

UN Assistance Mission for Iraq

بعثة الأمم المتحدة

(UNAMI)

لتقديم المساعدة للعراق

## Human Rights Report

1 November– 31 December 2005

### Summary

The persistent conflicts affecting the country and weaknesses in law enforcement continue to have a serious and adverse effect on the enjoyment of human rights. Ongoing attacks by armed groups, acts of terrorism, violent crimes, large-scale arbitrary arrests and evidence of mistreatment in detention centres together presented a pattern of major human-rights violations. The examination of places of detention run by the Ministry of Interior and apparently operated outside the law confirmed serious shortcomings in the functioning of law-enforcement agencies and other groups associated with them.

The rule of law continues to be challenged by the existence of militias and other groups who continue to act with impunity, confirming an urgent need for the State to assert control over its security forces and all armed groups in the country.

Significant military operations continued in the run-up to the December elections, resulting in increasing numbers of detainees without access to judicial review and ongoing reports of displacement of people in conflict areas.

### Overall situation of human rights

1. The ability of the Government of Iraq to fulfill its duty to protect the population continued to be undermined by the ongoing insurgency and terrorist acts, which occurred on a daily basis. A high number of civilian casualties, arising from both targeted and indiscriminate attacks, underscored severe challenges to the right to life. Amongst those targeted are politicians, members of Iraqi civil society, State officials and those working or associated with the MNF-I. In addition, significant numbers of Iraqi Security Forces and recruits have been killed or wounded as a result of the conflict.<sup>1</sup>

2. An increasing number of kidnappings have been reported in Basra, Baghdad, Mosul

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<sup>1</sup> The Medico-legal institute in Baghdad reported that 886 bodies (555 with gunshots as the cause of death) were brought to the institute in November 2005 and 787 in December 2005 (479 bodies with gunshots). Such figures correspond to Baghdad Governorate only and they are believed to under-represent the actual number of casualties. Furthermore, these figures do not include casualties in other governorates. Recent open-source figures put the number of killed in Iraq at 30,000 from the start of the war in April 2003.

and other parts of the country. The perpetrators appear to be, predominantly, members of armed militias linked to political factions or criminal gangs as well as criminals dressed in uniform, posing as security forces. At times, the distinction between the aforementioned categories of perpetrator appear blurred. There are no clear statistics regarding the number of kidnappings taking place in Iraq. While the abduction of foreign nationals has been widely publicized, the plight of Iraqi victims has attracted less attention despite involving a higher number of hostages. These included, in particular, the kidnapping and killing of Shi'a pilgrims on their way to Shi'a holy shrines and of Sunni clerics, whose bodies are usually found bearing signs of torture. .

3. Repeated bombings and other killings by armed groups targeting civilians, religious leaders and mosques with the clear intent to undermine community relations continued to be reported. Although an increase in such attacks has been noticed in the last few months, this trend appears to be confined to specific areas. All political and community leaders should continue to work towards countering such practices and improving community relations. By way of example, on 23 November 2005, the leader of the Sunni Bata tribe, Khadim Sarhid al-Hemaiyem, was killed in Baghdad along with his three sons and his son-in-law. On 24 November 2005, unknown gunmen killed Sheikh Ibrahim Al Kouthery, the Imam of the Al Kouthery Mosque. A day later, Sheikh Nader Salman, the Sunni Imam of Al Ashra Al Mubashara Mosque, was reportedly arrested by individuals wearing police uniforms and found dead near the mosque several hours later. Further reports have been collected on the apparent systematic intimidation of the Sunni community in Abul Khaseeb and Zubayr, which are located south-east of Basra city. In the Baghdad neighbourhoods of Abu Ghraib, Al Doura, Al Jami'a and Al Beya' at least 22 members of the Shi'a community were reportedly killed in December by unknown individuals allegedly with the objective of stirring inter-communal tensions. On 30 December, fourteen members a family belonging to the Shi'a community in Mahmudiyah were killed while they were traveling on a minibus near the town of Latifiyah. Such actions led to the relocation of some residents to other neighbourhoods. Community relations also remained strained in Kirkuk, where tensions between the Kurdish and Turkoman communities have been reported. The offices belonging to the Turkoman Front in Mosul were attacked by unidentified gunmen on 11 November, resulting in the killing of two passers-by, among them a female minor. Christians across Iraq reportedly cancelled or held low-key Christmas celebrations for fear of becoming victims of religious intolerance.

4. The Human Rights Office is seeking clarification from the Kurdish Regional Government regarding the case of the writer Kamal Sayid Qadir, a 48-year-old Iraqi Kurd with Austrian citizenship, who was arrested in October in Erbil. He has reportedly been sentenced to thirty years in prison, allegedly for "slandering" the Kurdish regional leadership.

5. Children remain gravely affected by the situation in current Iraq. According to some sources, women and children account for twenty percent of all civilian deaths. Although the exact number of children who have been killed as well as the extent of the trauma they have suffered as a result of the conflict are difficult to determine, the extent of the

suffering of children is unacceptable. Scores of children have been killed in indiscriminate bombings and by indirect fire. Some surveys suggest that a large number of children in Iraq have lost one or both parents as well as close family members to violence.<sup>2</sup> Of particular concern are reports of attacks involving children acting as combatants. On 1 November 2005, a boy said to be aged between ten and thirteen years allegedly carried out a suicide bombing targeting the police commander in the city of Kirkuk. Later that month, two boys aged twelve and thirteen years reportedly carried out attacks against MNF-I patrols in Fallujah and Hweija, respectively.

## **Elections**

6. Tensions in the pre-electoral period resulted in a number of killings and other violent incidents. Mr. Mizher Al Dulaimi, leader of the Iraqi Free Progressive Party, was killed by unknown gunmen in Ramadi on 13 December 2005. The Human Rights Office also received reports of assassinations and the intimidation of campaign workers in Basra, Baquba, Mosul and Baghdad. A number of allegations related to politically-motivated violence were made in Dohuk, Erbil and Sulaymaniyah Governorates on 6-7 December. The attacks targeted the Kurdistan Islamic Union (KIU) offices, and were allegedly perpetrated by individuals in security uniforms said to belong to the Kurdistan Democratic Party. At least four KIU members were killed and many more wounded, including a number of police officers. The Kurdish Regional Government (KRG) has established a commission of inquiry to investigate these allegations. In a letter to KRG President Massoud Barzani, on 22 December 2005, the Special Representative of the Secretary General welcomed the aforementioned inquiry and asked to remain apprised of progress in any criminal investigation opened into the case. On 25 December 2005 the bound and bullet-ridden body of an Iraqi student leader was found in Mosul. Mr. Qusay Salahaddin, president of the Students' Union of Mosul University, along with another student, were abducted from Qusay's home by unknown gunmen and subsequently found shot dead. The murder was perpetrated several days after Qusay had led a demonstration in Mosul against the election results. UNAMI finds encouragement in the efforts made by the Government of Iraq to create the conditions allowing thousands of detainees, including security internees, to exercise their political rights and vote in the elections of 15 December 2005.

## **Detention**

7. On 14 November 2005, an inspection carried out jointly by the MNF-I/Iraqi Security Forces (ISF) in the Al-Jaidiriya area in Baghdad brought to light the existence of about 170 detainees kept in a detention facility run by the Ministry of Interior. Many of those found in the detention centre were said to bear signs of torture and several others were reported to have died as a result of abuse inside the facility. On 15 November 2005, the Government announced the opening of an inquiry into the Al Jadiriya case which was

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<sup>2</sup> The Iraq Living Conditions Survey by the UNDP/Ministry of Planning showed that thirteen percent of Iraqis surveyed who were between the ages of fifteen and nineteen had lost their fathers (while in neighbouring Jordan only eight percent of the same age group had lost their fathers). See UNHCR, Iraq Country of Origin, October 2005. Available at: [http://cbbk.org/public/coo\\_report\\_iraq05.pdf](http://cbbk.org/public/coo_report_iraq05.pdf)

expected to report within one week. A judicial committee was also established to investigate the legality of the detention procedures followed in the case of those found in Al Jadiriya, and to ascertain whether the detainees had been abused. A third inquiry was launched by the Government to look into the overall issue of detention in the country and was expected to report by the end of December 2005. Following the inspection on 14 November 2005, other places of detention have been identified and examined in December 2005 by Iraqi Government officials with the support of the MNF-I. At least 625 detainees were found, on 8 December 2005, in another detention facility run by the Ministry of Interior in Baghdad. Many detainees were reportedly found in poor health, allegedly as a result of abuse. Several of the detainees bore signs of torture.

8. Allegations that detainees were and remain held outside the existing legal framework have been made consistently in various parts of the country. On 18 November 2005, the UN High Commissioner for Human Rights stated publicly that international participation in the aforementioned enquiries would assist the Iraqi authorities address the problem of unlawful detention in an impartial manner. Furthermore, the High Commissioner expressed concern at the lengthy internment of individuals for reasons of security without adequate judicial oversight. UNAMI has repeatedly raised its concerns with different parties, including with the highest levels of the Government of Iraq, regarding disturbing allegations of torture and other human-rights violations carried out in detention facilities by forces belonging to - or associated with - the Ministry of Interior. The Special Representative of the Secretary General met with Prime Minister Jaafari and President Talabani on 26 and 27 November 2005, respectively, to reiterate concerns regarding abuse in detention centres and to reiterate the benefits of international involvement in the an inquiries dealing with the problem of unlawful detention.

9. The deadlines for the publication of the results of the abovementioned inquiries have so far been extended. As there is understandable interest in the international community regarding detention practices in Iraq, UNAMI will continue to monitor developments concerning this matter. Although the Government of Iraq declined to call for an international inquiry, UNAMI is encouraged by the commitment expressed by the Government to move towards ensuring transparency as well as the rule of law. The identification of problems related to unofficial detention centres in all of Iraq must result in the bringing to justice those found to have committed crimes at all levels of command. These initiatives will demonstrate that Iraq is ready to close the impunity gap and to evolve from a culture of lawlessness and impunity towards one ensuring respect for legal institutions and the rule of law.

10. Mass detention operations continued to be carried out, particularly in the run up to the elections of 15 December 2005, by the MNF-I as well as the Iraqi Security Forces in Dyalla, Baghdad and the western reaches of Iraq. As of early January 2006, over 21,000 detainees were in MNF-I and Iraqi custody. According to credible reports received by UNAMI, operations run by the Iraqi Police and Special Forces linked to the Ministry of Interior continue to disregard standing instructions issued by the Ministry of Interior concerning the need to adhere to legal guarantees during detention operations. Scores of individuals are regularly detained in the middle of night and without judicial warrant.

There is currently no evidence that the Ministry of the Interior in particular has undertaken investigations or otherwise taken action in response to these violations of standing orders.

11. As expressed in the past, UNAMI is concerned that the mass-detention operations of the MNF-I and ISF continue to result in an ever increasing number of detainees without access to judicial review of their detention. The failure to provide for such judicial review is a violation of both national and international law. In addition, great numbers of persons deprived of their liberty inside inadequate facilities may lead to other types of violations, as demonstrated in the recent cases of unofficial places of detention operated by the Ministry of Interior. On 25 December, a US Military Spokesman stated that MNF-I will not transfer detainees to the custody of the ISF until such time as conditions of detention and treatment of detainees has significantly improved.

### **Military operations**

12. MNF-I operations in Anbar Governorate during the reporting period have raised a number of human-rights concerns, relating in particular to the death, injury and displacement of non-combatants as well as damage to civilian property and facilities. In addition, the Human Rights Office is in receipt of numerous allegations that medical facilities have been damaged and their operations otherwise disrupted by MNF-I raids, involving in some cases the detention of medical personnel.

13. Without prejudice to any determination of violation of International Humanitarian Law, claims have been made to the effect that Tel Afar Hospital has been occupied by MNF-I and ISF forces for six months, limiting patients' access to the facility and putting at risk the lives of staff and drivers observed by insurgent forces entering the hospital premises. According to non-governmental organization monitors, the ISF continues to maintain a presence in and around the hospital which exacerbates the problem of limited patient access to the facility. Reports have also been received alleging that access to Ramadi Teaching Hospital has been severely restricted for several months by MNF-I roadblocks placed in the vicinity. The teaching hospital was reportedly searched on 8 November 2005 by MNF-I troops claiming that they were looking for insurgents.

14. More generally, during the course of MNF-I military operations at Obeidi in November 2005, water and electricity supplies were badly disrupted and a large number of houses were destroyed or otherwise damaged. A number of non-combatants were reportedly killed, although precise figures concerning these losses are not available to the Human Rights Office. Similar claims were made during and in the wake of MNF-I operations that same month in Al-Qaim, Hadithah, Karabila and Heet, where it was further reported by local actors that up to seven thousand families had been displaced. At the conclusion of the military operations, some of those displaced returned to their homes although living conditions were reported to be inadequate, that is, services remained disrupted and security cordons around the towns severely restricted the movement of residents.

## **Rule of law**

15. The Supreme Iraqi Criminal Tribunal continues to try Saddam Hussein and seven co-accused. Following the killing on 20 October of Mr. Saadoun Sughaiyer Al-Janabi, one of the defence attorneys, another member of the defence team, Dr. Adel Mohamed Al-Zubaidi, was assassinated on 8 November and a third wounded in the same attack. Initially, other members of the defence counsel suspended their cooperation with the Tribunal. Subsequently, a protection package was offered and facilitated - in part - the return to court of most lawyers when proceedings resumed on 28 November. At that time, two of the accused were left without legal representation, and the Trial Chamber properly adjourned proceedings until replacement counsel agreeable to the accused could be found. The trial resumed for one day on 5 December and continued on 21 and 22 December in the presence of a number of foreign defence advisors. During these sessions, evidence was heard and a number of procedural as well as jurisdictional arguments were made by the defence. The trial has since been adjourned until late-January 2006.

## **Reconstruction Activities:**

16. The Human Rights Office continues to work to strengthen Iraqi human rights institutions and to build the capacity of Iraqi ministries as well as civil-society organizations in order to promote a culture of human rights, including respect for the rule of law.

17. The Human Rights Office delivered specialised training on the monitoring, documentation and reporting of human-rights violations to forty-one staff members of the Monitoring Section of the Ministry of Human Rights as well as two staff members from the Human Rights Department of the Ministry of Interior. The training was composed of two sessions, each of four days, and took place in Baghdad during the period 23-30 November 2005.

18. The Human Rights Office continues to support projects included in the human-rights programme developed in close coordination with the UN Office of the High Commissioner for Human Rights as well as the Iraqi Ministries of Human Rights and Justice. These efforts include support for the establishment of a National Centre for the Rehabilitation of Torture Victims in Basra and support for Iraqi rehabilitation centers in other parts of Iraq.

## **Police, Prisons and Security Forces**

19. The Human Rights Office is in the process of developing a professional-developmental programme for senior uniformed personnel in the Ministries of the Interior (Iraqi Police), Justice (Iraqi Prison Service) and Defence (Iraqi Security Forces) to cover topics such as fundamental legal principles (human rights, use of force and command responsibility), modern policing, soldiering and prison administration (community relations, transparency and the protection of fundamental freedoms) and

ethical challenges (abuse of power, corruption and internal oversight). This initiative, coordinated with the MNF-I, will constitute the first phase of a multi-tiered process, the second phase of which will see the Human Rights Office present the same themes to Iraqi officers more directly involved in the training of rank-and-file as well as commissioned personnel. The initial three seminars are expected to commence in late-February 2006 in Jordan.