence, monthly table". Available online <<http://www.iraqbodycount.org/database/>>, accessed 26 July 2011.

UNAMI data indicates that violence continued to be concentrated in Baghdad and the surrounding regions, and in the Disputed Internal Boundaries (DIBs) areas, notably Mosul and Kirkuk. There were also attacks, but of lesser frequency, in Anbar Governorate. The south of the country, around Basra, saw the fewest numbers of violent attacks and resulting civilian casualties. Baghdad and the North-central region suffered 865 and 739 recorded civilian deaths and 3,024 and 2,002 injuries respectively. South-central region recorded 433 civilian deaths and 1,165 injuries; the north region had 293 deaths and 692 injuries; the Western region had 212 deaths and 400 injuries; while the south region had 111 civilian deaths and 293 injuries. January witnessed a peak of violence, with 307 civilians reportedly killed, although in December the number of civilians killed rose significantly – being the highest for that month recorded since 2008. The second half of 2011 was more violent than the first half: 1,515 civilians were reportedly killed from July to December, compared with 1,256 from January to June 2011.

Examples of attacks carried out by armed insurgents that resulted in the death and injuries to civilians,<sup>8</sup> include the suicide bomber in Tikrit on 18 January, consequently 64 people were killed and at least 150 injured as they queued in a line at a police recruitment centre. On 27 January, between 48 and 64 people were killed in what may have been a sectarian motivated attack when a car bomb exploded, destroying a funeral tent in the Shula area of Baghdad.<sup>9</sup> On 24 February, up to 14 people were killed and 15 were reportedly wounded when a suicide bomber attacked a cultural centre in Ramadi. On 6 March up to 12 people were killed – including women and children – when a roadside bomb struck a passing bus in the Al-Maqil area of central Basra, although the intended target may have been a USF-I convoy. On 29 March, up to 71 people, mainly members of the Iraqi police force were killed and over 100 were wounded in a complex attack of suicide bombers and hand grenades outside the city council building in Tikrit. The Islamic State of Iraq (ISI) claimed responsibility for this attack.<sup>10</sup>

On 11 April, 10 members of a Shi'ite farming family were killed by bombs in their fields. On 3 May, up to 16 civilians were killed when a car bomb exploded outside a cafe in Abu Dsheer, Baghdad. On 3 June, in Tikrit, up to 18 worshippers were killed and more than 20 were injured (including children) in a mosque when attacked by a suicide bomber. On 11 June, at least fifteen people were killed and fifty-two others were injured in two VBIED attacks targeting an army patrol in Al-Dwoasa in Mosul. On 20 June in Mosul, two boys were killed and three other civilians injured in a roadside bomb explosion. On 23 June, at least 34 people were killed in the Al-Shurta Al-Rabaa area of Baghdad, when three bombs went off in quick succession - one targeted a Shi'ite mosque, while two targeted a market where people were shopping. On 26 June, 27 people, mostly civilians, were killed in Diwania when a suicide car bomb exploded outside the house of the governor.

On 28 July, at least 12 people were killed and 28 injured in a twin bombing in Tikrit: the first bomb exploded outside a State-run bank, followed by a suicide bomber seemingly timed in order to target emergency workers who had arrived at the scene. On 15 August, one of the most violent days of the year, more than 70 people were killed and hundreds injured in a wave of attacks in cities across Iraq. In the day's worst incident, 37 people were killed when two bombs exploded in a busy market in the city centre of Kut. In total, some 40 attacks were reported for which the Government blamed the Islamic State of Iraq.<sup>11</sup> On 13 October at least 16 people were killed in the Sadr City area of Baghdad when two roadside

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<sup>8</sup> Based on UNAMI reports, plus credible media sources where indicated.

<sup>9</sup> BBC News "Bomb at Baghdad funeral in Shia Muslim area kills 48", 27 January 2011. Available online <<http://www.bbc.co.uk/news/world-middle-east-12298002>>, accessed 17 July 2011.

<sup>10</sup> Reuters, "Al Qaeda claims responsibility for Iraq's Tikrit attack" 2 April 2011. Available online <<http://www.reuters.com/article/2011/04/02/us-iraq-violence-qaeda-idUSTRE7310R520110402>> accessed 27 July 2011.

<sup>11</sup> Reuters, "Suicide attack kills at least 24 at Baghdad mosque", 28 August 2011. Available online at <<http://www.reuters.com/article/2011/08/28/us-iraq-violence-idUSTRE77R2QZ20110828>>, accessed 20 January 2012. Attributing responsibility for armed attacks is generally not possible. There are over 100 armed groups operating in Iraq with a range of motivations, capacities, and links. Sometimes understanding the motivations for an

bombs were detonated - although some sources indicated to UNAMI that up to 61 people were killed by the twin blasts. On 27 October, in Baghdad's Ur district 18 civilians were killed in two explosions: the first bomb was detonated outside a music store, and then a second was detonated as people rushed to assist the victims.

In another series of attacks, on 22 December, at least 69 people were killed and around 200 injured in a coordinated series of nine car bombs and six roadside bombs targeting civilian infrastructure including markets, grocery stores, cafes and government buildings in a dozen mostly Shiite neighbourhoods in Baghdad.<sup>12</sup> According to media reports, the Al-Qa'eda affiliated group, the Islamic State of Iraq, claimed responsibility.<sup>13</sup>

As noted, armed opposition groups continued to deliberately target civilians. Many attacks targeting Iraqi security forces also employed asymmetric and indiscriminate tactics, such as the use of IEDs or VBIEDs on roadsides or near police checkpoints, government buildings and installations. Such attacks were often carried out in crowded public areas such as markets, cafes or mosques and churches, revealing an intent to kill and injure a maximum number of civilians, or with indifference to the number and type of casualties.

The motives for such attacks were diverse. Some appear to have been sectarian, targeting members of particular religious communities, their residential areas, and places of worship, including mosques and churches. A large number of such attacks were perpetrated against the Shi'a community, but there were also a sustained level of attacks against Christians and other minority religious groups, including Yezidis, Manicheans, and Sabian Mandaean. Many attacks were directed at particular ethnic groups, such as members of the Turkoman community in Kirkuk. Reported tensions between members of ethnic groups may have led to violence, particularly between Christians and Yezidis in Ninawa. Attacks on Iraqi security forces, in particular on the police, frequently had political motives, aimed at undermining public confidence in the capacity of the Government and its institutions to maintain security. However, many such attacks also might have had underlying sectarian or other motivations. In the DIBs areas, violence appears to have been largely sectarian or ethnic in nature. There were a number of incidents, including killings and kidnappings, which although superficially motivated by criminal gain, may also have had sectarian, political or other motivations.

All such attacks constitute serious violations of Iraqi criminal law and of applicable international humanitarian law and international human rights law. While UNAMI recognises the enormous difficulties facing the Iraqi government in its efforts to restore and maintain law and order, the Government of Iraq is required to do all it can, within the limits of the law and in compliance with its international legal obligations, to bring the perpetrators of such crimes to justice and take all legal and appropriate measures to curb the violence and to protect civilians and civilian infrastructure from the effects of conflict.<sup>14</sup>

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attack targeting a specific individual are often difficult to identify, ranging from criminal motivations, to sectarian political or ethnic motivations, and often involving more than one. Even where a group claims responsibility for an attack, it should not be assumed that the claim is credible.

<sup>12</sup> Some sources indicated to UNAMI that the number killed was around 160, but this number could not be verified. For instance, the Government reported officially that 13 staff of the Accountability and Justice Commission office in Al-Rusafa had been killed, but notices placed on the walls of the destroyed office listed 31 staff as having been killed.

<sup>13</sup> Associated Press, "Al Qaeda group claims responsibility for Baghdad blasts", 27 December 2011. Available online <<http://www.france24.com/en/20111227-iraq-al-qaeda-suicide-bomb-baghdad-shiite>>, accessed 8 January 2012. On the same day, 17 armed groups (predominantly Sunni) announced they were resuming their "jihad" against the Government of Iraq.

<sup>14</sup> Article 4 of the International Covenant on Civil and Political Rights (ICCPR), in particular, is clear on the basic protections that must be afforded to persons and from which no derogation is permissible even in times of emergency.

### *2.1.1 Civilian casualties in the Kurdistan Region*

The Kurdistan Region continued to be relatively free of armed conflict and violence.<sup>15</sup> There, UNAMI recorded 12 civilian deaths and injuries during the year. This figure is lower than in 2010 when 22 deaths were recorded. In relation to this, there were concerns about the impact on civilians of military operations conducted along the Kurdistan Region's borders with Turkey and Iran by foreign military forces, which resulted in the deaths of at least ten civilians and injuries to at least 20 others, and the displacement of families.

## **2.2 Targeted killings**

The frequency of targeted killings remains of concern, constituting serious violations of IHL and international human rights law. Many such attacks were carried out with IEDs placed on roadsides or in vehicles, or shootings by small firearms equipped with silencers. According to UNAMI during 2011 there were 296 such killings and attempted killings, resulting in 73 deaths and injuring 41, significantly higher than in 2010.

Those most frequently targeted were members of the Iraqi Police, including retired officers and family members of serving police personnel. Other victims included government officials, members of governorate councils, civil servants, journalists, education and medical professionals, judges, traditional leaders, members of ethnic and religious minorities and persons engaged in religious events and activities.

In some incidents, bombs detonated in public areas often killed and injured civilians, then, as police arrived at the scene, further bombs were detonated, with the intention of killing members of the security forces. Bombs detonated outside police stations or government buildings often harmed civilian bystanders. Incidents of such killings frequently left family members of the intended victim dead or injured.

### *2.2.1 Attacks targeting government employees, officials and public officials*

Across Iraq, incidents of killings targeting Government officials increased compared to 2010. Based on UNAMI figures, the most affected cities were Baghdad, Kirkuk, Mosul and Tikrit. Among such incidents<sup>16</sup> on 20 March in Baghdad, an official from the Oil Ministry was killed in a drive by shooting. On 19 April, an employee of the Education Ministry was killed by a magnetic car bomb in Doura, Baghdad. On 30 April, an employee of the Ministry of Industry and his daughter were killed in their home in a targeted shooting. On 26 May, the Chair of the Accountability and Justice Commission, Ali Faisal Al-Lami, was killed in a drive-by shooting in Baghdad. On 30 May, the Deputy Governor of Ninawa Province survived an assassination attempt when his convoy was targeted by an IED whilst en route to Tampa, west of Sharqat in Mosul. On 1 June in Baghdad, there was an attempted assassination of the Deputy Minister for Human Rights, Abdul-Karim Abdullah. On 3 June, following an earlier attack on a mosque, a suicide bomber blew himself up inside Salahadin Teaching Hospital killing two Iraqi Police personnel and leaving four injured, including a physician. The suicide bomber was targeting Al Iraqiya Parliament Member, Mr. Mutashar Husain Elewy, who was visiting people injured during the earlier attack. On 7 June, the son of a Defence Ministry official was shot dead in a drive by shooting in Jamiaa, Baghdad. On 25 September gunmen using silenced weapons killed a Foreign Ministry employee in Jamiaa, west Baghdad. On 25 September, a sticky bomb attached to the car of Mr Saad Fetehalah, the head of the international relations department within the Ministry of Human Rights killed Mr Fetehalah's driver. In a rare attack inside Baghdad's 'Green Zone', on 28 November a bomb exploded outside of the

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<sup>15</sup> Excluding incidents involving civilian demonstrations, and military operations by Iranian and Turkish armed forces on the border areas.

<sup>16</sup> Not all cases have been confirmed directly by the human rights team/Office. Information from UNAMI sources as well as credible open sources, such as media reports.

parliament building. Reports indicated that the bomb may have targeted the Speaker of Parliament, or the Iraqi Prime Minister himself. The Islamic State in Iraq claimed responsibility for this attack. The Islamic State in Iraq<sup>17</sup> also claimed it was responsible for the December 26 attack on the Interior Ministry, in which 7 people were killed. Also on 28 November, the house of a member of Kirkuk Provincial Council, a Turkman Shi'a was targeted by four bombs, which killed two civilians and injured 14.

### *2.2.2 Attacks targeting judges and legal professionals<sup>18</sup>*

In further violence aimed at disrupting the functioning of government institutions and undermining the rule of law, attacks on judicial and legal professionals continued. Among the cases recorded by UNAMI<sup>19</sup> on 2 January, the nephew of a judge in Al-Rufei'at was killed by a bomb inside the judge's residence. On the same day a lawyer working for an association defending Iraqi prisoners was shot dead in eastern Baghdad. On 4 January, a female lawyer was killed in a drive-by shooting on the airport road in Baghdad. On 18 March, a prominent lawyer in Kirkuk was shot dead near his home. On 19 April, a teacher, a lawyer and one other were killed by gunmen in their family home in Kirkuk. On 30 April, a judge was shot and killed by gunmen in his residence in Baghdad. A number of other people also reportedly died in the attack. On 9 June, a judge was shot and killed in a drive-by shooting in Baghdad. On October 19, a judge and his driver were shot dead in a western area of Mosul. On 13 December, gunmen attacked a vehicle carrying judges in Fallujah. Three people were killed, and five others wounded, including three judges. On 21 December, a judge and his guard were killed when a bomb attached to his vehicle exploded in Kirkuk. The judge's daughter and two pedestrians were reportedly injured. A second bomb was later detonated under a vehicle belonging to one of the judge's guards, which had been used to transport the injured to hospital, injuring a further five civilians.

### *2.2.3 Attacks targeting medical and educational professionals*

UNAMI recorded at least 35 attacks targeting educational and medical professionals during the reporting period.<sup>20</sup> Motives for such attacks were not uniform and were often unclear. It is possible that some could have been targeted for personal or criminal motives, but in some cases there might have been political, ethnic or sectarian motivations.<sup>21</sup> On 17 February, a university professor was shot dead in his home in Al-Khadhra, west Baghdad. On 26 February, a teacher at a technical university was shot dead in Saydiya, Baghdad. On 8 March, a faculty member of the Department of Basic Education, University of Mosul was shot dead by unidentified armed men in Barid, east Mosul. On 26 March, a professor specialising in cancer research was assassinated in al-Nisour Square, Baghdad. On 29 March, in Mansour, Baghdad, the Dean of Dentistry at Mustansiriya University was killed by a magnetic bomb attached to his car. On 4 April, up to six people were killed in an attack on the family home of a college professor. On 5 April, a teacher was reportedly shot dead in his home in Tarmiyah. On 9 April, a teacher was killed by a 'sticky bomb' attached to his car in Falluja. On 1 May, a teacher was reportedly killed by a 'sticky bomb' attached to his car in west Baquba. On 11 June, in Al-Dour a teacher and four members of his family were

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<sup>17</sup> The Islamic State of Iraq (ISI) is an umbrella organization of a number Iraqi insurgency groups established on October 15 2006. The group is composed of and supported by a variety of insurgency groups, including its predecessor, the Mujahideen Shura Council, Al-Qaeda, Jeish al-Fatiheen, Jund al-Sahaba, Katbiyan Ansar Al-Tawhid wal Sunnah, Jeish al-Taiifa al-Mansoura, and other sunni groups. It aims to establish a caliphate in the Sunni dominated regions of Iraq. It claims a presence in the governorates of Baghdad, Al Anbar, Diyala, Kirkuk, Salah ad Din, Ninawa, and parts of Babil and Wasit, etc. It initially claimed Baqubah as its capita

<sup>18</sup> Please note that for protection of individuals and security reasons all names have been purposely removed.

<sup>19</sup> Not all cases have been confirmed. Information from UNAMI sources as well as credible open sources, such as media reports.

<sup>20</sup> Not all cases have been confirmed. Information from UNAMI sources as well as credible open sources, such as media reports.

<sup>21</sup> "Minister of Health: Doctors targeting is a desperate attempt to empty Iraq from Competencies", 30 June 2011. Available online at <<http://www.moh.gov.iq/english/index.php?name=News&file=article&sid=183>>, accessed 17 August 2011.

shot dead in their home. On 21 June unidentified armed men kidnapped a doctor while he was heading out from his clinic in Kirkuk. The kidnappers contacted the doctor's family demanding USD\$300,000 to release the victim. A ransom was later paid and the doctor released. On 25 June, unknown armed men kidnapped the nine year old son of a dentist in Kirkuk city. He was released on 28 June. It is unknown whether a ransom was paid to secure his release. On 22 of July a doctor was shot dead in Kirkuk when he resisted a kidnap attempt. On 24 July a nurse was shot dead in a clinic in the village near the town of Garma north west of Baghdad. On 26 July gunmen broke into a medical clinic in al Tahrir neighborhood, east Mosul and shot dead Dr Haifa Jum'aa. On 23 August, a professor from Baghdad University was shot dead outside his home in the Adil district of Baghdad. The professor's son was injured in the attack. On 5 September neurologist Yeldrim Abbass was reportedly killed along with his brother by gunmen in Kirkuk. Also in Kirkuk, on 11 September, armed men in two vehicles kidnapped a Turkoman nurse. On 22 October a teacher and his daughter were reportedly killed in a drive by shooting in Tikrit. On 5 November, unidentified armed men dressed in uniform kidnapped the head of Kirkuk University and another professor, both Turkmen Shi'a. The two professors were released one month later on payment of a ransom. On 15 November a doctor was killed when gunmen opened fire in his clinic in a village near Qaiyara, north of Baghdad. On 27 December, the head of the Red Crescent in Kirkuk was targeted by a magnetic bomb on his vehicle, severely injuring him.

#### *2.2.4 Attacks targeting religious institutions and events*

Sectarian violence, in particular large scale attacks targeting religious events, continued to claim large numbers of civilian casualties. For instance, presumed Sunni militias attacked the Shi'a religious festival at Karbala in January. Such attacks on crowded areas routinely resulted in massive casualties. On 20 January, up to 56 Shi'a pilgrims were killed when two car bombs were detonated on roads used by thousands of pilgrims converging on Karbala for the Arba'een commemorations. Four days later, more than 33 pilgrims were killed by two car bombs which were detonated a few hours apart, the first targeted a bus terminal, while the second targeted the Da'oum area in the centre of the city, where pilgrims were organising processions. In possibly retaliatory attacks, Sunni imams were reportedly targeted in Falluja. According to Iraq Body Count, two Imams were killed in drive-by shootings on 24 January and 31 January.<sup>22</sup> In February, at least 46 Shi'a pilgrims were killed by two suicide bomb attacks targeting a religious ceremony in Samarra. In the first attack on 8 February, eight people were killed and around 30 wounded when a suicide car bomber attacked a group of Shi'a pilgrims heading to the city, where a religious commemoration for the death of an Imam was taking place. On 12 February, another suicide bomber blew himself up near a crowd of Shi'a pilgrims at a bus depot. According to media reports, 38 people were killed and 74 wounded in this second attack.<sup>23</sup>

On July 15 and 16, four car bombs in Karbala, targeting Shi'ite pilgrims during a religious festival, killed 15 and injured 84. On 28 August, a suicide bomber blew himself up in the main area of the Umm al-Qura mosque during prayers in the western Baghdad neighbourhood of al-Jamiaah: Iraqi police and hospital officials reported that 29 worshippers were killed and at least a further 30 injured. On 12 September, 22 Shi'ite pilgrims were shot dead when unidentified gunmen boarded the bus and killed all those on board as they were travelling through al-Anbar governorate on their way to a holy shrine in Syria. On 30 September, 25 people were killed and 27 wounded when a car bomb was detonated among mourners at a Shi'ite funeral in the city of Hilla. At least 32 people were killed during different sectarian attacks during the Shi'ite Ashura festival. On 5 December, 15 people including women and children were killed by a car bomb targeting a religious procession in Hilla. A second attack, also in Hilla on the same day, killed at least six more people.

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<sup>22</sup> Iraq Body Count, <<http://www.iraqbodycount.org/database/>> accessed 21 July 2011

<sup>23</sup> Reuters, "Suicide bomber kills 38, wounds dozens in Iraq", 12 February 2011. Available online <<http://www.reuters.com/article/2011/02/12/us-iraq-violence-idUSTRE71B1CT20110212>>



A number of other attacks targeting individual clerics were recorded by UNAMI.<sup>24</sup> On 17 February, a leading Sadrist cleric was shot dead in a drive by shooting in west Karbala. On 18 February, a religious leader, Sheikh Ali Fakhri was reportedly shot dead by unidentified armed men in front of his home in Al Rashidiya, north Mosul. On 19 April, three members of the family of a Sunni imam were shot in their home in Baquba. On 19 May, a Shi'a cleric was killed by a 'sticky bomb' attached to his car in the Bab al-My'adham area of Baghdad. On 31 May, unknown armed men kidnapped a prominent Imam, a member of Iraqi Scholars Council – Kirkuk Branch. The imam was also an active member of Iraqi Islamic Party in Kirkuk. On 13 August, Adil Jaijan, an imam, was killed in a drive by shooting in eastern Baghdad. On 9 September, an imam was shot dead near his mosque in Baghdad's Zaafaraniya district. On 25 October, near the town of Hilla a bomb was detonated at the house of Sheikh Safa Jasim, killing his wife and son, and injuring him and three other sons.

There were also attacks perpetrated against members of other religious minorities, including Christians, Shabaks and Yezidi. These are discussed below.

### *2.2.5 Attacks targeting members of the Iraqi Security Forces*

Attacks against members of the ISF were frequent in 2011. According to UNAMI figures, some 1,052 members of the ISF were killed and 2,596 injured. Such attacks were carried out by various insurgent groups, apparently aimed at undermining public confidence in the Government's ability to maintain security.

Large-scale assaults on Iraqi police and police stations often result in the arbitrary loss of life and injury of civilians. Attacks targeted against individual police officers frequently led to loss of life of family members and innocent bystanders.

The majority of such attacks took place in the cities of Mosul, Kirkuk and Baghdad. In Mosul alone, UNAMI recorded 118 attacks against the Iraqi police during the first six months of the year. At least 82 security personnel were killed along with 78 civilians in these attacks.

### *2.2.6 Criminal acts and demands for ransom*

UNAMI received reports of civilian deaths resulting from criminal acts, such as robberies of banks and jewellery stores. While such acts are criminal in nature, there are reports that armed groups carried out such robberies in order to obtain financing and to purchase weapons.

In Kirkuk, UNAMI received over twelve reports of kidnappings for ransom. For example, kidnappers demanded a ransom for the release of three Turkish citizens seized on 15 February. The three businessmen were released following an operation led by USF-I on 25 April. No details were available on whether a ransom was paid. On 18 July, a prominent businessman was kidnapped in Kirkuk. The man was released after five days following the payment of a ransom.

## **2.3 Civilian deaths as a result of military operations**

During the first six months of 2011, the draw-down of remaining USF-I forces continued, pursuant to the agreement between Iraq and the United States. The process was completed by 18 December 2011.

Nonetheless, there were a total of three incidents alleging civilian casualties caused by military operations of USF-I reported by the media, but only one was confirmed by UNAMI.<sup>25</sup> On 15 June one Iraqi civilian

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<sup>24</sup> Not all cases have been confirmed. Information from UNAMI sources as well as open credible sources, such as credible media reports.

<sup>25</sup> The two other incidents reported by the media occurred on the evening of 24 May, when four Iraqi civilians were reportedly shot and killed by USF-I troops after their car crashed into a USF-I escort: National Iraqi News Agency (NINA), "US army vehicle, civilian car's crush kills 4 civilian in Hilla", 25 May 11. Available online <[http://www.ninanews.com/english/News\\_Details.asp?ar95\\_VQ=FGKDJM](http://www.ninanews.com/english/News_Details.asp?ar95_VQ=FGKDJM)> accessed 29 July 2011. The second

was killed and three injured in a rare USF-I raid, reportedly including air support. USF-I claimed that the victims were insurgents and that equipment for firing rockets was found at the scene of the raid. The raid was in response to an indirect fire attack on the US military base in Basra earlier the same day.

On 25 April one civilian was killed and five injured during clashes between Iraqi army soldiers and Kurdish *Asayesh* in a street in central Kirkuk.

### *2.3.1 Civilian deaths as a result of military operations: Kurdistan Region*

From mid June, there were occasional aerial bombardments and mortar attacks on border areas in the Kurdistan Region by foreign forces, aimed at dislodging PKK and PJAK rebel groups allegedly active there. By mid July, 176 families were displaced from the villages of Aliarash, Suney, Sarkhan, Pirdabardin and Barquislan to the town of Gojar. On 21 August, UNAMI confirmed that aerial bombardments killed seven civilians in the Pishdar area of Sulaymaniyah governorate. The victims were members of the same family travelling in a vehicle which was hit during the raid. Among the victims were four children aged 6 months, 4 years, 10 years and 11 years. According to UN agencies, an additional 120 families were displaced from the villages of Zargali, Bokriskan and Prdasha as a result of the attacks. In early October, shelling reportedly caused damage to villages in border areas of eastern Erbil and north-eastern Sulaymaniyah provinces, although no civilian casualties were reported. Shelling continued to affect border areas around Sidakan and Zap during the week of 16 October. Kurdistan Region security sources stated that one civilian was slightly injured on 19 October in the Zap area as a result of the shelling. On 21 November, one civilian was reportedly killed near Sidakan as a result of aerial bombings.

## 3. Accountability

### 3.1 Court proceedings for alleged violations of IHL

Little progress was made in court proceedings in the United States against military personnel who had served in Iraq and who were charged with violations of the US *Uniform Code of Military Justice* (UCMJ).

In one of the most prominent cases, legal proceedings against Frank Wuterich, the last member of a group of eight US soldiers still facing charges over an incident in Haditha on 19 November 2005, stalled.<sup>26</sup> Wuterich was facing charges on nine counts of manslaughter. He was due to appear in court in January 2011, but this was delayed until April. In June the hearing was postponed indefinitely.<sup>27</sup>

In July 2011, the Naval Clemency and Parole Board approved a request for the early release of Sergeant Lawrence Hutchins, serving a prison sentence for his alleged role in the killing of an unarmed Iraqi civilian in Hamdaniya in 2006. The decision to free Sergeant Hutchins, however, was later overturned. This is the latest in a series of legal developments in the case. On 14 February Sergeant Hutchins was sent

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incident occurred on 11 June, when two Iraqi civilians were allegedly killed by US troops who fired rockets into an area where they were clearing a car bomb: Aswat Al-Iraq, “2 civilians killed by 2 U.S. rockets - police”. Available online <[http://en.aswataliraq.info/Default1.aspx?page=article\\_page&id=143095&l=1](http://en.aswataliraq.info/Default1.aspx?page=article_page&id=143095&l=1)> accessed 29 July 2011.

<sup>26</sup> 24 Iraqi civilians, including women and children, were allegedly killed by US soldiers in Haditha on 19 November 2005. Cases against six of the group were dropped, while one person was acquitted.

<sup>27</sup> North County Times, “Wuterich trial delayed”, 17 January 2011. Available online <[http://www.nctimes.com/news/local/military/article\\_b6d8e7f6-6616-5461-ac5e-eb2fd22a5477.html](http://www.nctimes.com/news/local/military/article_b6d8e7f6-6616-5461-ac5e-eb2fd22a5477.html)>, accessed 21 August 2011; North County Times, “Wuterich trial postponed indefinitely”, 15 June 2011. Available online <[http://www.nctimes.com/news/local/military/article\\_4d980698-b22a-5373-b615-d0f1abe38673.html](http://www.nctimes.com/news/local/military/article_4d980698-b22a-5373-b615-d0f1abe38673.html)>, accessed 21 August 2011; Sign on San Diego, “Iraq war crime cases linger for two Camp Pendleton Marines”, 3 August 2011. Available online <<http://www.signonsandiego.com/news/2011/aug/03/iraq-war-crime-cases-linger-for-camp-pendleton/>>, accessed 21 January 2012.



back to prison by the Court of Appeals for the Armed Forces, which overturned a lower court ruling of 15 June 2010 setting aside the original conviction.<sup>28</sup>

### 3.2 Mass graves

The number of missing persons in Iraq ranges from 250,000 to over one million, according to different public sources, including persons missing as a consequence of human rights violations and other atrocities committed during the regime of Saddam Hussein, as well as years of armed conflict.<sup>29</sup> According to the Iraqi MoHR, the number of persons recorded as missing between 2003 and 2010 totals 137,520.

According to MoHR, 27 mass graves were opened, and 1,427 bodies uncovered in 2011. In February, a mass grave was found in the Al-Tarf area near Baquba north of Baghdad, an area which had been controlled by Al-Qa'eda affiliated groups. The grave was reported to contain around 150 bodies.<sup>30</sup> In May, 21 bodies were discovered in a mass grave in the Al-Ma'adhid area north of Fallujah, believed to date from 2004. In late May, between 6 and 12 bodies were unearthed in a mass grave in Artawiya, near Nasiriya. The bodies were thought to date from after 2003. The remains of over 200 people were removed from a mass grave near Shanafiyah in Qadisiyah governorate in early July. Officials said the dead were likely Kurds who had been killed by the regime of Saddam Hussein in 1987. Nearby, another mass grave reportedly containing up to 900 corpses was discovered around the same time.<sup>31</sup> On 24 November, Iraqi security forces found a mass grave containing the remains of nine bodies in Jalawla, north-east of Baqubah. From September to November, according to the Iraqi government, further mass graves were discovered in al-Zuhur, in Muthanna governorate, Al Suwaira and Al Shawija in Wasit governorate, and Sport City in Basra governorate.

UNAMI met with representatives from the MoHR following the discovery of a mass grave to the south of the city of Kirkuk on 14 March by the *Peshmerga* (Kurdish Special Forces). The MoHR conducted a preliminary assessment mission to the site, and estimated that around 2,300 bodies are buried there. The Ministry intends to set up a special task force and a team of experts to excavate and investigate the grave.

In addition, UNAMI continued to act as an observer to the organising committee of the Conference on the Mass Graves Martyrs and participated in the annual conference on mass graves that was held in Erbil in April 2011.<sup>32</sup> The conference heard presentations from a range of international experts on the investigation and preservation of mass graves, on ending impunity in relation to crimes committed in connection with the mass graves, and on other issues involving international law and policy.

## 4. Detention and Rule of Law

Iraq's justice system, particularly in relation to prisons, has been problematic for decades, and UNAMI continues to have serious concerns about the administration of justice and the rule of law in Iraq. Information collected by UNAMI suggests that there has been little improvement in the physical

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<sup>28</sup> Associated Press, "Plymouth Marine Faces Return To Brig In Iraq War Crime Case", 15 February 2011. Available online at <<http://boston.cbslocal.com/2011/02/15/plymouth-marine-faces-return-to-brig-in-iraq-war-crime-case/>>, accessed 21 August 2011.

<sup>29</sup> International Commission on Missing Persons. Available online <<http://www.ic-mp.org/icmp-worldwide/middle-east/iraq/>> accessed 31 June 2011.

<sup>30</sup> Associated Press, "Iraq Unearths Mass Grave Northeast of Baghdad", 11 February 2011.

<sup>31</sup> AFP, "Mass grave with 900 corpses found in Iraq", 6 July 2011. Available online at <[http://www.google.com/hostednews/afp/article/ALeqM5iT66t88hHO-sFXiyT\\_PNUoxQYJPw?docId=CNG.400d0f07f2d2e0899ef48311491aa56c.a01](http://www.google.com/hostednews/afp/article/ALeqM5iT66t88hHO-sFXiyT_PNUoxQYJPw?docId=CNG.400d0f07f2d2e0899ef48311491aa56c.a01)>. Accessed 16 January 2012.

<sup>32</sup> The first "International Conference on the Crime of the Mass Graves" was held in London in 2005. One of the recommendations of the conference was that an official day be instituted on which the victims of the mass graves of Saddam Hussein's regimes would be commemorated. Following this, the Council of Ministers issued a decree recognising officially the Commemoration of the Mass Graves Martyrs to be held annually on 16 May.

conditions of many detention facilities, ensuring respect for due process, and the general quality of treatment of detainees. UNAMI finds that suspects are routinely arrested and detained without warrants; detainees are often held with no access to legal counsel and for prolonged periods without charge or trial. Prisons are often overcrowded and unsanitary. Reports indicate that prisoner abuse and torture continued to be commonplace.

## 4.1 Numbers in detention

According to figures provided by the Ministry of Interior (MoI), Ministry of Defence (MoD), Ministry of Labour and Social Affairs (MoLSA), and the Ministry of Justice (MoJ), the total number of detainees, security internees and sentenced prisoners held by the Iraqi authorities -except for the KRG- remained steady: from 35,653 at the end of 2010 to 35,205 as of 31 December 2011. Of these 961 were women, and 1,345 were juveniles. A total of 26,208, or three quarters of all detainees, were held by the MoJ, 7,727 were held by the MoI, 1,011 by the MoLSA and 259 by the MoD. As of 31 December, 15,916 persons were being held in pre-trial detention, and 19,289 had been convicted and sentenced.

All prisoners remaining under the custody of USF-I were handed over to Iraqi jurisdiction before the withdrawal of US troops was completed on 31 December. On 15 July, Iraqi Justice Minister Hassan al-Shummari announced the handing over by US forces of Camp Cropper to the Ministry of Justice. A total of 196 detainees were handed to Iraqi custody. Camp Cropper was renamed Karkh prison. Within a week of the handover, four detainees, reportedly including men who had served with the Islamic State of Iraq group, managed to escape from the high security facility. A further ten, so called 'high value detainees' who were senior officials in the regime of Saddam Hussein, including former Vice President Tariq Aziz, remained in USF-I custody at the request of the Government of Iraq, but were handed over later in August 2011 to Iraqi Custody.

## 4.2 Respect for due process

UNAMI remains concerned at the lack of consistent respect for due process requirements for persons in detention. Suspects are frequently arrested without being informed of the reason for arrest, or the charges against them. Some detainees have alleged that they had been detained for reasons not connected to any alleged violation of the criminal law, but from failure to pay bribes to security officials, or for sectarian or other reasons. The period of initial detention during which a preliminary investigation report must be submitted is frequently extended beyond the 48 hours permitted by law. Some detainees have complained that they have not been brought before an investigative judge at all. Pre-trial detention periods frequently exceed what is reasonable.<sup>33</sup> Detainees, even if found not guilty by the courts, are often not able to leave jail without paying substantial fines.<sup>34</sup> UNAMI monitoring from a variety of sources substantiated claims that detainees suffer from lack of regular or meaningful access to legal counsel, infrequent visits by the

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<sup>33</sup> According to Article 19, paragraph 13 of the Iraqi Criminal procedure Code, a preliminary investigation report must be submitted to the competent judge in a period not exceeding 24 hours from the arrest of the accused person. According to the same law, this period can only be extended once for a further 24 hours. In practice however, it appears that this period is often extended to 72 hours. For all non-terrorist related crimes, the accused is then transferred to the competent investigation court to initiate an inquiry. According to paragraph 109 of the Iraqi Criminal Procedure Code, if the person is accused of an offence punishable by a period of detention not exceeding 3 years, by imprisonment for a fixed term of years or by life imprisonment, the judge may order that the accused be held for a period of no more than 15 days (which is extendable for further 15 day periods) or may release the accused on a pledge with or without bail from a guarantor, if the judge is satisfied that release of the accused will not lead to her or his escape and will not prejudice the investigation. If the person is accused of an offence punishable by death, the accused can be held in remand for a period as long as is necessary for the investigation to proceed, up until the examining judge or court issues a decision in the case

<sup>34</sup> UNAMI continues to receive reports from ex prisoners that even though discharged by the Courts, or their term of imprisonment has expired, they are held in custody until they pay large 'fines' to the detaining authorities or court orders on occasion, simply ignored.

Prosecutor's Office, and delays in carrying out review of the detainees' legal status by investigation judges.

In January, media reported that detainees were being held in a Defence Ministry compound in Camp Al-Sharraf (formerly Camp Honour) in Baghdad's Green Zone for up to two years without being charged.<sup>35</sup> In August, during a routine visit to the main detention centre in Kirkuk, UNAMI met two female detainees who had been held for one year without access to legal counsel and were still awaiting trial.

During a visit by the Iraqi Council of Representatives' Human Rights Committee (HRC) to prisons in Diyala governorate in March, committee chairperson, Dr. Salim al-Jbouri, said that the Committee had found over three quarters of detainees had been held for up to two years without trial.<sup>36</sup> In Mosul, UNAMI received credible reports of multiple cases of arrests carried out by the II<sup>nd</sup> Division of the Iraqi army. In May and June 2011, over 100 people were allegedly arrested in the city, mostly on alleged terrorism charges. UNAMI notes with concern that many of these detainees were arrested without warrants, without being referred to an investigative judge, and that they were subsequently held incommunicado for extended periods. On 19 March, a sit-in protest was organised the Union of Lawyers in Mosul against the alleged systematic practice of arbitrary arrest and detention in the city.

From November, UNAMI received regular reports of mass arrests of individuals under anti-terrorism legislation accused of being former Ba'ath Party members and of having links to armed opposition groups. For example in the week of 20 November, UNAMI recorded 306 arrests following raids in the Babylon governorate. UNAMI received allegations from family members that they had not been informed of the place of detention, and that detainees had been denied access to lawyers and that detainees were forced to sign confessions.

From late October to late December, UNAMI recorded a further 824 arrests targeting members of the former ruling Ba'ath Party and army officials. Raids took place, for example, in Baqubah, Mosul, Kirkuk, Karbala, Baghdad, Najaf and Basra. Most of those arrested were held at the Ministry of Justice detention facilities of Al-Rusafa and Al-Baladiyat. Most of those detained were charged with alleged involvement in terrorist crimes – under which they may be held incommunicado during the investigation phase. Information received by UNAMI from family members and legal representatives confirms that many of those detained have been held for prolonged periods without access to legal counsel or to family members. It is alleged that two detainees have died as a result of torture. These allegations have been denied by the High Judicial Council. This arrest campaign culminated in an arrest warrant being issued against Vice President Tariq Hashemi, who subsequently relocated to the Kurdistan Region. A number of his body-guards and members of his staff were arrested at the same time and were paraded on television confessing their involvement in alleged terrorist acts under the orders of the Vice President, in violation of due process and fair trial guarantees, in particular the presumption of innocence. The Vice President has strenuously denied the charges, alleging they have been motivated politically – and UNAMI received a number of claims from family members and lawyers of those detained that their confessions were coerced. This violates the absolute prohibition of torture and standards required for the treatment of detainees under International Human Rights Conventions to which Iraq is party (Arts 7 and 10 ICCPR).

UNAMI continues to receive credible allegations that many persons – including some of those arrested in connection with demonstrations that took place in various parts of the country throughout the year – were detained incommunicado, or who were held in undisclosed places of detention without access to their families, lawyers or investigators. Allegations made by Human Rights Watch of a secret prison in

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<sup>35</sup> Los Angeles Times, "Alleged abuse at Iraqi detention center prompts oversight concerns", 23 January 2011. Available online at <<http://articles.latimes.com/2011/jan/23/world/la-fg-iraq-prison-20110124>>, accessed 22 August 2011.

<sup>36</sup> AK News, "Committee highlights human rights violations in Diyala prisons", 29 March 2011. Available online <<http://www.aknews.com/en/aknews/3/228192/>> accessed 25 July 2011.

Baghdad's Green Zone were denied by the Iraqi government.<sup>37</sup> Subsequent visits by UNAMI to the alleged location of the secret facilities failed to find evidence, although sources within the Government confidentially disclosed to UNAMI that some persons may have been detained there intermittently and on an *ad hoc* basis, but these same sources confirmed that there was no overt or systematic policy to keep such places of detention concealed. UNAMI urges the Government to actively investigate all such claims and to hold any person who establishes such undisclosed places of detention accountable according to law.

Some action has been taken by the Government to address these issues. On 21 February, Iraqi Prime Minister Al-Maliki reportedly released 10,000 detainees from Iraqi prisons for lack of evidence. At the time the Prime Minister said that arrests should not be carried out without warrants.<sup>38</sup> Despite this, the Government needs to do more to ensure compliance by its officials with national law and international standards and to ensure that innocent people are protected.

### 4.3 Fair trial standards

UNAMI observed trials in Basra and Erbil generally were conducted in a calm and professional manner. Problems that persist include the fact that many defendants did not have legal representation, and that many courts were under-resourced. However, UNAMI continued to receive other reports of criminal trials falling short of international standards: complaints centred on the claim that trials were often brief, and consisted of the judge merely certifying confessions which often were obtained before the accused was brought to court and often under duress. There were particular concerns about the fairness of trials of persons accused of terrorist crimes and the reliance of the courts on confessions obtained under duress and with unreliable forensic evidence.

### 4.4 Standards of detention

UNAMI regrets that during the reporting period its access to prisons, detention centres and other facilities where persons were deprived of their liberty was problematic in certain areas of Iraq, owing to the security situation. In other instances, despite UNAMI's mandate under international law and assurances from the Government of Iraq, access was restricted because of the absence of a comprehensive agreement with the Government of Iraq for UNAMI to conduct unrestricted visits to all detention facilities and guarantees for the safety and security of detainees interviewed by UNAMI. This is partly due to the fragmented nature of the detention and correctional services in Iraq, which despite the law, is split between the Ministries of Justice, Interior, Defence and Labour and Social Affairs. In some instances, UNAMI itself restricted visits to certain detention centres and prisons where detainees and prisoners alleged that they had suffered abuse and mistreatment for having previously raised concerns with UNAMI staff. UNAMI also received credible information that prisoners routinely were removed from their cells prior to UNAMI visits in order that they would not be seen by UNAMI, or to lessen the appearance of overcrowding in facilities. UNAMI has raised these issues as a serious concern directly with the relevant Ministries and with the Ministry of Human Rights.

From UNAMI's monitoring visits to prisons and detention centres in Iraq (outside of the Kurdistan Region), it was noted that conditions of the facilities and the standards applied to the treatment of detainees, varied greatly. In many instances detention centres and prisons fell short of internationally accepted minimum standards for a variety of reasons – much to do with inadequacy of resources and poorly trained staff, as well as a lack of accountable and uniform oversight of the administration of

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<sup>37</sup> Human Rights Watch, "Secret Jail Uncovered in Baghdad", 1 February 2011. Available online <<http://www.hrw.org/news/2011/02/01/iraq-secret-jail-uncovered-baghdad>> accessed 21 August 2011; AFP, "Iraq's Maliki denies reports of secret prisons", 6 February 2011.

<sup>38</sup> The Memri Blog, "Al-Maliki Releases 10,000 Prisoners, Denies Existence Of Secret Prisons", 20 March 2011. Available online at <[http://www.thememriblog.org/blog\\_personal/en/35678.htm](http://www.thememriblog.org/blog_personal/en/35678.htm)>, accessed 31 August 2011.

detention facilities and prisons. However, the Government of Iraq has given undertakings that it will address these issues.

In prisons and detention facilities run by the MoJ, most detainees were held together in large rooms, characterised by a lack of lighting, ventilation or air conditioning, and many cells are overcrowded and lack bathrooms and toilets. Such cramped conditions contribute to an environment where drug abuse, sexual and physical abuse, and infectious disease are problematic. The exceptions were notably modern federal prisons, such as those in Nassiriya, Basra, Susa and Chamchmal, where standards of detention facilities generally comply with international norms.

UNAMI was informed by the Ministry of Defence in early 2011 that it would no longer be responsible for holding civilian detainees in its prisons – which would be reserved for military forces’ prisoners only. If the military detains civilians, new rules indicate that they are to be handed to civilian authorities as quickly as possible for appropriate processing. Despite this, it appears that security for many civilian prisons remained with the Iraqi security forces, most of which are under the direct command of the Prime Minister’s office.

Detention facilities run by the MoI usually housed detainees and prisoners in large rooms or holding areas, and there is often no separation of pre-trial detainees and convicted prisoners. These facilities were also reported to be overcrowded and suffer from poor hygiene standards. UNAMI received complaints concerning a counter-terrorism facility in Diyala where some 500 detainees were allegedly housed in three rooms, 6 x 4 metres each. It was also alleged that there are isolation cells in MoD and MoI run facilities of approximately 1 x 2 metres which are used to hold some detainees – but UNAMI has not been able to confirm this.

In facilities housing convicted prisoners, UNAMI found generally that adequate food is provided to inmates by the authorities; however, this is not necessarily the case in pre-trial detention facilities. UNAMI has found that food continues on occasion to be substandard and its delivery could be infrequent, particularly for persons held in pre-trial detention.

While bedding is provided to convicted prisoners by the authorities, UNAMI notes that often they are not provided with separate beds, due mostly to financial constraints and overcrowding of facilities. For pre-trial detainees shared beds – or no bedding at all – is the norm in facilities run by the MoI.

Prison healthcare services remained under-resourced and understaffed, and detainees’ access to healthcare was limited. In particular, pregnant women received limited or inadequate ante- and post-natal care in prisons, and the food for pregnant women often fell below necessary standards of nutrition. Levels of hygiene in detention facilities remain poor. Often there were no toilets in the cells, and ventilation was limited. Again, in the counter-terrorism facility in Diyala, 500 detainees reportedly shared just two bathrooms, neither of which had water supply. Specific hygiene requirements of women, such as the provision of sanitary towels, were not met. Following a visit to prisons in Diyala province, the Chairman of the Parliamentary Human Rights Committee confirmed that health conditions in many prisons were inappropriate and substandard.<sup>39</sup> During a visit by UNAMI to the anti-terrorism detention facility in Mosul in July, it was noted that a number of detainees were suffering from skin infections due to the poor conditions of the facility.

UNAMI has observed that children were frequently held in the same cells as adults, and where juvenile detention centres do exist, conditions were poor. During a visit to a juvenile detention facility in Kirkuk on 29 June, UNAMI noted that 22 children were crowded into two rooms, each with eight beds, without ventilation. None of the juvenile detainees had access to education. None of the prison staff had received training in dealing with juvenile offenders. On a subsequent visit in July, the management of the detention facility told UNAMI that they had repeatedly requested extra resources to improve conditions, but that

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<sup>39</sup> AK News, “Committee highlights human rights violations in Diyala prisons”, 29 March 2011. Available online <<http://www.aknews.com/en/aknews/3/228192/>> accessed 2 August 2011.

these had not been forthcoming. During this visit, the prison management was obliged to send three accused juvenile offenders back to a police station due to lack of space. In October, following UNAMI and UNICEF's facilitation with the educational directorate, Kirkuk Juvenile Department in coordination with Kirkuk Education Department established an education programme in the facility,

Security of prisons and discipline of prisoners remained problematic. UNAMI received several reports of prisoner escapes, riots and hunger-strikes in a number of detention facilities. On 12 January in Basra, 12 Al-Qa'eda members, some facing death sentences, escaped from an interrogation centre. A parliamentary committee was established to investigate.<sup>40</sup> On 8 February, the prisoners in Al-Rusafa detention facility in Baghdad, run by the Ministry of Justice, went on hunger-strike in protest at poor conditions, poor access to healthcare, poor quality of food, ill-treatment, and delays in court hearings. The prisoners demanded the enforcement of the Iraqi Criminal Code and urged the Government to implement a general amnesty law. The prisoners alleged that prison guards threatened to assault the inmates and place them in solitary confinement unless they ended their strike. In sympathy with inmates in Al-Rusafa, a number of inmates in Hilla prison went on hunger-strike, demanding improvements to their living conditions and a resolution to problems of overcrowding. The prisoners also demanded an amnesty law. UNAMI confirmed that while the prison was designed to hold 750 detainees, more than 1,500 were in detention, and the prison lacked electricity, drinking water, and air conditioning. Inmates in Badosh prison in Mosul also protested in solidarity with those in Al-Rusafa jail. Detainees demanded an end to ill treatment, speedier transfer of their cases to the judiciary, and the release of detainees who had served more than seven years for civil crimes. It should be noted that on 16 April, Iraqi media reported that 4 inmates had died from tuberculosis in Badosh prison.<sup>41</sup>

In other instances, on 25 February, a number of inmates in Taji prison went on hunger strike in protest at poor conditions and overcrowding, demanded an investigation into alleged cases of mistreatment. On 13 March, a riot broke out at the Tasfirat jail in Tikrit. Prisoners set fire to a cell block holding 650 inmates. Security forces said that two inmates were killed and 14 wounded during the unrest. A number of detainees, reportedly belonging to Al-Qa'eda affiliated groups, attempted to escape from the prison during the disturbance.<sup>42</sup> On 24 March, ongoing protests in Al-Rusafa detention facility turned violent as protestors set fire to one of the tents used to house prisoners. The tents had been installed as a temporary measure to house rising numbers of inmates. Partly as a response to the riots, the Ministry of Justice announced its intention to close Al-Rusafa and to transfer prisoners to Baghdad Central Prison at Abu Ghraib, where conditions are better.<sup>43</sup> On 7 May, armed clashes erupted in a counter terrorism facility run by the Ministry of Interior in eastern Baghdad when detainees linked to Al-Qa'eda attempted to escape. Six officials from the security forces and 11 convicts were reportedly killed.<sup>44</sup> On 20 May, five members of the Mahdi Army escaped from Taji prison west of Baghdad as they were being transferred to a detention centre in the centre of the capital.<sup>45</sup>

In July, UNAMI received allegations of serious corruption and irregularities in the running of Basra central prison. According to a Government source, a group of 62 pre-trial detainees with alleged links to

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<sup>40</sup> Al Arabiya, "Al Qaeda members escape from Iraq prisons and reportedly form militias", 4 June 2011. Available online <<http://www.alarabiya.net/articles/2011/06/04/151769.html>>, accessed 3 August 2011.

<sup>41</sup> Assafir Press, "4 detainees died of tuberculosis in Iraqi prison", 16 April 2011. Available online <[http://www.assafirpress.com/index.php?option=com\\_content&view=article&id=762:4-detainees-died-of-tuberculosis-in-iraqi-prison&catid=13:politics&Itemid=26](http://www.assafirpress.com/index.php?option=com_content&view=article&id=762:4-detainees-died-of-tuberculosis-in-iraqi-prison&catid=13:politics&Itemid=26)>, accessed 2 August 2011.

<sup>42</sup> Reuters, "Two die, 14 wounded in Iraq prison riot", 13 March 2011. Available online <http://www.reuters.com/article/2011/03/13/us-iraq-prison-idUSTRE72C34H20110313>> accessed 2 August 2011.

<sup>43</sup> AK News "Tasfirat prison employees violate human rights says commission" 26 March 2011. Available online <<http://www.aknews.com/en/aknews/3/227467/>> accessed 2 August 2011.

<sup>44</sup> Associated Press, "Iraqi jailbreak attempt foiled, leaving 17 dead", 9 May 2011.

<sup>45</sup> Al Arabiya, "Al Qaeda members escape from Iraq prisons and reportedly form militias", 4 June 2011. Available online <<http://www.alarabiya.net/articles/2011/06/04/151769.html>>, accessed 3 August 2011.



the Mahdi Army or other Sadrist armed group wield considerable power. The group reportedly has total freedom of movement within the prison, including the ability to leave and re-enter the premises. The group has been also reportedly able to influence decisions regarding the detention of new arrivals, members receive special food, have access to communication devices and are able to hold weapons in their cells.

On 2 August, a delegation from the Iraqi Parliament's HRC led by its chairperson, Dr. Al-Jbouri, travelled to Hilla Central Prison in Babel governorate to follow up on allegations of multiple human rights abuses. The delegation was prevented from entering the prison on the grounds that the Parliamentarians had not received prior authorisation from the Ministry of Justice. On 6 August, an outbreak of violence in the prison led the deaths of at least three policemen and three detainees. At least eight prisoners escaped during the unrest. Several members of Parliament issued statements blaming the unrest on the Ministry of Justice for its failure to improve conditions in the jail. According to the NGO Human Rights and Justice, Hilla Central Prison was designed to hold 300 inmates; its capacity at the time of the unrest was around 1,300. On 13 October, UNAMI received reports of two suicides inside Hilla Central Prison: these reports were denied by the police.

Dr. Al-Jbouri also expressed his concern over conditions in prisons in Mosul, saying in a statement on 6 August that the HRC had received hundreds of complaints alleging human rights violations in detention centres there. On 1 September, 35 prisoners escaped from the Tasfirat prison in Mosul. According to police sources, two prisoners died during the escape. Of these, 21 were immediately re-apprehended while twelve remained at large. Two investigations into the incident were established, one headed by a Parliamentary Committee from Baghdad, the other by the Detention and Prison Committee of Ninawa Provincial Council. On 2 October, at least 800 prisoners in the counter-terrorism prison in Mosul went on hunger-strike in protest at poor conditions, ill treatment and the use of solitary confinement in the Ministry of Interior run facility.

## 4.5 Allegations of ill-treatment and torture

Despite the Constitution and laws of Iraq and international standards prohibiting the use of torture,<sup>46</sup> there is significant evidence of continued widespread mistreatment and abuse, on occasion amounting to torture, of persons in detention centres and prison facilities in Iraq.<sup>47</sup>

Iraqi and international organisations involved in prison monitoring, families of detainees, and parliamentarians have brought serious and credible allegations of mistreatment and torture to the attention of UNAMI. These allegations relate to abuse which takes place at the time of arrest, during pre-trial detention, and following conviction. Common techniques alleged include being beaten and threatened with death, including with firearms; being handcuffed and suspended from iron bars in painful positions for lengthy periods of time; electric shocks applied to various parts of the body including genitals; heated metal nails being driven under finger nails; cigarette burns to the body; being suffocated with plastic bags over the head until victims pass out; being deprived of food, water and sleep; and threats made against family members of detainees.

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<sup>46</sup> Article 37 of the Iraqi Constitution, Article 37 prohibits any form of coercion or torture. Section 12 of the CPA Memorandum Number 2 (2003) prohibits the use of restraints, such as handcuffs, irons and strait jackets as punishment. Article 127 of ICPC prohibits the use of any illegal method to influence the accused to extract a confession. Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants are considered illegal. Furthermore, Article 333 of the ICPC criminalises any public official who tortures or orders torture, or threatens torture, of a person accused of a criminal act, including witnesses, with the aim of compelling a confession.

<sup>47</sup> According to figures from the Ministry of Human Rights, 467 cases of torture or abuse were reported in 2011.

From information gathered by UNAMI, it appears that different methods of physical and psychological coercion were used during interrogation in order to obtain confessions and to extract information. In some instances detainees had not been permitted to read or have read to them confessions before they signed.

UNAMI received complaints of torture and mistreatment in Al-Taji prison, north of Baghdad. Prisoners reportedly were subject to beatings, continuous humiliation and a range of abuses, including electric shocks applied to the genitals, the use of plastic bags to asphyxiate detainees, and sexual and physical abuse. In late January, UNAMI received credible reports of a man tortured while in detention in Mosul by members of the Iraqi Security Forces (ISF) responsible for the facility. The victim reportedly bore visible signs of torture on various parts of his body, and died of his injuries on 22 February. An official request from the Governor's Office was reportedly made to the High Judicial Authority in the Province requesting an investigation into the incident, including legal action against the relevant division of the Iraqi Army. However, the Court response stated that it has no jurisdiction or oversight over the Iraqi Army without prior authorisation from the MoD. No formal complaint has been filed by the victim's family for fear of retaliatory action from the Iraqi Army. An official report on the incident was submitted to the Speaker of the Parliament for submission to the Prime Minister's Office. There has been no official response to the report. The ISF continues to maintain that the detainee died from an illness.

In another incident, on 15 February, Qusai Mohammed, a former military officer under Saddam Hussein who had been detained at Al-Muthanna military prison in Baghdad, was buried in Kut governorate. The family of the deceased alleged to UNAMI that the death had been caused through torture, claims that were denied by the prison management, who said the death was due to a heart attack. The head of the Iraqi Bar Association, who attempted to investigate the death, complained that prison authorities impeded his access.

In February, March and April, UNAMI received information on seven cases of torture linked to the wave of demonstrations. In Baghdad, on 13 February, an activist was forced into a vehicle by armed security forces in plain clothes, blindfolded and driven to an unknown location. The man was then detained for five days, during which time he was beaten and subjected to physical abuse. Several witnesses gave evidence to UNAMI corroborating the man's account, including medical assessment of his injuries as consonant with having been the result of physical abuse. On 24 February, one man was detained for 12 days by police in al-Baladiyat district. During this period, he was allegedly subjected to beatings, including being tied up and suspended from the ceiling. On 25 February, a journalist was arrested and detained overnight at a police station in central Baghdad, where he was beaten, subjected to electric shocks and threatened with rape. On 8 April, a political activist was arrested with at least five other men by security forces in plain clothes near Baghdad's Tahrir Square. At least three of the six men were beaten and tortured at an unknown location before being released after several hours. On 13 April, a political activist was arrested without a warrant, and then reportedly blindfolded, beaten, handcuffed, forced into a vehicle and detained in an unknown location for two weeks.

In May, UNAMI recorded complaints of inmates who had been transferred from USF-I to Iraqi detention in the counter-terrorism prison in Diyala. One detainee complained of having been subjected to electric shocks on a daily basis by Iraqi prison officials. On 22 June, UNAMI received information from the police about a detainee who had died in Kirkuk hospital following mistreatment. The individual was arrested on 10 June by *Asayish* personnel, and was detained for ten days before being transferred to the custody of the police in order to be interviewed by a judge. The judge saw clear marks of torture, ordered that the individual be taken to hospital, but he died from his injuries shortly after admission. The victim's family reported to UNAMI that they had been unable to find a lawyer to represent them for fear of the consequences. The family also reported that they had contacted the local police chief and investigative judge, who discouraged them from filing charges.

The reasons for such mistreatment are complex. Legal responsibility for arrest and detention is split between different Ministries and different branches of the security forces, thus clouding accountability for



the administration of detention facilities. Iraq also suffers from a ‘culture of abuse’, where there is little public sympathy for persons accused of criminal acts and where officials have a long history of mistreating detainees and prisoners with impunity. Some abuse is also linked to the fact that judicial procedure is heavily dependent on the extraction of confessions from a suspect, irrespective that the law disallows confessions obtained through coercion.<sup>48</sup> Whatever the underlying causes, UNAMI strongly condemns the torture or ill-treatment of detainees in Iraq and urges the Government of Iraq to take urgent steps to respect its international and constitutional legal obligations and to bring this situation to an end.<sup>49</sup>

In a welcome development, on 14 March a spokesperson for the Justice Ministry announced that it would close Al-Sharaf (‘Camp Honour’) detention centre in Baghdad’s Green Zone because of human rights abuses uncovered during a month long investigation. This followed media and NGO reports alleging beatings, the use of electric shocks and sexual violence during interrogation at the facility, said to be run by the Baghdad Brigade and the Counter Terrorism Bureau.<sup>50</sup> Later allegations that the camp was still being utilised as a secret detention centre were investigated by UNAMI but could not be substantiated although sources indicated that detained persons were brought on an *ad hoc* basis to the location and were held for periods ranging from hours to a matter of days.

Also in March, the Iraqi Parliament’s Human Rights Committee announced that it intended to close the Tasfirat detention facility in Al-Rusafa following an investigation into poor conditions and mistreatment. The committee chairman, Dr. Salim Al-Jbouri, said the committee had found that members of the staff had abused prisoners leading to one death and several other detainees being wounded.<sup>51</sup> At the time of writing it is believed that the facility is still operating.

#### 4.6 Detainees and missing persons in Kirkuk

UNAMI in Kirkuk has been acting as a liaison between the Kirkuk Detainee and Missing Person’s Committee and the Kurdish *Asayish* leadership in the city concerning allegations of missing persons. UNAMI received a list of 244 names of individuals who the Kirkuk Detainee and Missing Person’s Committee allege have been detained by *Asayish* since 2003. The *Asayish* deny the presence of any Arab detainees in prisons under their jurisdiction.

#### 4.7 Detention and the rule of law in the Kurdistan Region

According to figures provided by the KRG, as of 31 December 2011 there were 1,449 adults detained in facilities run by the Ministry of Labour and Social Affairs (MoLSA). There were 743 children in MoLSA run detention facilities, 606 of whom were awaiting or undergoing trial. While the numbers of children in pre-trial detention reported by MoLSA appears to have drastically increased in the latter half of year, from just 52 at the end of June to 606 at end of December 2011, HRO’s visits to juvenile reformatories

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<sup>48</sup> Article 418, Iraqi Criminal Procedure Code.

<sup>49</sup> UNAMI has undertaken direct advocacy with the ministries responsible for the facilities where torture and mistreatment of detainees has allegedly taken place. UNAMI has also raised the issues with the Ministry of Human Rights and the Human Rights Committee of the Parliament, urging them to undertake full investigations into allegations as they arise, and to ensure that perpetrators of torture or abuse are held accountable according to law. UNAMI has also urged the Government to consider establishing a High Committee, formed by the Ministers of Justice, Defence, Labour and Social Affairs, Interior, and Human Rights (or their Deputies) to oversee investigation of allegations of abuse or mistreatment of detainees, and to establish uniform policy for the administration or all prisons and detention facilities in Iraq.

<sup>50</sup> Los Angeles Times, “Alleged abuse at Iraqi detention center prompts oversight concerns”, 23 January 2011. Available online at <<http://articles.latimes.com/2011/jan/23/world/la-fg-iraq-prison-20110124>>, accessed 22 August 2011. Human Rights Watch, “Secret Jail Uncovered in Baghdad”, 1 February 2011. Available online <<http://www.hrw.org/news/2011/02/01/iraq-secret-jail-uncovered-baghdad>> accessed 21 August 2011.

<sup>51</sup> AK News, “Tasfirat prison employees violate human rights says commission”, 26 March 2011. Available online <<http://www.aknews.com/en/aknews/3/227467>>, accessed 25 August 2011.

revealed that MOLSA had also included in the statistics the number of young offenders aged 18-23 waiting for trial. A further 523 detainees were being held in *Asayish* detention facilities.

UNAMI conducted 57 visits to prisons and detention centres during the reporting period throughout the Kurdistan Region. UNAMI was granted full access to all facilities under the authority of the *Asayish*, MoI, and the MoLSA. In some detention facilities under the *Asayish* in certain districts and in Erbil UNAMI noted some cases of prolonged pre-trial detention. In some cases the problem is often associated with a lack of sufficient numbers of judges for investigation, as well as lack of resource capacity in the criminal justice system. UNAMI noted that in many cases detainees were not well informed about the status of their case. In 2010, the KRG passed a law entitling people to seek compensation for unlawful detention. UNAMI was unable to obtain information as to whether any claims had been lodged under the law and what the outcome of any cases might have been.

The *Asayish* in Erbil continues to hold people in detention from other parts of Iraq who are either arrested at checkpoints because of mistaken identity or for other crimes, particularly those related to acts of terrorism. Some of these detainees have complained to UNAMI about lack of access to their family members, of not having access to lawyers, and of prolonged periods of pre-trial detention. It seems that in some cases, accused persons were not able to understand or follow court proceedings owing to the fact these are conducted in Kurdish. Although interpretation is available, the number of interpreters is very low, and this can lead to procedural delays. Another reason provided by judges and investigators for delays in legal proceedings is a lack of coordination between different ministerial administrations, especially with those of the Federal Government outside of the KRG.

Detention facilities' conditions in general, and especially in *Asayish* prisons, comply with international standards. Two prisons under the MoLSA, Al-Mahatta in Erbil and Al-Salam in Sulaymaniyah continue to suffer from overcrowding. UNAMI witnessed overcrowding in *Asayish* detention facilities in Erbil on two occasions during 2011. As mentioned UNAMI's Report for 2010, new facilities are in the process of construction in Erbil, and the process of construction of a new prison in Sulaymaniyah is ongoing.

Cases of ill-treatment or abuse of detainees are rare and the KRG has shown itself proactive in investigating such claims. However, on 25 February in Erbil one NGO worker was arrested and taken to the *Asayish Gishiti* interrogation centre where he was detained for four days, and where he alleged he was subjected to ill-treatment and torture.

In one high profile court case, Waleed Yunus Ahmad was brought before the criminal court in Dahouk and on 17 March was sentenced to five years imprisonment under article 1 of the Anti-Terrorism Law. The charges were laid in February 2011. However, UNAMI notes that the accused had been in the custody of the *Asayish* since June 2000, and that he was convicted under the Anti Terrorism Law which had not been enacted in 2001 at the time Ahmad's actions were alleged to have taken place. UNAMI notes that retroactive application of the law and not taking into account the period he spent in detention, breaches the principle of legality and non-retroactivity of criminal law (*nullum crimen sine lege*), which is a fundamental tenet in criminal law as well as a protection of the accused in criminal proceedings. The prohibition on retroactivity of criminal law is non-derogable and must apply with full force even in the direst of emergencies (art. 4.2 ICCPR).

## 4.8 Death Penalty

Iraq retains the death penalty for a large number of crimes.<sup>52</sup> According to the MoHR 67 people were executed in 2011, including three women and three foreigners. This compares to 18 executions carried out in Iraq in 2010. Over 330 people, including at least six women have been executed in Iraq since 2005.

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<sup>52</sup> There are actually 48 crimes which carry the death penalty according to the Criminal Code.

On April 21, Iraq's High Criminal Court sentenced to death three individuals -charged with spying- from the Saddam Hussein regime over the murder of Sheikh Taleb-al-Tamimi, a tribal leader who had fled Iraq to Lebanon in 1994.

On 15 June, 15 men were sentenced to death by the Central Criminal Court of Iraq in a trial related to an alleged attack at a wedding party in June 2006.<sup>53</sup> The 15 were sentenced following confessions, some of which were broadcast on Iraqi television prior to the trial. UNAMI and other organisations expressed concern over the conduct of this trial.

Three series of executions were carried out over two weeks in November and December. On 17 November, 11 persons, including one foreign national and one woman, all convicted under anti-terrorism legislation, were executed. On 24 November, a further 16 people were executed, 12 of whom had been convicted of the 2006 'Al-Taji wedding massacre'; however, the group was executed as a result of their conviction on separate charges related to the abduction and murder of gas-cylinder salesmen from Sadr City. On 1 December, the Iraqi Minister of Justice announced that a further six detainees sentenced to death on anti-terrorism charges had been executed.

UNAMI is concerned about the legality of execution orders under which the death penalty is implemented, including the decrees of 2005 reactivating the death penalty following its abolition under the Coalition Provisional Authority (CPA) and the constitutional authority of the Presidency Council to lawfully endorse death sentences.

UNAMI has serious reservations about the integrity of the criminal justice system in Iraq, including abuses of due process, convictions based on forced confessions, a weak judiciary, corruption and trial proceedings which fall short of international standards. No legal system can be guaranteed to be wholly free from error, and in Iraq few convictions for serious offenses can be considered safe. Any miscarriage of justice involving capital punishment cannot be undone. UNAMI, calls on the Government of Iraq to establish a moratorium on all executions with a view to its abolition in accordance with the General Assembly Resolutions 62/149 (2007), 63/168(2009) and 65/205 (2010), and urges it to consider Iraq's accession to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.

#### *4.8.1 Death penalty in the KRG*

In the KRG, nine prisoners were sentenced to death during 2011. The sentences have not, at the time of writing, been ratified by the Kurdistan Court of Appeal.

The authorities in the Kurdistan Region continued to implement a moratorium on carrying out executions, which has been in place since 2007. Legislative moves within the KRG to formally abolish the death penalty remain at a draft stage. UNAMI has been informed by the Human Rights Committee of the Kurdistan Region Parliament that a law has been drafted abolishing the death penalty. The draft law has not yet been presented to Parliament, and UNAMI has not received a copy of the law.

## 5. Freedom of Expression

Respect for the rights of freedoms of assembly, opinion and expression, including that of peaceful protest, were seriously challenged in Iraq during 2011. Iraqi law restricts the right of freedom of opinion and expression in a number of ways.<sup>54</sup> Security forces resorted to force, at times disproportionate, and

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<sup>53</sup> The men are accused of killing seventy people and of mass rape at a wedding in Taji, an area of Dujail, 20 miles north of Baghdad.

<sup>54</sup> The rights of freedom of opinion, freedom of expression and freedom of assembly are specifically protected by Iraq's Constitution. Article 38 guarantees "in a way that does not violate public order and morality" all means of freedom of expression as well as freedom of press, printing, advertisement, media, and publication, freedom of assembly, and peaceful demonstration. Iraq also uses CPA order number 19 on Freedom of Assembly. Article 46 expressly permits restrictions on the right of freedom of expression but only as long as such restrictions do not limit

intimidation to suppress and discourage public protest. Human rights activists and NGOs came under attack and protestors were frequently arrested and mistreated, or even killed. Media outlets were barred from covering protests and many of those which did were on occasion subjected to intimidation and threats or were violently taken off air or closed down. (Full details relating to Freedom of Expression, Freedom of Opinion, and Freedom of Assembly are set out in UNAMI's forthcoming report on these issues).

## 5.1 Demonstrations and the right to freedom of assembly

During 2011 protestors took to the streets in several cities across Iraq to demand an end to Government corruption, improved delivery of Government services, improvements to the food ration card system, and greater freedoms.<sup>55</sup> Protests commenced in early February in Baghdad and spread to other towns and cities across the country. UNAMI notes with concern that at least 33 people were killed and over 277 were injured in relation to the demonstrations that took place from February until June. While protestors have occasionally thrown stones and stormed Government buildings, the response of the security forces – in particular the use of live bullets – appears to have been heavy-handed and at times disproportionate in relation to the circumstances.<sup>56</sup> UNAMI is also concerned about arbitrary arrests and attacks on journalists and activists, and curbs on media freedoms in connection to the demonstrations, in violation of international norms and the Iraqi Constitution.

To date, despite assurances from different sectors of the Government, UNAMI is not aware of any investigation into human rights violations which have taken place in connection to the demonstrations and no member of the security forces has been held accountable.

## 5.2 Attacks on NGOs, and the right of freedom of association

A number of NGOs and political organisations were violently attacked and activists arrested, mostly in relation to the series of public protests in Iraq during the reporting period.

For instance, on 23 February, an international NGO reported an attack on Ayn, an election monitoring NGO based in Baghdad's Karrada district by a joint army and police unit.<sup>57</sup> On 6 March, the Baghdad Operations Command forced the evacuation of the offices of the Iraqi Communist Party and the Iraqi

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the fundamental essence of the right. Defamation in Iraqi law is both a criminal act and civil tort. According to the Iraqi Criminal Code it is a criminal offence to insult the Iraqi people, national flag or state institutions and emblems (Article 202), to insult the President or his legate (Article 225); to insult public institutions (courts, parliament etc) (Article 226); a foreign State, or national emblems or flags or an international organisation operating in Iraq (Article 227); to insult a public servant in the execution of his or her duties (Article 229); to insult the beliefs, symbols or persons involved in religion (Article 372); to insult a person which attacks their honour or is offensive (Article 434), an offence which is aggravated if printed or published by the media. There are a range of other protected interests, such as the disclosure of official secrets (Article 178) or the dissemination of false rumours or news or propaganda aimed at disturbing public peace and security or is contrary to the public interest (Article 210), or publishing material that violates public morals or decency (Article 403). CPA Order 14 (2003) amended the above provisions to include a prohibition on the publication of material aimed at inciting violence, civil disorder, rioting, malicious damage to property, or advocating the rehabilitation of the Ba'ath Party.

<sup>55</sup> CNN, "Protesters in Iraq decry lack of basic services, shortages", 3 February 2011. Available online <<http://edition.cnn.com/2011/WORLD/meast/02/03/iraq.protests/index.html>> accessed 17 July 2011

<sup>56</sup> According to international law, the use of force in civilian contexts must be exercised in accordance with the principles of necessity and proportionality and only to the minimum degree strictly necessary in the situation. See *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, September 1990.

<sup>57</sup> Reporters Without Borders, "Authorities prohibit live satellite TV coverage of tomorrow's big demonstration", 24 February 2011. Available online <<http://en.rsf.org/iraq-authorities-prohibit-live-24-02-2011,39626.html>>, accessed 22 July 2011.

Nation Party believed to be linked to their support for demonstrations. Three NGO activists working for the Federation of Workers' Councils and Unions in Iraq were arrested in early April in an operation conducted by Baghdad Operations Command Division 11. The three men were arrested without warrants apparently due to their involvement in the protests. While two were subsequently released, the third activist was being held at a different, unknown location, and is still reported as missing. UNAMI contacted the MoD concerning the case, but no information has been forthcoming at the time of writing.

Eleven activists working for the organisation *Ayna Haqqi* ('Where is my Right') were arrested on 28 May following a raid on the organisation's office in the al-Midan area of Baghdad by armed soldiers belonging to Baghdad Operations Command Division 11, Brigade 43. According to information received by UNAMI and other human rights organisations, the operation was reportedly carried out without a warrant. Reports indicate that around 11 members of the organisation were blindfolded, packed into cars and driven to the Division 11 headquarter, before being transferred to the al-Muthanna military detention facility. Four of those arrested were released the day after; the other seven continued to be detained until 3 June.

### 5.3 Attacks on journalists and media workers

Respect for freedom of the press remains an issue of concern in Iraq. Journalists and media workers continued to be targeted in violent attacks, and to face harassment, intimidation and arrest for reasons related to their profession.

During 2011, UNAMI recorded 8 cases of journalists and media professionals being killed in the course of their professional duties in Iraq outside the Kurdistan Region.<sup>58</sup> In Mosul, in two separate incidents on 17 February and 3 March respectively, two journalists, including senior journalist and former head of the Ninawa Provincial Government's Communication and Media Department, Hilal Al-Ahmadi (who previously had been dismissed from the Government for writing articles critical of the Government and its alleged corruption and cronyism), were reportedly shot dead by unidentified armed men. On 24 February, Mohamed al-Hamdani was killed by a suicide bomber while covering a religious festival in Ramadi. On 29 March, Abdelwahad, a correspondent for Al-Ayn news agency, and Sabah al-Bazi, a freelance journalist with Al-Arabiya, CNN and Reuters were killed while cameraman Saad Khaled, working with satellite TV station Al-Fayhaa was injured in an insurgent attack on the Salahadin Provincial Council's headquarters in Tikrit. On 8 April, Taha Hameed, director of the Iraqi satellite news channel Al-Massar TV, which is affiliated with Prime Minister Nouri al-Maliki's Dawa Party, was killed in southern Baghdad, along with human rights activist Abed Farhan Thiyab, by unknown gunmen. On 21 June, Alwan al-Ghorabi, working for the Afaq news agency, was killed by a car bomb while on assignment in Diwaniya.<sup>59</sup> On 8 September, Hadi Mahdi, journalist, playwright, filmmaker, human rights activist and an high profile organizer of the protests that had been taking place in the capital, was found shot dead in his apartment in Karrada city in Baghdad. A day earlier he and other activists had met to plan another protest in Baghdad, which was held on 9 September.<sup>60</sup>

UNAMI received numerous reports of non fatal attacks, threats and arrests of journalists and media workers. During the period when demonstrations were most active and widespread in February and March there was an increase in attacks against members of the press. As discussed above, Government authorities attempted to block some media coverage of the demonstrations. On 9 March, the Journalistic Freedom Observatory announced that more than 160 violations were committed against journalists and media workers, including assaults and destruction of equipment, during a two week period across Iraq,

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<sup>58</sup> Not all cases have been confirmed.

<sup>59</sup> Committee to Protect Journalists. Available online <<http://www.cpj.org/killed/mideast/iraq/>>, accessed 27 August 2011.

<sup>60</sup> Mr Mahdi was honoured posthumously for his work defending human rights in Iraq by UNAMI on Human Rights Day in December 2011.



including in the Kurdistan Region.<sup>61</sup> Just days earlier, the Baghdad Operations Command had assured media organisations that there would be no assaults against journalists.<sup>62</sup> Other attacks, arrests and abuse of journalists were reported from different locations outside of the Kurdistan Region throughout the year.

#### 5.4 Legislative developments on freedoms of expression, opinion and assembly

On 27 August, the Iraqi President formally issued the Journalist Protection Law, which had been approved by the Iraqi Parliament on 9 August. The legislation has come under attack from many civil society organisations for its vague language and lack of substantive protection for journalists and media professionals in carrying out their professions. While the Law as amended by Parliament was an improvement on earlier drafts, the law still fails to adhere to internationally accepted standards. Among concerns are that many of the provisions of the Law are imprecise, referring to other legislation to identify the scope of its provisions. The definition of a “journalist” in the Law is vague, merely described as someone engaged in ‘employment in journalism’ without offering clear protection to a range of other media professionals. The Law is also restrictive in its coverage, potentially covering only Iraqi journalists, but not foreign journalists operating in the country, who also appear to require separate registration. Finally, there is no protection for journalists in relation to the identity of their sources.<sup>63</sup>

It should be noted that many articles of the Iraqi Penal Code no. 111 of 1969, which are still in force, actively restrict, inhibit or penalize freedom of expression. Section 3, Articles 81, 82, 83, 84 concern criminal libel slander or insult<sup>64</sup>, while Articles 200, 201, 202, 210, 211, 215, 277, 403, 434 and 443 impose strict penalties, and in some circumstances, even life imprisonment and the death penalty for acts ranging from promoting, publicizing, or commenting on issues prohibited by the Law. Many NGOs, human rights activists and journalists are demanding abolition or amendment of these articles in line with Iraq’s international obligations concerning freedom of expression.

The draft Law on the Freedom of Expression of Opinion, Assembly, and Peaceful Demonstration also falls short of international and constitutional guarantees on several counts. Firstly, the draft law would require organisers of protests and demonstrations to state the “subject and purpose” of the demonstration and to request permission from the authorities at least five days in advance, effectively giving the Government unrestricted control over who may hold demonstrations and those that may proceed. In addition, the draft law only protects enjoyment of those rights provided that their exercise does not “violat[e] public order or public morality”.<sup>65</sup> While restrictions based on these specific criteria are permitted by the ICCPR, the meaning of the phrase as used in the draft law is not defined, raising concerns that if interpreted too broadly the provision could be used by the Government to stifle legitimate public demonstration and freedom of expression.<sup>66</sup> UNAMI reminds the Government of Iraq that any restrictions on the rights of freedom of expression, opinion and assembly should be the exception and

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<sup>61</sup> Journalistic Freedoms Observatory, “More than 160 violations against Iraqi journalists and media organizations in two weeks”, 9 March 2011. Available online

<[http://www.jfoiraq.org/newsdetails\\_Eng.aspx?back=1&id=778&page=0](http://www.jfoiraq.org/newsdetails_Eng.aspx?back=1&id=778&page=0)>, accessed 27 August 2011.

<sup>62</sup> Aswat Al-Iraq, “Agreement between JFO, BOC to protect reporters during demonstrations”, 2 March 2011. Available online at <[http://en.aswataliraq.info/Default1.aspx?page=article\\_page&id=141268&l=1](http://en.aswataliraq.info/Default1.aspx?page=article_page&id=141268&l=1)> accessed 22 July 2011.

<sup>63</sup> See for example Reporters Without Borders, letter to the speaker of the Iraqi Parliament, 10 May 2011. Available online <[http://en.rsf.org/IMG/pdf/110510\\_plpj\\_gb.pdf](http://en.rsf.org/IMG/pdf/110510_plpj_gb.pdf)> accessed 27 August 2011. See also Article 19, “Comment on the Draft Journalists Protection Law of Iraq”, August 2009. Available online at <<http://www.article19.org/data/files/pdfs/analysis/iraq-comment-on-draft-journalists-protection-law.pdf>> accessed 15 July 2011.

<sup>64</sup> Section 3, Articles 81-84 extend criminal liability for publication to editors or managers of media outlets, importers of banned published material, and those distributing or advertising them.

<sup>65</sup> Draft law on “Freedom of expression, peaceful assembly and demonstration”, unofficial translation seen by UNAMI Human Rights Office.

<sup>66</sup> International Covenant on Civil and Political Rights, 1966, articles 19, 21, 22.

should only be applied where legitimate and in conformity with the ICCPR. In the opinion of UNAMI the current version of the draft law potentially permits undue restrictions on these freedoms which are not consistent with international law.<sup>67</sup>

Another piece of controversial legislation, the Informatics Crimes Law, was before the Council of Representatives at time of writing. The Bill potentially imposes severe restrictions on internet freedoms in Iraq. UNAMI, together with partner organisations, has been active in advocating for the draft to be modified in line with Iraq's international obligations.

A proposed bill dealing with freedom of Information has not yet been tabled before the Parliament.

## 5.5 Freedom of expression in the KRG

Demonstrations took place in the Kurdistan Region and were at times met with heavy handed and in some instances repressive measures from the authorities.

Demonstrations started on 17 February in Sulaymaniyah to demand improved social services. After the demonstrations, a group of people made their way to offices of the Kurdistan Democratic Party (KDP) and started to throw stones. Authorities responded with live fire, and a 13 year old boy was killed and many people injured. UNAMI has been unable to determine who fired the lethal shots but circumstantial evidence suggests strongly it was the security forces.

Demonstrations continued sporadically in Sulaymaniyah until 17 April. During this period ten people were reportedly killed in Sulaymaniyah, and according to figures released by the directorate of health in Sulaymaniyah, 958 persons were injured between 17 February and 19 April. Security forces in Erbil, Dahouk and then Sulaymaniyah implemented *de facto* bans on demonstrations through the KRG's Demonstration Law, passed in November 2010, which gives the Ministry of Interior the authority to reject any request to hold a demonstration.

UNAMI received numerous reports of targeting and intimidation of media workers in the Kurdistan Region, in particular in relation to the demonstrations which were taking place in the region. A number of media outlets were attacked. On 22 February, the offices of Naliaysat TV were burned down in Sulaymaniyah city by unknown persons. The TV channel was perceived to have reported independently on the protests of 17 February. In Erbil KNN (a television channel associated with the Gorran political party) was burned down as a reaction to an attack on the office of KDP political party in Sulaymaniyah. In Kalar, Dang radio station was attacked on 6 and 9 of March by unknown men. Journalists were prevented from covering demonstrations, and some reporters allege that they received threatening messages by telephone.

According to the Kurdistan Journalist Syndicate, there were 291 cases of violations of the rights of journalist in the Kurdistan Region in 2011. Of these 250 were reported in the first six months of the year, coinciding with the period of demonstrations.

On 29 August, prominent journalist Asos Hardy was attacked by unidentified armed men in Sulaymaniyah. Following an investigation, one person, a PUK guard, was arrested. On 7 September Ahmad Mira, the editor of Levin magazine was arrested by police in Sulaymaniyah. Criticism surrounding this case prompted the Prime Minister of the Kurdistan Region to issue an order asking his office to be consulted before any arrest of a journalist. Following unrest in Zakho on 2 December,

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<sup>67</sup> A publicly available critique of the draft law has been written by Article 19: Article 19, "Iraq: Draft Law on Freedom of Expression, Assembly, and Peaceful Protest", July 2011. Available online <[www.article19.org/data/files/medialibrary/2266/11-07-14-LEGAL-iraq.pdf](http://www.article19.org/data/files/medialibrary/2266/11-07-14-LEGAL-iraq.pdf)>, accessed 16 July 2011. See also Human Rights Watch, "Iraq: Revise Draft Law That Curbs Protests, Speech", July 2011. Available online <<http://www.hrw.org/en/news/2011/07/13/iraq-revise-draft-law-curbs-protests-speech>>, accessed 14 July 2011.

UNAMI received a number of complaints from media professionals associated with the Kurdistan Islamic Union. A number of journalists were arrested and detained by security forces.

The Kurdistan Region law on journalism does not allow for any arrest or punishments of journalists in relation to articles they have published. Fines can be issued. However, some members of the judiciary continue to selectively apply the old Iraqi law in some cases against journalists. Arbitrary arrests were also reported during the period. In the first few days of the demonstrations in Sulaymaniyah, significant numbers of arrests were made but most of these people were released within forty-eight hours. Two Imams who led the Friday prayers for demonstrators in Sulaymaniyah were arrested by *Asayish* under the Anti-Terrorism Law. However, the charges were later changed by the Court to violations of the Demonstration Law and both were granted bail. UNAMI also received a number of reports of the arrest of media personnel, most of whom were released after a matter of hours.

In response to the situation, on 9 March the Kurdistan Region Prime Minister appeared before the Kurdistan Region Parliament to answer questions on the demonstrations. Later, extraordinary sessions of the Kurdistan Region Parliament were held to discuss the demands of the demonstrators in early May. The families of two persons killed in the demonstrations in Sulaymaniyah brought court cases against police officers allegedly responsible. The two policemen had not been arrested at the time of writing. Their commander was arrested, but released soon afterwards due to insufficient evidence. KRG authorities also acknowledged in discussions with UNAMI a lack of training and capacity of its security forces to deal with civilian demonstrations.

On 17 May, the KRG unveiled legislative proposals for the creation of a High Council for Information. While purporting to encourage media diversity and freedom of expression, pressure groups have questioned the body's financial and leadership independence. The nine members of the Council are to be appointed by political leaders, and the body, as proposed, will have very limited budgetary independence.<sup>68</sup>

## 6. Rights of women

UNAMI continues to monitor the status and rights of women in Iraq, including gender based violence such as so-called 'honour' crimes, trafficking and domestic violence. Due to the security situation, UNAMI is unable to collect first hand data on the situation of women in some parts of Iraq outside of the Kurdistan Region. Much of the information presented in this reports thus concerns the situation of women in the Kurdistan Region; however, UNAMI believes that many of the issues are common across Iraq.

In Kirkuk on 24 November representatives of 20 NGOs gathered to make a statement on violence against women, demanding, *inter alia*, legislation on domestic violence and honour killing, greater representation of women in local councils, an end to harassment and abuse of women by police during investigations, and an end to the practice of religious leaders granting marriage and divorce outside the legal framework.

At a conference held in Baghdad on 26 November, the Minister of State for Women's Affairs, Ibtihal Al-Zaidi said that one in five Iraqi women is subjected to either physical or psychological abuse. Outside the Kurdistan Region, progress towards greater legal protection for women, particularly from domestic abuse, remains slow.

### 6.1 Honour crimes

'Honour' remains as a mitigating defence to a charge of murder under the Iraqi Criminal Code. There is evidence that honour killings and honour related crimes remain a problem throughout Iraq. However, precise information on the extent of the problem is difficult to ascertain, given the fact that many such

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<sup>68</sup> Reporters Without Borders, "Concerns about a bill for the creation of a High Council for Information in Iraqi Kurdistan", 6 June 2011. Available online <<http://en.rsf.org/iraq-concerns-about-a-bill-for-the-12-06-2011,40436.html>> accessed 28 August 2011.



crimes are committed within the family and bonds of blood and kinship mean that many such crimes go unreported. If reported, the authorities often fail to act or to investigate.

In an incident which took place on 26 March documented by the police, six women and a young man were reportedly shot dead in Al-Tanak neighbourhood in Mosul. According to the Police Directorate in Mosul, all seven victims belonged to one family and was characterised as an honour killing, with one of the deceased women being reportedly involved in an illicit relationship with an army lieutenant. Following the arrest of the lieutenant on alleged charges of kidnapping, the seven victims were shot dead inside their home. Four male relatives of the victims were subsequently arrested on charges of murder.

UNAMI also documented cases of alleged suicide in Sinjar governorate, predominantly of young people from the Yezidi community. According to preliminary information received by UNAMI the suicides may have been linked to forced marriage and family honour – but the poor economic situation of many in the Yezidi community, lack of educational and employment opportunities, and poor access to services may be contributing factors. However, it is difficult to ascertain the underlying causes, as suicides and deaths are considered a private family affair and there are no official statistics on the frequency. UNAMI is concerned that the real number of such deaths may be higher than those reported.

In Kirkuk, according to figures from the Kirkuk Directorate of Health, 62 women were reported to have died of burns during 2011, 20 of whom were victims of explosions. The remaining 42 cases suggests an alarmingly high rate of suicides among women in Kirkuk. In another case, on 20 July a 21 year old high school student was found dead after hanging herself. Police arrested the woman's husband as a suspect for investigation. On 2 December, police in South Kirkuk reported the suicide of a 22 year old woman who had shot herself. Again, the woman's husband was arrested.

In Basra UNAMI learned that in April two women, one aged 20 and the other aged 32 had been admitted separately to Al-Jumhuriya Hospital having overdosed on medication in apparent attempted suicide attempts. The younger woman reportedly had tried to take her life because her family did not approve her marriage plans. The other woman was reported to have suffered from unspecified social and family problems and lack of income. UNAMI also learned that three women aged 22, 20 and 50 (the latter two mother and daughter) died at the hospital in April from burns – however it is not possible to find out the causes in each of these cases and there is currently no evidence as to whether the incidents were murder, (forced) suicide, or genuine accidents.

## 6.2 Women in the Kurdistan Region

A number of important reforms have taken place on the institutional and legislative fronts aiming at enhancing the protection and respect of women's rights in the Kurdistan Region. However, problems remain, particularly with traditional practices and attitudes towards women which affect their enjoyment of a range of rights. Low awareness of women's rights and the existence of deep-rooted "tribal" norms - especially in the rural areas - continue to be important factors in perpetrating a culture of violence against women in the region.

Violence perpetrated against women and girls remains a concern as cases continue to be regularly reported to UNAMI by government sources as well as civil society. Between January and December the Directorate to Follow up Violence against Women (DFVAW) - established under the KRG Ministry of Interior - confirmed to UNAMI that it had received and documented a total of 4,084 cases. The figure represents a slight decrease compared to the previous year.<sup>69</sup> According to the statistics, the majority of survivors are aged between 18 and 30 years and over half of the incidents (2,538) involved verbal/psychological abuse, whereas 990 cases involved physical injury to the survivor. It was reported that 43 were killed during 2011 as a result of domestic abuse. This is a slight decrease in the number of

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<sup>69</sup> 4247 cases in 2010 according to "Statistics of Directorate to Follow up Violence against Women in KRG – Report of 2010".

women reported to have been killed in similar circumstances compared to 2010<sup>70</sup>. Erbil governorate saw the highest number of deaths – 23, including four cases related to honour; Sulaymaniyah reported nine cases; Dahok six, including three related to honour; five cases were reported in Garmiyah. Data also showed a decrease in reported cases of sexual abuse<sup>71</sup> and also suicides<sup>72</sup>. Quite alarmingly, the number of women who attempted to burn themselves on purpose (self-immolation) and by accident remains high, respectively 132 and 228.

UNAMI is concerned over cases of women reportedly injured or found dead as result of burning incidents in Soran (Erbil governorate). In this regard, health officials reported to UNAMI that in 2010 a total of 415 patients sought medical assistance from the hospital to treat burns and confirmed that all reported cases were female victims below the age of 20 or children. The number excludes those who died as a result of burns. Assessing what percentage of these cases arose from genuine household accidents or were acts of violence or self-immolation remains a challenge, however, it is believed by KRG authorities and civil society actors that such high incident rates might be an alarming indication of the scale of domestic/marital disputes within homes in Soran which is leading to this particular form of violence.

The KRG has done much to respond to the improving the rights of women. The adoption of the law “Combating Domestic Violence in Kurdistan region of Iraq” by the Kurdistan Region Parliament on 21 June is a significant development toward the protection of women and the prosecution those who perpetrate domestic violence and FGM. The Law introduces a broad definition of domestic violence which includes physical and psychological violence, threat of violence and marital rape. It also prohibits the performance and incitement of FGM, practice which is still conducted in parts of Kurdistan. Another major change is the establishment of new institutions, including Special Courts for the prosecution of cases of domestic violence.

As of December, some steps have been taken to ensure the implementation of the Law. For example, in Erbil, two judges have been officially appointed to receive domestic violence cases. Despite advances, challenges remain such as the need to increase public awareness of the provisions of the Law, enhance the coordination among all Ministries involved in its implementation and allocate additional resources to translate the legislation into reality.

Another positive step taken by the authorities in the Kurdistan Region in the fight against gender-based violence is the increased emphasis on prevention through the conduct of outreach awareness raising activities aimed at educating young people, government officials, civil society and the general public on women’s rights issues, gender equality and mechanisms to respond to violence. Workshops and training sessions have been conducted in conjunction with UNAMI.

In December, DFVAW announced its strategic plan for 2011 – 2014, which envisages the establishment of 15 offices in districts and sub-districts throughout the region, a database to record incidents, and 17 emergency teams to ensure the quick response and assistance for cases of serious violence. Between the months of October and December, four DFVAW offices were already established in Shaqlawa, Khabat, Koysinjah and Bardarash in an effort to increase its field presence in those areas.

UNAMI has been closely monitoring shelters which accommodate survivors of violence and women at risk (e.g., from threats of honour killing). These “safe havens” have been established in all three governorates of the Kurdistan Region under the auspices of the KRG MoLSA where they play a crucial role in the protection of vulnerable women. During the reporting period UNAMI carried out visits to the shelters in Erbil, Sulaymaniyah and Dohuk and engaged in discussions with staff as well as individual interviews with survivors of violence. Access to shelters was granted by MoLSA to UNAMI on 11 January by means of an official written authorization. However, UNAMI notes that weak

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<sup>70</sup> The overall figure in 2010 was 49 women killed.

<sup>71</sup> 109 cases versus 134 in 2010.

<sup>72</sup> 44 cases versus 70 in 2010.

rehabilitation/reintegration programs offered to survivors of violence need to be addressed, especially due to the fact that women are often confined inside shelters for long periods of time due to continuing threats to their safety.

Recognizing the importance of adopting a legal framework to specifically regulate the functioning of shelters in the Kurdistan region, officials of the KRG MoLSA and MoI<sup>73</sup> drafted an official policy for threatened women in “Jiyan” shelters.<sup>74</sup> In April UNAMI provided comments to the draft in which concerns were raised over existing legal provisions (e.g., eligibility criteria linked to residency in Kurdistan, receipt of cases only during working hours, etc.) and gaps (for example, failure to mention minimum standards in the structure of the facility, principles governing work within the shelter, including lack of guarantees of confidentiality). As of December, the policy is still in its draft form and further consultations are scheduled for early 2012.

Scarce availability of forms of psycho-social support in the Kurdistan Region, particularly acute in the rural areas, continues to constitute a gap hindering efforts to prevent gender-based violence and to adequately provide and tailor support to survivors of violence. KRG authorities should consider the means to enhance the delivery of qualitative and specialized mental health services, as well as to establish counselling and alternative support mechanisms at the grassroots levels that would benefit women suffering from distress or mental health issues.

Detention facilities for women and girls run by the KRG MoLSA and MoI appear satisfactory and in line with international standards.<sup>75</sup> Unlike facilities devoted to the male prison population, overcrowding is generally rare inside women’s prisons and sufficient space is allocated for each inmate. Regular family visits are granted to the women in order to allow them to keep family ties including with their children. During a visit in January to Sulaymaniyah prison, UNAMI observed that despite the fact that the facility is old and in need of renovation, the overall conditions comply with international standards in terms of hygiene and the size/occupancy of each cell. Moreover, women prisoners were separated within the facility according to the severity of the sentences and gravity of the crimes for which they were convicted. In Erbil, lack of adequate space hinders the ability to separate female juveniles and adult women although the separation between persons on remand and convicts is observed. In October, UNAMI observed some improvements in ensuring separation between the sleeping quarters of different categories of female offenders inside Erbil Reformatory for Women, despite severe space constraints.

From data collected by UNAMI during monitoring visits, it is noteworthy that most women had been convicted mostly for crimes such as adultery, murder, prostitution, and forging documents. None of the women reported incidents of ill-treatment or abuse inside the facilities. Instead, lack of understanding over the status of proceedings and/or dissatisfaction over legal representation, were recurrent concerns. In one instance, a 50-year-old Iranian national held inside Erbil prison requested assistance in interpretation services during court proceedings.

## 7. Rights of children and juveniles

Children in Iraq continue to suffer from armed violence and conflict during the reporting period. It is also evident that children suffer from domestic and other forms of violence, although the exact extent of the problem is difficult to ascertain. Children’s access to basic services, including healthcare, education and housing also remains patchy in different places throughout Iraq.

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<sup>73</sup> One MoI shelter has been operating in Sulaymaniyah but it is due to close in early 2012 by virtue of the new Domestic Violence Law which recognises MoLSA as the sole ministry in charge of operating shelters.

<sup>74</sup> Meaning ‘life’ in the Kurdish language.

<sup>75</sup> Among others, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and Standard Minimum Rules for the Treatment of Prisoners.

## 7.1 Children affected by armed conflict

Children continue to be affected by armed conflict and ongoing violence in Iraq. The Monitoring and Reporting Mechanism (MRM), responsible for tracking grave child rights violations based on the UN Security Council resolutions 1612 (2005), 1882 (2009), 1998 (passed by the United Nations Security Council on 12 July 12) reported that 145 (84 verified) children were killed and 263 (130 verified) injured in various conflict related incidents during the year. These figures are a slight improvement compared to those for 2010. However, the MRM is limited in scope: an important number of incidents remain undocumented due to security concerns and poor access to remote areas. Of 184 registered incidents during the reporting period, only 70 could be verified. The Ministry of Health, in figures provided by the MoHR, reports that 96 children were killed and 382 injured in conflict related circumstances in 2011. UNAMI received reports of at least four children being recruited and used by armed groups, although UNAMI could not verify the incidents. The number of reported incidents was a decrease from previous reporting periods.

UNAMI and partner agencies such as UNICEF recorded a significant increase in attacks against education staff and reports of weapons or other military material being found in school premises. A total of 65 incidents were recorded during the reporting period, of which 17 were confirmed.

In Kirkuk, on 3 February, two boys aged 15 and 16 were killed when unknown gunmen attacked their father, who is a police officer. The police officer and his 13 year old daughter were injured during the attack. Also in Kirkuk, on 18 March, a ten year old boy and an 8 year old girl were killed by an explosive device that was detonated in the Qader Qaram area of Kirkuk city, leaving another 9 year old girl injured. In Mosul, UNAMI documented at least three incidents of children being affected by ongoing violence. On 22 March and 20 May, in separate incidents at least four children were injured in explosions, including a cluster bomb, across the city. On 11 June in Mosul, an unspecified number of children were injured in a roadside bomb explosion targeting a police patrol in the Resalla area of the city.

Explosive remnants of war continue to claim the lives of children and cause injury long after combat operations have taken place. According to UNDP, over 2000 children have been injured or killed by cluster bombs alone since 1991. In Kirkuk on 13 March, two girls aged 7 and 8 were injured while playing with a cluster bomb in a park in the city. One of the girls lost 2 fingers from one hand. On 21 March near Mosul, an explosive device from a previous conflict exploded and injured a 12 year old boy who was herding animals. The child lost a leg in addition to other serious injuries. On 21 October 2011, in Kirkuk Governorate, Terkalan District, four children were wounded when an unexploded ordnance detonated while they were playing near it. The 4 children were taken to Kirkuk General Hospital for treatment.

## 7.2 Children in the Kurdistan Region

In Kurdistan Region, the official responsibility for the welfare and well-being of children falls primarily within the mandate of KRG MoLSA. UNAMI conducted visits to the three government run orphanages in the Kurdistan region. All appeared well run and the living conditions and care provided for the children were observed to be adequate. According to government sources by the end of December orphanages located in Erbil, Dohuk and Sulaymaniyah accommodated a total of 202 boys and 170 girls whose ages span from 5 to 18 years. Children usually are orphans of one or both parents; in other cases parents or family members are unable/unwilling to provide for the children. On exceptional basis, children under 5 years will be accepted when there is no other alternative solution available and it is in the best interest of the child. Similarly, orphans who grew up inside the institute can be retained inside the institution after they turn 18 until they find a job. UNAMI was told that placement inside the orphanage is done through a judicial order or referrals by NGOs or individuals. Additionally, viable alternatives to institutionalisation are sought when circumstances allow. For example, through the “foster family” scheme, children are

placed inside extended families who receive a monthly allowance from MoLSA and counselling with social researchers.

The establishment in mid-July of the toll-free hotline “116” as a joint effort by MoLSA, Ministry of Education, Ministry of Culture and Youth and Ministry of Endowment is a valuable tool to report or seek advice on children’s rights issues – including abuses. Promotional materials have been widely disseminated in an effort to inform the public about its existence and to encourage its utilisation. Anonymity is respected according to the callers’ wishes. The KRG MoLSA Minister has requested UNAMI to train staff employed for the hotline to enhance their understanding of children’s rights.

The minimum age of criminal responsibility in Kurdistan region is 11. Although it is higher than the age set in the rest of Iraq (9 years<sup>76</sup>) it is still below the recommendation of the Committee on the Rights of the Child, which set the minimum age at 12 years<sup>77</sup>. UNAMI is advocating with relevant duty-bearers to ensure that the draft “Law on Children’s Rights in the Kurdistan Region” - currently subject of consultations between government and civil society prior to undergoing Parliamentary review - complies with internationally acceptable standards.

As part of its regular monitoring of detention centres, UNAMI visited the three juvenile reformatories located in the Erbil, Dohuk and Sulaymaniyah where juveniles awaiting trial, under trial or serving a sentence are held. Separation between female and male offenders is always ensured and in most cases juveniles are also separated according to the status of their judicial proceedings. Concerns were raised during a visit to the pre-trial section of the Reformatory for Juveniles in Erbil in June when UNAMI found four extremely young children (aged between 11 and 13) who had been apprehended for a petty crime who were being accommodated in the same room as a 17-year-old recidivist.

Over the reporting period three minors were victims of violence during the demonstrations and resulting civil unrest in Kurdistan Region. Rizhwan Ali, aged 13, and Surkew Zahir, aged 17, died on 17 and 20 February respectively in Sulaymaniyah city, while a 12-year-old boy, Garmiyan Ahmed, died in Chamchamal on 25 February. To date investigations into their deaths remain inconclusive.

UNAMI continued to meet teenage girls placed inside protective institutions because of severe threats from their own families. In some cases, disputes emerged from a perceived inappropriate behaviour such as ‘making a phone call to a boy’ or ‘socializing with someone the family does not accept’. Finding durable solutions so that they can be reintegrated to a violence-free environment is a challenge and, as a result, girls can remain inside shelters for prolonged periods of time.

Children begging on the streets in some cities in the Kurdistan Region continue to be visible although its scope and causes is difficult to assess. According to UNHCR, many of these children are IDPs who are forced to drop out of school and beg to provide for their families. They are often engaged in other minor profitable activities like selling fuel on the streets or collecting cans and plastic bags. Far from the close supervision of parents and school authorities, they become vulnerable to behaviours such as stealing or drug dealing and to the risks of abuse and exploitation.

## 8. Rights of Ethnic and Religious groups

While there have been some improvements in terms of security for Iraq’s ethnic and religious groups, their situation continues to be precarious. Throughout the reporting period, UNAMI received reports of attacks directed at persons on account of their ethnic or religious affiliations, although so far none were on the scale seen in 2010. Figures provided by the MoHR indicated that 14 Christians, 2 Sabeans, 16 Yazidis and 12 Shabak were killed in targeted attacks.

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<sup>76</sup> Iraqi Juvenile Care Law.

<sup>77</sup> General Comment on Children’s Right in Juvenile Justice N.10 (2007) which concludes that “a minimum age of criminal responsibility below the age of 12 years is considered by the Committee (on the Rights of the Child) not to be internationally acceptable and encourages States to increase [it] to a higher age level.”

On 15 February a Christian businessman was kidnapped by unknown men in Kirkuk and held for 5 days then later released by kidnappers after his family reportedly paid a ransom. On 16 May 2011 a mutilated body of Christian Ashor Esa'a Yaqoub was found in Kirkuk city. Ashor was kidnapped on 13 May 2011 from a building under construction in Kirkuk city where he worked as a labourer. Kidnappers asked for US\$100,000 ransom, when family failed to pay, the kidnappers beheaded the victim and mutilated his body. On 30 September, the body of a Christian man was found in Kirkuk. According to an autopsy carried out by the Kirkuk police, the man had been strangled. On 2 October a Catholic man was shot dead by unidentified armed men in Kirkuk.

On 2 August, a vehicle borne improvised explosive device (VBIED) was detonated outside the Holy Family Syrian Catholic Church in northern Kirkuk. A priest and 15 other persons were injured in the blast, including two children and three women. On the same day, two other VBIEDs were found parked in front of an Evangelical Presbyterian Church and the St George Assyrian Church in the mainly Christian Almaz neighbourhood of Kirkuk and defused. On 14 August, a Christian Syrian Catholic Church was damaged in an explosion in central Kirkuk. The priest injured in the attack on the Holy Family Church told UNAMI that many Christian families in Kirkuk were preparing to leave the city for fear of attacks.

In June, a Chaldean Christian Bishop, complained to UNAMI about harassment of Christian owners of liquor shops in Basra. Liquor shop owners have suffered repeated and periodic harassment since 2003 and were driven completely underground when ultra-conservative Shi'a militias ruled Basra between 2006 and 2008. A ban on the sale of alcohol was re-issued by Basra Provincial Council in May 2011, although the Christian community claims this to be unlawful and discriminatory.

In March, a group of 50 IDP 'gypsy' families (mostly Qawliya, but perhaps also including Dom, Kowawlah, Kalderash or Muslim Roma) were found to be living in dire conditions in the Al-Athar settlement in Basra. The group arrived from Diwaniyah, Babil, Wassit, Kirkuk and other governorates, where they had made a living as singers, dancers and entertainers. The group's main source of income is now begging. In addition to problems common to many IDPs resulting from a lack of documentation, the families also face harassment from neighbouring communities, and isolation from local government.

Members of the Yezidi community were also the object of violence. In Sinjar district, on 7 March and 7 June, police reportedly found the bodies of two Yezidi men who had been murdered by unknown assailants. On 13 March, five Yezidi men were abducted by an unidentified armed group in Sinjar district two of who were later released on 20 March after an unspecified ransom amount was paid. On 25 May and 19 June respectively, two Yezidi men were abducted by an unidentified armed group in Sinony and Asara Village in Sinjar District. One of the men was released on 22 June reportedly in exchange for a ransom. On 24 September, four Yezidi men were returning from Sinjar to Shekhan on the Baathra road when they were stopped and abducted by unidentified armed men. One man managed to escape. Police found the vehicle outside Baathra town with blood stains. The whereabouts of the three other victims is unknown. On 24 October a Yezidi man was beheaded and three others injured by unidentified armed men in Kirkuk. The motive of the attack is unknown.

On 14 March, two men from the Shabak community, a father and his son were reportedly abducted by an unidentified armed group near Baibokht village near Mosul. On 20 April, the bodies of two Shabak men, reportedly abducted on 18 April, were discovered with gunshot wounds to the head and chest near Mahlabiya, in west Mosul. On 27 and 28 June, two Shabak men were shot dead by unidentified gunmen in Bartella and Kowkjiya areas in Mosul respectively.

Member of the Turkoman community, mainly Turkmen Shi'a were frequent targets of attacks in Kirkuk. The high number of attacks has been met by calls from some in the Turkoman community to form a self defence force to protect Turkoman in Kirkuk. On 12 May 2011, unidentified men bombed the home of a Turkoman member of Parliament belonging to the Al-Iraqiya party in Kirkuk. There were no reports of injuries. On 17 May 2011, two grenades were thrown at the house of a Turkoman retired Iraqi army officer in the Al-Thobat area of Kirkuk. No injuries were reported. There were also a series of



kidnappings and attacks in Kirkuk, ostensibly targeting medical and other professionals, however, mostly from the Turkoman community in the city. Among the victims were several children. On 17 October two IEDs were detonated outside the headquarters of the Iraqi Turkoman Front in the Al-Qaqriyah area of Kirkuk. No casualties were reported, though the building was substantially damaged.

## 8.1 Ethnic and religious groups in the Kurdistan Region

The Council of Ministers in KRG approved the transfer of Christian/other students from different religious and ethnic groups from other parts of Iraq who fled due to security reasons to the Kurdistan Region. Based on the recommendation of national Security Council transfer of employees on temporary basis was also accepted.

Approximately 1,300 students have applied for admissions in Kurdistan Region educational institutions from Ninawa since May 2010 after the attack on a bus carrying Christian students. Almost 500 students also applied from Baghdad and other places after the attack on a Christian church in Baghdad in October 2010 according to Directorate of Christian Affairs in the Ministry of Endowment and Religious Affairs. Large numbers of these students have been accepted but there are also students from disciplines which are not available in the Kurdistan Region. Language also continues to be a problem in terms of the adjustment of students. Arabic is not part of the curriculum, even though the Constitution stipulates that the Arabic language and the Kurdish language are the official languages of Iraq. In a positive development in October, the decision to establish a new university in the relatively-safe Hamadaniyah district of Ninawa was approved by Ninawa Provincial Council in conjunction with Iraqi Ministry of Higher Education which – once completed – will represent a viable alternative for students from Ninawa who want to pursue studies without having to move to the Kurdistan Region.

Amendments endorsed by the Kurdistan Region Parliament in November to the law on the Kurdistan provincial, district and sub-district elections sparked disappointment among Christian and Turkomen leaders who had demanded the introduction of quotas for minorities at district and sub-district levels, in the same ratio as the reserved seats already allocated for provincial councils.

Establishments belonging to Christian and Yezidi communities were among the damaged properties – mostly liquor shops, hotels and massage parlours - attacked by a crowd in Zakho (Dahouk governorate) on 2 December. However, it is important to highlight that the violence did not target minorities per se but was an expression of outrage toward establishments promoting practices perceived not to be in conformity with Islam. A number of Muslim owners also faced damages as result of the violence.

The numbers of Sabian Mandaean families have fallen to approximately 75 in the Kurdistan Region due to migration of members of the group. Some community representatives informed UNAMI that they do not face any threat or persecution in the Kurdistan Region and they are supported by the Government, but most are migrating for economic reasons.

Representatives of Yezidi community in Shekhan and Bashiqa shared their concerns about the situation of Yezidis in areas disputed between the KRG and the central Government. They also raised concerns about access to resources, education and better employment. According to some community representatives, the Yezidi community remains economically and socially marginalised, and this is one of the reasons why members of the community suffered disproportionately from the flash floods of March 2011. Under the current agreement between the KRG and the central Government, members of the Yezidi community who are facing threats in the disputed areas can be transferred to the Kurdistan Region in the same way Christians are. During the reporting period, sixty Yezidi students have been accepted into Kurdistan Region universities from the disputed areas.

## 9. Persons with disabilities

Until the time of issuing this report, Iraq has not yet ratified the Convention on the Rights of Persons with Disabilities – nor had it passed specific legislation to protect them from discrimination or to guarantee their access to services.<sup>78</sup>

In the Kurdistan Region, the Human Rights Office expresses its concerns over the status and treatment of individuals who are mentally incapacitated who commit criminal offences and who are declared by the court not to be criminally liable. Equally of concern are persons who develop severe mental disorders while held in detention. Field monitoring continues to show that these two categories are placed inside regular MoI and MoLSA detention facilities rather than an appropriate medical institutions. There are no specialised institutions for mentally ill persons in the Kurdistan Region, a gap in resources readily acknowledged by numerous interlocutors, such as prison officials, police and judges. Moreover, persons with mental illness are often detained in the same facilities as other categories of detainees/convicts which increases their vulnerability.

In the Kurdistan Region, lawmakers have been discussing a draft “law on taking care of persons with disabilities”. The law, which focuses on access to social and economic rights was endorsed by the Kurdistan Region Parliament on 31 December, and is now pending Presidential approval. The law will introduce a number of positive measures including quotas for employment in the private and public sectors, reserved seats in educational institutions and preferential fiscal treatment in favour of disabled entrepreneurs.

## 10. Attacks on persons for reason of their sexual orientation

The topic of homosexuality is largely taboo in Iraq. Members of the lesbian, gay, bisexual and transgender (LGBT) community usually keep their sexual orientation secret and live in constant fear of discrimination, rejection by family members, social exclusion, intimidation and violence. While the Iraqi penal code does not expressly prohibit homosexual relations between consenting adults, a variety of less specific, flexible provisions in the penal code leave room for active discrimination and prosecution of LGBT persons and feeds societal intolerance.<sup>79</sup>

During the reporting period, UNAMI continued to receive reports of attacks against individuals based on their perceived or actual sexual orientation. In one case, a 17 year old boy was relocated with assistance from an NGO after his family tried to kill him on the basis of the boy’s perceived homosexuality. The Government takes no action to protect people from violence or discrimination based on sexual orientation, and there are few social services available.

## 11. Other Human Rights Issues

### 11.1 Camp New Iraq (Camp Ashraf)

During the reporting period, UNAMI continued monitoring the situation of over 3,000 residents affiliated with the People’s Mujahedin of Iran (PMOI) in Camp New Iraq (commonly known as Camp Ashraf) and documented a number of measures of which Iraqi authorities aimed at tightening control over the Camp and its residents with the ultimate objective of closing it down by the end of 2011, as declared in the Council of Ministers’ decision of 17 June 2008.

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<sup>78</sup> The Council of Representatives formally ratified the Convention on the Rights of Persons with Disabilities on 23 January 2012, but the Government is yet to deposit the instrument of ratification.

<sup>79</sup> For example, paragraph 401 (immodest acts in public), 402 (indecent advances), 403 (publications violating public decency), 501 (indecent state of undress), 502 (loitering with indecent intent).



On 8 April, in an operation that lasted approximately 7 hours, the Iraqi army moved into the Camp and occupied its northern part, comprising some 40 percent of its total surface area. The Iraqi authorities described the operation as a law enforcement action to restore privately owned land in Ashraf to its legitimate owners. It resulted in the deaths of 36 and injuring of more than 300 residents who protested against, and resisted, the operation. On 13 April, a UNAMI delegation was authorized to visit the Camp. The UNAMI physician counted 28 bodies in a makeshift morgue. The apparent cause of death in most cases was bullets and shrapnel wounds. Another 6 residents were confirmed dead among those injured who had been rushed to Ba'quba hospital. Two more died later from their injuries. The Iraqi authorities admitted that their forces caused 3 fatalities, which they described as 'accidental'.

In a statement made public on 15 April, the United Nations High Commissioner for Human Rights said the Iraqi military were well aware of the risks attached to launching an operation like this in Ashraf and added: "There is no possible excuse for this number of casualties. There must be a full, independent and transparent inquiry, and any person found responsible for use of excessive force should be prosecuted." On the same day, UNAMI issued a similar statement requesting a thorough investigation through an independent commission. During the reporting period, no action was taken by the Government of Iraq to establish such an independent commission of inquiry to investigate the incident. The 8 April operation was the second occasion, after clashes on 28/29 July 2009,<sup>80</sup> when Iraqi forces appear to have used excessive force against the residents of Camp Ashraf. UNAMI again urges the Government of Iraq to exercise restraint in conformity with international human rights law in asserting its legitimate authority over the camp and its residents

After this incident, the Iraqi Government reaffirmed the deadline of 31 December 2011 for the residents to evacuate Camp Ashraf. UNAMI continued working closely with the Government of Iraq, the diplomatic community, UNHCR and the residents' representatives in order to find durable solutions. In late 2011, consultations between UNAMI and the Government of Iraq led to a Memorandum of Understanding, which was signed by both parties on 25 December. In it, the United Nations offered its services as an impartial facilitator and observer in a process that would see the residents of Camp Ashraf moved to a temporary transit location at Camp Liberty (a former US military base near Baghdad International Airport), undergo individual refugee status determination by UNHCR, and eventually either their voluntary return to their countries of nationality or if eligible, resettlement in third countries, subject to the availability of receiving countries. In an open letter of 28 December 2011 to the residents of Camp Ashraf, UNAMI SRSR, Martin Kobler, affirmed that the United Nations desired to "prevent violence and confrontation" a permanent solution for the residents. He pledged that UN staff would monitor the situation at Camp Liberty 24/7 until the last resident had left Iraq.

By 31 December, the Prime Minister Al-Maliki announced the extension of the deadline for the departure from Iraq of Ashraf residents till the end of April 2012. At time of publishing this report 29 May 2012, 1996 residents have relocated from Camp Ashraf to Camp Liberty (Camp *Hurriya*).

UNAMI reminds the Government of Iraq to abide by its legal obligations, reaffirmed in the Memorandum of Understanding, to fully respect its human rights obligations under international law in dealing with the residents of Camp Ashraf. It also calls upon the residents and their representatives to obey the laws of Iraq, and to voluntarily participate in the process offered by the UN and agreed to by the Government of Iraq aimed at resolving the issue peacefully.

## **11.2 Refugees and Internally Displaced Persons**

While all persons in Iraq continue to face challenges due to the unstable security environment, serious gaps in rule of law and lack of access to basic services, the situation is particularly acute for refugees, stateless persons, returnees and the internally displaced. During the reporting period, UNHCR, working

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<sup>80</sup> See UNAMI, 16th Human Rights Report (1 July-31 December 2009), para 49.

closely with the Iraqi Government, reported a number of positive developments, including the restoration of nationality to stateless persons and government initiatives to ensure that refugees and asylum seekers were duly registered which improved access to basic services.

It is estimated that around two million Iraqis left Iraq mainly to neighbouring countries as refugees as a result of conflict and sectarian violence since 2003. Figures from UNHCR show that just over 67,000 refugees returned to Iraq in 2011, a figure considerably higher than that of 2010. This increase could be attributed to different reasons, one such is greater financial assistance granted by the Government to returnees, which was increased fourfold in April 2011. Large numbers of people remain displaced within Iraq. The latest government statistics report that there are 1,258,934 post-2006 internally displaced persons (IDPs) in Iraq as of August 2011. Baghdad and the central governorates continue to host the largest numbers of IDPs. According to UNHCR, 193,610 IDPs are recorded as having returned to their places of origin in Iraq during 2011.

IDPs and returnees continue to face serious protection challenges, their situation made more difficult by factors directly linked to their displacement. Frequently IDPs lack documentation, which leads to difficulties in registering with authorities, and to accessing basic services. Registration is of critical importance also for returnees, as prior registration as an IDP by the Ministry of Displacement and Migration (MoDM) is required for returnee assistance. IDPs in particular experience higher rates of unemployment than the local population, which is a major impediment to their sustainable return. According to UNHCR, some 413,546 persons (134,546 of whom are in Baghdad), are living in informal settlements, in public buildings or on government land, with limited or no access to water, sanitation and electricity, and they are faced with the threat of eviction.<sup>81</sup>

The Governor of Kirkuk issued an order on July 25 giving unregistered IDPs two months to complete registration and to regularise their residency documents. Following the deadline, UNHCR received reports of IDPs being harassed by the police to leave the city.

Although the Government of Iraq is not a signatory to the 1951 UN Convention relating to the Status of Refugees, or its 1967 protocol, Iraq (including the Kurdistan region) also plays host to a sizeable group of refugees. The Major refugee groups residing in Iraq are Palestinian, Turkish, Iranian and Syrian, including urban, camp and *prima facie* cases, as well as individuals recognised through individual status determination conducted by UNHCR under its mandate. At the end of December 2011, the total number of refugees recorded by UNHCR in Iraq was 1,430, with 4,218 registered asylum seekers and 33,434 *prima facie* refugees.

The protection of refugees is currently governed by the 1971 Political Refugee Law, however, a new refugee law, on which UNHCR has commented, has been drafted but is still pending with the Iraqi Parliament. Whilst the Iraqi Government has not yet developed a system for the determination of refugee status, important steps have been taken to establish an asylum system including registration and verification of asylum seekers and refugee records, and issuance of identity cards in coordination with UNHCR. The principle of *non-refoulement* has largely been respected, although in January a recognised Iranian refugee was deported to Iran in circumstances which remain unclear.

According to UNHCR, there are an estimated 120,000 Stateless persons in Iraq, (compared to the 250,000 at the beginning of 2003), including persons of “Faili” Kurdish origin, “Bidoon”, (literally “without”) and

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<sup>81</sup> Through its network of Protection and Assistance Centres, UNHCR and its partner agencies have been working to ensure that IDPs and returnees are able to access fundamental services. The 15 centres and 40 mobile teams have been undertaking protection monitoring and providing legal assistance and interventions, for example in assisting IDPs and returnees to acquire essential documentation. In addition, UNHCR continued to support the expansion of the MoDM’s Return and Assistance Centres, which provide assistance and support for returnees.

persons who became Stateless for other reasons, including mixed marriages. Stateless persons' lack of documentation and of nationality effectively blocks their access to many basic rights including recognition as a person before the law. Iraq has not signed the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, though the Nationality Law of 2006 includes elements that are conducive to the reduction of Statelessness, including provision for the restoration of nationality to a significant number of Fails Kurds who were stripped of their nationality by the previous regime. UNHCR continues to promote accession by Iraq to the 1954 and 1961 Statelessness Conventions.

### *11.2.1. Refugees and Internally Displaced Persons in the Kurdistan Region*

The most recent Government figures for IDP's in Kurdistan Region is 37,941 families encompassing 208,675 individuals, the majority of who came after 2003. The KRG does not have any breakdown of numbers by ethnicity and religion. There are 28,003 refugees and asylum seekers in the Kurdistan Region.

According to the KRG, since the Sayidat Al-Najat Church incident, a total of 1,112<sup>82</sup> Christian families fled from Baghdad to the Kurdistan Region: 866 families in Erbil<sup>83</sup>, 125 in Dohuk<sup>84</sup>, and 121 in Sulaymaniyah<sup>85</sup>. It is estimated that 90 percent of the recent Christian IDPs are from Baghdad. In June 2010, the KRG received an official letter from MoDM Baghdad to stop registration of IDPs after 15 June 2010. These instructions are based on the Council of Ministry Decision No. 54, dated 19 May 2010. However, the KRG authorities continue to register recent Christian IDPs.

Some cases of deportation of Iranians from Sulaymaniyah were also brought to the attention of UNAMI. It is not clear how many Iranians are in the Kurdistan Region for work reasons and how many are fleeing persecution. Police in Sulaymaniyah informed UNAMI that Iranian nationals are deported on a regular basis to Iran.

As referred to above, 843 families were reported to have been displaced within the Kurdistan Region due to shelling of border areas from June till September. By the end of the year, all these families were reported to have returned to their places of origin.

## **11.3 Migrant labour**

There were a number of reports of exploitation involving migrant workers during the reporting period. In one instance a group of Sri Lankan and Bangladeshi nationals were brought to Iraq to work on provincial Government contracts in Hilla, but were stranded after the Government contractor refused to pay them. The contractor had also taken the workers passports and was refusing to return them. The situation was resolved following the intervention of the Ministry of Human Rights and the Ministry of Labour and Social Affairs.

In a separate incident, a group of Ukrainian, Bulgarian and other nationals were brought by a contracting company to construct VIP housing for the Ministry of Foreign Affairs in Baghdad's Green Zone. Work commenced on construction in December 2010 but was suspended in April 2011. The workers had been promised contracts of US\$2,500 per month. After arrival the contracting company informed the workers that they would only pay them US\$1,700 per month. When work was suspended on the site, the workers were informed that they would be paid half salaries until the work recommenced. However the company paid no salaries at all to the workers, leaving them stranded. Following pressure from UNAMI and IOM, the Iraqi Government, as an act of grace, ensured that the workers received some of their dues and were safely repatriated to their home countries.

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<sup>82</sup> High Committee for Receiving Christian IDPs, led by MOI-KRG. Erbil Branch.

<sup>83</sup> Ibid

<sup>84</sup> DDM Dohuk was not able to provide data and stated their numbers are based on that of IOM

<sup>85</sup> DDM Sulaymaniyah was not able to provide data and stated their numbers are based on that of the Christian IDP Committee

### ***11.3.1 Migrant labour in the Kurdistan Region***

UNAMI and the KRG MoLSA (the latter of which is responsible to authorise and register companies that hire foreign workforce and monitor working conditions granted to employees) continued to receive reports of allegations of abuses perpetrated against foreign nationals employed by private companies operating in the Kurdistan Region.<sup>86</sup>

During prison visits to *Asayish* facilities UNAMI came across cases of migrant workers who had been arrested at the airport, often cases of mistaken identity, and who had spent considerable time in detention, often without being provided with a translator to fully understand their legal status. The companies responsible for bringing the workers into the Kurdistan Region generally play no role in such cases.

According to officials of MoLSA, the most frequent forms of abuse perpetrated against foreign labourers continue to be exploitative practices such as excessive working hours, unhygienic accommodation, abusive treatment and failure to apply/extend residency permits. The practice of companies withholding the passports of migrant workers is widespread. This practice makes workers extremely vulnerable in case of dispute with the company. Upon receipt of complaints, MoLSA launches an inspection to assess the veracity of allegations and in some cases, direct support is provided to the workers<sup>87</sup>.

Despite the existence of a legal framework to regulate employment procedures such as MoLSA's *Instruction on employment of foreign labourers in Kurdistan Region*<sup>88</sup>, UNAMI notes that the systematic protection of the rights of foreign workers is significantly hindered by a number of factors, such as under-registration of companies with MoLSA<sup>89</sup> and limited resources allocated to conduct of inspections. In particular, there are only five inspectors devoted to the conduct of field visits which, because of the limited capacity, are mainly initiated in response to complaints lodged to the Ministry and not conducted as part of a regular monitoring exercise. UNAMI encourages the KRG authorities to devote additional resources, especially in light of the current economic boom in Kurdistan which is attracting an increasing number of foreign investors to the region to ensure that the rights of foreign (and local) workers are protected.

## **12. Legislative and other developments**

Various legislative and other initiatives were underway during 2011. The Journalist Protection Law and Informatics Crimes Law have already been mentioned.

The Iraqi High Commission for Human Rights (IHCHR) was legislated in 2008, according to Paris Principles, and the former Committee of Experts was convened in 2009 and received some 1,466 applications before its work was suspended towards the end of 2009. Owing to the drawn out Government formation process following elections in March 2010, the process was not able to restart until a Government was formed at the end of December 2010. In an important development, on 29 March 2011 the head of the Parliament's Human Rights Committee, Dr. Salim Al-Jbouri, announced the formation of

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<sup>86</sup> In January UNAMI met one Iranian and two Syrian workers detained in Kalar who had been apprehended due to the lack of valid residency permits. They claimed their company had failed to renew their residency permits. Similarly, UNAMI interviewed two Iranian men held inside the detention centre in Sulaymaniyah in May who alleged being victims of extortion, as their employees had requested large sums of money as precondition to extend their residency permits.

<sup>87</sup> For example, MoLSA would liaise with MoI to highlight the names of workers in need of residency permit extensions; in certain cases it purchased return tickets when the company fails to comply with its contractual obligations; officials of the Ministry told HRO it would also provide interpretation services in court upon need.

<sup>88</sup> Instruction (2) 2007, published in the Kurdistan Official Gazette on 19/08/2007.

<sup>89</sup> As per the Instruction, it is mandatory for companies employing foreign labour to register with MoLSA. Official sources told HRO that up to the end of 2010 only an approximate 3000-4000 companies have complied with the Instruction which according to estimations - amounts to a mere 10% of the total number.

a Committee of Experts to nominate Commissioners to serve on the Iraqi Independent High Commission for Human Rights. The Committee, which was formally endorsed by the Council of Representatives, is composed of 15 representatives: 8 from Council of Representatives, 2 from High Judicial Council, 2 from Council of Ministers, 2 from Civil Society Organizations, and a non-voting representative from UNAMI. The Experts Committee decided to reopen the nomination period, which ran from 10 April to 25 April 2011, and a total of 3,052 applications (including 1,466 applications received from the previous process) were received. The Experts Committee worked throughout the year to produce a shortlist of 54 candidates for interview. These interviews are scheduled to take place in February 2012. UNAMI in partnership with UNDP is providing technical and logistical support to the process. As part of this support, UNAMI and UNDP conducted a five day workshop from 2 – 6 July in Beirut on selection procedures guidelines for the commissioner. The workshop was attended by all 17 members of the Experts Committee. UNAMI and UNDP facilitated a further training session in Istanbul in September during which members of the Experts Committee received guidance from three experts who are Commissioners from human rights commissions in Malaysia, the Palestinian Territory, and South Africa. The training focussed on the role of commissioners, the structure of the human rights commission, and the selection procedure for commissioners based on international best practice and standards. An independent Iraqi owned national human rights institution will be the corner stone of a system of human rights protection and promotion and will enhance rule of law and democracy in Iraq.

In addition, the MoHR finalised a draft National Action Plan on Human Rights (NAP) to implement the recommendations of the UN Human Rights Council's working group from the Universal Periodic Review (UPR) process done at Geneva in February 2010. The draft NAP was the subject of a national consultation conference held between 5-7 June 2011 at the Council of Representatives conducted under the auspices of the Prime Minister Al-Maliki, and was chaired by the Minister of Human Rights, Mr Muhammad Shi'a Al-Sudani. National and international stakeholders, including human rights experts participated in the conference and made recommendations on key thematic human rights issues to be incorporated into the NAP. UNAMI facilitated the national consultation and development of the NAP by providing technical and logistic coordination through a project implemented by UNOPs with funds contributed by the European Union and the Government of Finland through the Iraq Development Fund. The NAP was further developed by the MoHR to incorporate most of the recommendations made by the national consultation conference. The NAP was formally endorsed by the Cabinet of Ministers in December 2011. A committee has been established by the MoHR in which UNAMI and other key stakeholders participate, to draw up and oversee an implementation plan. The NAP is a landmark achievement in promoting the respect and protection of human rights in Iraq, signalling as it does the Government's public commitment to implement key legal, institutional and policy reform over the next 3 years as part of the UPR process.

## **12.1 Legislative and other developments in the Kurdistan Region**

The law for establishment of an Independent Board of Human Rights in Kurdistan region was passed in June 2010 (Law No4/2010). However no steps were taken to establish the Board by the end of 2011. UNAMI has raised the issue on a number of times with the Kurdistan Region authorities and assurances have been given that the matter is a priority.

On 11 April 2011 Kurdistan Parliament approved the Law number 2/2011 Supporting Fund for Youth Micro Projects. According to this law, youth aged from 16 to 35 will be eligible to receive advance payments up to a maximum of 40,000,000 IDs (USD\$34,000), to engage in economic activity. This is an attempt to curb unemployment in the region among youth and to create more opportunities for them.

On 6 April 2011 the Kurdistan Region Parliament approved the NGO Law of Kurdistan Region, number 1/2011. According to this law; the old system of requiring a licence from the Ministry of Interior in order to establish an NGO has been abolished. Under article 10 of the law, NGO's will be registered in a special



office linked to the Council of Ministers. NGO's in the region are generally satisfied with the new legislation.

On 2 May 2011 the Kurdistan Parliament approved the Law of the Security Council of Kurdistan Region. This council will report directly to the President's office in addition to normal duties and responsibilities such as collecting security information, anti-terror activities, security of airports and border entry points, food security, counterfeiting and forgery, espionage, security of offices of international organizations diplomatic delegations, drug trafficking, organized crime, and exchange of information with the Federal institutions, this new law gives *Asayish* the responsibility to follow up on financial corruption cases. On 26 April 2011 the Parliament passed the law of General Integrity Board.

As mentioned the Law for Combating Domestic Violence was passed by the Kurdistan Region Parliament on 21 June. This law was under discussion for a long time. It provides a broad definition of domestic violence and covers children as well as older people. It requires the establishment of special courts to deal with domestic violence. There is also provision for protection order under which the person violating the law can be prohibited from entering the house for a certain period of time. It criminalizes Female Genital Mutilation (FGM) as well as the promotion of it.

The KRG also committed to the implementation of a Kurdistan Region Action Plan on Human Rights aimed at addressing key gaps in the promotion and protection of human rights within the region based on the recommendations made to Iraq during the UPR process. There are plans to hold a consultation conference in Erbil acknowledging its formal endorsement by the KRG and to establish a committee overseeing its implementation in early 2012. The Regional Action Plan is a major achievement for the Kurdistan Region, evidencing the seriousness of intent that the KRG has in tackling human rights concerns in partnership with key stakeholders, including representatives of civil society.

## 13. Conclusions

The human rights situation in Iraq remains fragile. While the Government has indicated its willingness and commitment to enhancing the respect and protection of the rights of all Iraq's people, serious problems remain that threaten the gains made in the past few years. Not least of the problems facing Iraq is armed violence and conflict, which continues to take a heavy toll on civilians in terms of lives lost, injuries and destruction or damage of essential infrastructure. Conflict is also having a detrimental effect on the economy, which continues to remain largely stagnant, depriving many ordinary Iraqi's of the opportunity and capacity to ensure minimum standards of living for themselves and their families. UNAMI urges the Government to do all in its power to ensure that the victims of violence are protected and cared for, and that those responsible for acts of violence are held accountable through the proper application of the law.

UNAMI has serious concerns about the rule of law and respect for due process and fair trial standards. Iraqis have suffered much from abuses perpetrated by past regimes in disregard of basic human rights standards. Abuses occurring within Iraq's detention centres and prisons merely perpetuate injustice, putting at risk innocent people who may well find themselves victims of a system characterised by minimum or no protections, physical and psychological abuses, limited access to legal representation, and ineffective judicial proceedings. UNAMI believes that persons who commit crimes should be held accountable according to law, but innocent people should be protected. Respect for the rule of law, due process and fair trial standards are among the foundations of a democratic State; without these, a democratic State cannot prosper, and public faith in the Government and its institutions will be undermined. The causes of the problems facing Iraq's judicial and law enforcement systems are complex and diverse, not least of which is a culture of abuse stemming from years of dictatorship and conflict. Under-resourcing also leads to an environment where abuses can take place, including poor hygiene and low standards of detention facilities, lack of access to legal counsel, and lengthy pre trial detention. UNAMI urges the Government of Iraq to strengthen its efforts to address these problems. In particular,

UNAMI calls on the Government of Iraq to ensure that children and juveniles in contact with the law are protected and respected and that every effort is made to ensure that they are dealt with in a manner appropriate to their age and that where convicted of offences, every opportunity is provided for their rehabilitation and reintegration into society.

Women and children continue to be vulnerable to violence and abuse, not only from terrorism, but also from domestic violence. UNAMI urges the Government of Iraq to do more to ensure that law and policy reform is instituted aimed at protecting the survivors of such violence and that holding accountable those persons who perpetrate acts of violence against them are held accountable according to law.

UNAMI believes that the Government of Iraq needs to focus its efforts on ensuring the protection of minorities, and to foster an environment where all Iraq's people are respected and protected irrespective of social, religious, ethnic and other distinctions. This includes reform of the education curriculum to ensure children are taught the values of respect for diversity, and that policies and laws are reformed so as to foster tolerance and inclusiveness within Iraqi society.

Crucially, the Government of Iraq needs to cultivate an environment where the rights of freedom of assembly, freedom of information and freedom of expression are protected and respected, not only by its own institutions and organs, but by the people of Iraq. These rights are fundamental to a democratic State.

The Government of the Kurdistan Region continues to be proactive in promoting respect for human rights. But similarly, there are some deficiencies which the KRG needs to address. Key among these is the need to unify all its security agencies under one ministry and institutionalise their functioning. Furthermore, the KRG needs to do more to ensure that its security forces are properly trained to deal with civilian demonstrations and that policies and legislation are introduced to ensure the respect of the rights of freedom of expression, freedom of opinion and freedom of assembly. UNAMI urges the KRG to ensure that media professionals are able to conduct their work freely and fairly and are not subjected to harassment or threats for carrying out their responsibilities. The KRG authorities should prioritise institution building, for example by ensuring that the Independent Board of Human Rights is provided with adequate resources to operate effectively and independently, and the mainstreaming of human rights principles across government and its institutions.

END

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