

TABLE OF CONTENTS

1. INTRODUCTION	2
2. BACKGROUND: THE EMERGENCE OF ARMED GROUPS.....	6
2.1 War and the new political system	6
2.2 Lawlessness after the war	8
2.3 Occupation, violations and anti-US sentiment.....	9
2.4 Emergence of armed groups	12
2.5 Influence of Iraqi religious institutions on armed groups	15
2.6 Statements by non-Iraqi religious leaders.....	17
3. DIRECT ATTACKS ON CIVILIANS	21
3.1 Targeted individuals.....	21
3.2 Attacks on religious and ethnic groups	22
4. INDISCRIMINATE ATTACKS RESULTING IN CIVILIAN DEATHS	27
5. TARGETING THE UN AND HUMANITARIAN ORGANIZATIONS	30
6. HOSTAGE-TAKING, ABDUCTIONS, TORTURE AND KILLINGS	34
7. ATTACKS ON WOMEN AND GIRLS.....	39
8. KILLING OF CAPTURED POLICE AND MILITARY PERSONNEL.....	43
9. THREATS AND VIOLENCE BEFORE THE JANUARY 2005 ELECTIONS	45
10. APPLICABLE INTERNATIONAL LAW	47
10.1 International humanitarian law	48
10.2 International criminal law and the responsibility of armed groups	51
11. RECOMMENDATIONS	54

Iraq

In cold blood: abuses by armed groups

1. INTRODUCTION

Thousands of Iraqi civilians have been killed and thousands more injured in attacks by armed groups in the past two years. Some died or were wounded in attacks aimed primarily at United States (US) or other troops comprising the US-led military alliance that toppled Saddam Hussain's regime but others were victims of direct attacks intended to cause the greatest possible civilian loss of life. Many of the killings of civilians were carried out in a perfidious way, with suicide bombers or others disguising themselves as civilians, or were marked by appalling brutality – as in the cases of hostages whose deaths, by being beheaded or other means, were filmed by the perpetrators and then disseminated to a wide public audience.

Many of these killings by armed groups, in Amnesty international's view, constitute war crimes or crimes against humanity. As such, there is an obligation on both the Iraqi government and the international community at large to ensure that the perpetrators of these crimes are identified and brought to justice. There can be no excuse for such abuses; international humanitarian law clearly distinguishes certain acts as crimes irrespective of the causes of a conflict or the grounds on which the contending parties justify their involvement.

Without doubt, Iraqi civilians have paid a high price for getting rid of Saddam Hussain's regime, and continue to do so. To an extent, they have been caught up in the crossfire between the troops of the US-led Multinational Force (MNF) and Iraqi armed groups opposed to the US-led occupation and the new Iraqi administrations it has fostered. Both sides have committed serious abuses of human rights resulting in the deaths or injury of Iraqi civilians, and this pattern looks set to continue.

Amnesty International has reported elsewhere on its concerns over the past two years relating to abuses by the MNF¹. This report focuses on abuses by armed

¹ See, for example, *Iraq: Memorandum on concerns relating to law and order* (AI Index: MDE 14/159/2003); *Iraq: Memorandum on concerns relating to legislation introduced by the Coalition Provisional Authority* (AI Index: MDE 14/176/2003); *Iraq: Killings of civilians in Basra and al-Amara* (AI Index: MDE 14/007/2004); *Iraq: Human rights protection and promotion vital in the transitional period* (AI Index: MDE 14/030/2004); *Iraq: Urgent inquiry needed into civilian killings by US troops* (AI Index: MDE 14/047/2004), public statement, 17 September 2004. For other reports and

groups in Iraq covering the period from April 2003 to May 2005. Armed groups have been responsible for thousands of deaths and injuries. In April 2005, former Iraqi Human Rights Minister Bakhtiar Amin estimated that some 6,000 Iraqi civilians had died and at least 16,000 had been wounded in direct or indiscriminate attacks by armed groups since the US-led military intervention in March 2003.² As well, armed groups in Iraq have been responsible for other grave abuses, including abductions and hostage-taking of Iraqi and foreign nationals, torture and ill-treatment, killing of hostages and of captured Iraqi army and police personnel.

Some attacks have been carried out indiscriminately by suicide bombers; others have been carefully targeted assassinations of police personnel or individuals connected to the new Iraqi administration. Many civilians have been killed, Iraqi and foreigners alike, because they were seen by armed groups to be providing support services to the MNF – for example, as translators, drivers or other civilian support workers – or the new Iraqi administration. In still other cases, those targeted have been the United Nations (UN), the International Committee of the Red Cross (ICRC) and other international humanitarian aid and or development agencies, obliging them for security reasons to reduce or withdraw their operations at a time when Iraq is desperately in need of their assistance. Journalists have been attacked and killed, as have foreign nationals engaged in reconstruction projects. Many of those captured and then killed by armed groups, Iraqi and foreigners alike, have been detained in inhumane conditions and tortured and ill-treated before being killed and having their bodies dumped.

Many attacks by armed groups have been directed principally at the MNF, the Iraqi police and the Iraqi National Guard. However, these attacks have often been carried out with no effort at all made by the perpetrators to distinguish between combatants and civilians, or between military targets and civilian objects.

International humanitarian law strictly prohibits the intentional killing of people who are not taking an active part in the hostilities. It also prohibits torture or any form of inhuman treatment. The taking of hostages is forbidden in all circumstances. Violations of these requirements and other rules of international humanitarian law constitute serious crimes and those responsible must be held to account.

Relatively little is known about the precise make up of and relationships between the armed groups currently committing abuses in Iraq. For the most part, they

press releases, visit Amnesty International's website: <http://www.amnesty.org> (go to library and then Iraq).

² He cited figures compiled from records kept by the health, human rights, interior and other ministries, <http://dailynews.muji.com/II/English/1356892.shtml>.

operate in the so-called “Sunni triangle” in central (including Baghdad), western and north-western Iraq, the area from which Saddam Hussain formerly derived much of his support, but armed groups have also carried out attacks in the Kurdish and other areas of northern Iraq, and in Basra and other parts of the south. They appear to be composed largely of Iraqis, including particularly former soldiers and Ba’athists who previously supported Saddam Hussain but also others who seem motivated to fight because they oppose the continued presence of foreign forces. As well, they include Muslim militants from other countries in the Middle East and beyond who were drawn to Iraq seemingly by their opposition to the US and its policies generally as well as to its military presence in Iraq, with the Jordanian-born militant Abu Mus’ab al-Zarqawi the most notorious of these.

Many members of armed groups have been killed during the course of attacks or in combat with US-led and Iraqi forces. Others have been captured, with some being shown on *al-‘Iraqiya*, Iraq’s national television network, which has run programmes in recent months featuring “confessions” by alleged “terrorists”. In some cases, these prisoners have shown signs of beatings, raising concern about their treatment in custody. Eighteen people have been sentenced to death since the beginning of 2005.³

Amnesty International neither supported nor opposed the war in Iraq, and takes no position on the legitimacy of armed resistance against foreign or Iraqi troops. Both the UN and ICRC have determined that the occupation of Iraq formally ended after the handover of power on 28 June 2004.⁴ As in other situations of international or internal armed conflict, Amnesty International’s focus has been to monitor and expose breaches of international human rights and humanitarian law by all those involved in the hostilities. It has called for an end to such abuses, for investigations into abuses that have occurred, for perpetrators to be prosecuted, for compensation for victims and survivors, and for steps to be taken to prevent recurrence of the abuses.

The term “armed groups” in this report refers to groups that have said they are fighting against the MNF and the Iraqi security forces, and have targeted civilians for killing.⁵ The report does not use the term “terrorism”. There is no internationally

³ Amnesty international opposes capital punishment in all circumstances. In August 2004, Amnesty International publicly expressed concern in response to the Iraqi interim government’s decision to re-instate the death penalty. See *Iraq: re-imposition of the death penalty is a step backwards* (AI Index: MDE 14/043/2004), news service, 9 August 2004.

⁴ See Sections 2 and 10 of this report.

⁵ Amnesty International has no evidence, for example, that the Mahdi Army, which comprises followers of Muqtada al-Sadr, killed or targeted civilians when fighting against the US-led Multinational Force before August 2004, and so the activities of this group are not covered in this report.

agreed definition of what constitutes “terrorism” and in practice the term is used to describe different forms of conduct.

The sources for this report included published material such as newspaper and news agency articles and reports, as well as interviews conducted by Amnesty International with Iraqis and non-Iraqis in Jordan in October and December 2004. The cases cited in the report were selected to highlight patterns of abuses of international humanitarian and human rights law.

Amnesty International condemns unreservedly direct attacks on civilians as well as indiscriminate attacks, hostage-taking, torture and ill-treatment, whatever the cause of the perpetrators, and whatever justification they give for their actions. Under international law, and in Amnesty International’s view, nothing can ever justify these actions; they are always unlawful and wrong, and should be ended.

2. BACKGROUND: THE EMERGENCE OF ARMED GROUPS

Members of armed groups opposed to the presence of the MNF in Iraq and the Iraqi government appear to be predominantly from the Sunni Muslim Arab community. Sunni Arabs comprise around 18% of the population and mainly live in central and western Iraq.⁶ Before the US-led military intervention, this community dominated successive Iraqi governments and was generally privileged -- key positions in the army, security and intelligence agencies were held by Sunni Arabs. Most Iraqis are Shi'a Muslims who, together with the Kurds, bore the brunt of more than three decades of repression under Ba'ath party rule, especially after Saddam Hussain became President in 1979. Nevertheless, under Saddam Hussain the authorities had no qualms in arresting, torturing or executing Sunni Arabs perceived to be opponents of the regime, or making them "disappear".

Many factors may explain the high proportion of Sunni Arabs involved in armed groups. These include: opposition to foreign occupation; anti-US feelings; opposition to policies introduced by the Coalition Provisional Authority (CPA) in mid- 2003; the US forces' heavy-handed policing in Sunni areas; and the fear of some Sunnis that they will lose political and economic privileges and be permanently marginalized in a democratic Iraq dominated by the Shi'a Muslim majority. However, by contrast, many among the Iraqi Sunni Arab community have spoken against violence and abuses by armed groups and have themselves been targeted for killing or kidnapping.

2.1 War and the new political system

In early April 2003, the US-led military intervention in Iraq, which had started just days earlier on 18 March, ended the 25-year rule of Saddam Hussain and the even longer rule of the Ba'ath party. Following the fall of Baghdad on 9 April, Iraq was

⁶ The Iraqi population is diverse in ethnic, religious and linguistic terms. Ethnically, the population is 75-80% Arab, 15-20% Kurdish and 5% of Turkomen, Assyrian and Armenian origin. The majority of the population are Muslim (60-65% Shi'a and 32-37% Sunni) and the remaining 3% are Christian, Sabean and Yazidi. Of the three largest ethnic and religious groups, Arab Shi'as comprise almost 60%, Sunni Arabs 18% and Kurds (mostly Sunni with a significant number of Faily Shi'as or Shi'a Kurds) about 20%. See UN High Commissioner for Refugees (UNHCR): "UNHCR preliminary repatriation and reintegration plan for Iraq", 30 April 2003.

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/JMAN-5ZBBEF?OpenDocument>

occupied by the US-led coalition. US forces controlled central and northern Iraq, with the exception of Kurdistan which has kept its autonomous status since 1991. United Kingdom (UK) forces controlled the south.⁷

On 1 May 2003, US President George W. Bush declared the end of major combat operations. He appointed Paul Bremer as US Administrator for Iraq and Head of the CPA. In July 2003 the CPA appointed a 25-member Iraqi Governing Council (IGC) from the various religious and ethnic groups. The IGC had some executive powers, but Paul Bremer could overrule or veto its decisions. An interim government, comprising 25 members, was formed by the IGC in September 2003.

An interim constitution known as the Transitional Administrative Law (TAL) was issued on 8 March 2004 by the IGC. Among its main provisions were that the three Kurdish provinces in the north would remain autonomous, freedom of speech and religious expression would be guaranteed, elections to a National Assembly mandated to draft a permanent constitution would be held by the end of January 2005, and at least a quarter of the members of the National Assembly should be women.

From May 2003 until June 2004 the USA and UK, as well as other countries with military forces in Iraq, were occupying powers. On 8 June 2004 the UN Security Council adopted Resolution 1546, which declared that Iraq's occupation would end on 30 June 2004. It also stated that the MNF would remain in Iraq until the end of 2005 with the authority to "take all necessary measures to contribute to the maintenance of security and stability in Iraq". The resolution called for National Assembly elections by 31 January 2005 as stipulated by the TAL.

The Interim Government of Iraq (IGI), which had been announced on 1 June 2004 following the dissolution of the IGC on the same day, replaced the CPA two days ahead of schedule on 28 June 2004, thus formally ending the occupation of Iraq. Iyad 'Allawi, a secular Shi'a Muslim, was appointed Prime Minister and Shaikh Ghazi al-Yawar, a Sunni Muslim, was appointed Interim President, a largely ceremonial position.

On 30 January 2005, elections for the Transitional National Assembly (parliament) were held. A high turnout at the polls was seen in the south and in Iraqi Kurdistan. However, the vast majority of Sunni Arabs boycotted the elections. Many appear to have done so because of fear of reprisals from armed groups or in response to calls for a boycott by Sunni religious and political figures who argued that elections should not be held while the MNF remained in the country. A Shi'a alliance supported by Grand Ayatollah 'Ali Al-Sistani, the main spiritual leader of Shi'a Muslims in Iraq,

⁷ Other countries with troops in Iraq have included Bulgaria, Denmark, Italy, Japan, the Netherlands, Poland and Ukraine.

received the majority of votes and won 140 of the 275 seats in the assembly. A Kurdish alliance won 75 seats, and a list led by outgoing Prime Minister Iyad 'Allawi won 40 seats.

After weeks of deadlock and political wrangling, a new government was sworn in on 3 May 2005 following an agreement between the Shi'a and Kurdish alliances. The government, which also includes a few Sunni Arabs, is led by Ibrahim al-Ja'fari, from the Shi'a alliance and leader of *al-Da'wa* (the Call) party, one of the main Shi'a political groups. Jalal Talabani, leader of the Patriotic Union of Kurdistan (PUK), was selected as President.

The elected Transitional National Assembly is entrusted with drafting a permanent constitution by 15 August 2005, which will be put to a referendum by 15 October 2005. Elections for a new government should be held by 15 December and a new government should be in place by 31 December 2005.⁸

2.2 Lawlessness after the war

The collapse of the Iraqi government in early April 2003 created a political and institutional vacuum. Hundreds if not thousands of looters, including convicted criminals released in an October 2002 general amnesty⁹ and others freed during the chaos of the war and its immediate aftermath, ransacked government buildings and public institutions. There was widespread resentment among Iraqis about the failure of the US-led forces to prevent the looting. In many cases US soldiers simply stood by and watched the looting and destruction of vital buildings, including ministries.

The CPA dissolved the Iraqi army and all security and intelligence agencies on 23 May 2003.¹⁰ The dissolution of these institutions, specifically the army, left a security vacuum that facilitated a prolonged period of lawlessness and insecurity. Most Iraqis believe that this move was a serious mistake. Hundreds of thousands of people lost their jobs and many former members of the army and other security agencies are said to have joined armed groups opposed to the presence of the MNF.

⁸ A provision in the Transitional Administrative Law allows for up to six months' extension if the Constitution has not been prepared in time. Members of the new government and the elected Transitional National Assembly have stated that they may need the six-month extension.

⁹ On 20 October 2002 then President Saddam Hussain pardoned thousands of prisoners. The majority had been convicted of criminal activities and only a few political prisoners were released.

¹⁰ CPA Order Number 2, 23 May 2003.

Two years later the security situation remains precarious. Most members of the new Iraqi armed forces, as well as the police and the Iraqi National Guard,¹¹ lack sufficient experience and training to deal with the daily violence and attacks by armed groups. They are also too few in number and said to be poorly equipped. Most of the personnel in these forces are new recruits, mainly Shi'a Muslims from the south.

2.3 Occupation, violations and anti-US sentiment

Iraqis have generally welcomed the ousting of Saddam Hussain but opposition to the presence of the MNF is widespread reflecting a patriotic response to foreign dominance. Iraqis deeply resented the collapse of their national institutions and harm to their cultural heritage, including the looting and burning of universities, colleges and museums that the occupying powers did not prevent or stop. Iraqis also resented the killing of thousands of civilians and the destruction by the MNF and the widespread abuses carried out, particularly by US forces.

US forces have committed gross violations of international human rights and humanitarian law. They have not taken necessary precautions to minimize risk to civilians. They have used cluster weapons in bombing residential areas, which have resulted in the deaths of many civilians. They have used excessive force in responding to demonstrations, tortured and ill-treated detainees and made them "disappear". They have made arbitrary arrests and held people in prolonged incommunicado detention.¹² These violations have incensed the Iraqi population, especially in the predominantly Sunni areas in central and western Iraq, and are believed to have fuelled the armed insurgency.

For example, Mudher al-Kharbit is said to be a key figure in an armed group. On 11 April 2003 bombs dropped by US warplanes killed his brother, Malik al-Kharbit, a tribal leader, and 21 members of his family, including a dozen children.

¹¹ Both the police, who are under the control of the Ministry of the Interior, and the Iraqi National Guard are heavily involved in internal security. The Guard used to be known as the Iraqi Civil Defence Corps until the interim government of Prime Minister Iyad 'Allawi renamed it in mid-2004 as the Iraqi National Guard. The Guard was originally under the Ministry of the Interior but later was placed under the control of the Ministry of Defence following an order issued by the CPA. For more information on the new Iraqi security forces, see Barak A. Salmoni, "Iraq's Unready Security Forces: An Interim Assessment", *Middle East Review of International Affairs*, Vol. 8, No.3, September 2004, <http://merica.idc.ac.il/journal/2004/issue3/jv8n3a2.html>

¹² UK forces in southern Iraq too have been responsible for human rights violations including torture, unlawful killings and excessive use of force. See for example Amnesty International's report *Iraq: Killing of Civilians in Basra and al-'Amara*, AI Index 14/007/2004, issued on 11 May 2004.

Members of the Kharbit clan are believed to be prominent in al-Dulaimi, one of the biggest tribes in Iraq whose strongholds are in al-Anbar governorate. The warplanes apparently dropped the bombs on a large villa some 11 miles outside the city of al-Ramadi, al-Anbar governorate, intending to kill one of Saddam Hussein's half brothers.¹³

US forces have used excessive force, resulting in civilian casualties. On 15 April 2003, at least 10 civilians were killed and scores injured in Mosul when US troops fired into a crowd of people who were demonstrating against the newly installed local governor who was making a speech. On 23 April 2003, US troops arrived in Falluja and occupied a school. Five days later, at least 200 people demonstrated against the US forces' use of the school as their barracks. Seventeen people were killed and dozens injured when US forces shot at the crowd. According to witnesses, the demonstrators were unarmed. US officials said their troops came under fire and therefore fired back.¹⁴ Shaikh 'Abdallah al-Janabi, a Sunni cleric in Falluja,¹⁵ stated in September 2004: "The problems started after the Americans entered the city at the end of April 2003. Provocations, humiliations and arrests. All of us remember the incident at the school, which led to several civilian deaths..."¹⁶

The torture and ill-treatment of detainees by US forces were highlighted in April 2004 when photographs of Iraqi prisoners being abused were published around the world. The pictures showed groups of naked Iraqi detainees being forced to adopt humiliating and sexually explicit positions. Electric wires were attached to the body of one detainee. Other prisoners were seen being threatened by dogs. Further evidence emerged indicating that Iraqi prisoners had been beaten severely, made to masturbate in front of female US soldiers, and forced to walk on their hands and knees and bark like dogs. A number of detainees died in US custody in Iraq, allegedly as a result of torture.¹⁷

¹³ Rod Nordland, Tom Masland and Christopher Dickey, "Unmasking the Insurgents", *Newsweek*, 7 February 2005. <http://www.msnbc.msn.com/id/6885867/site/newsweek/print/1/displaymode/1098/>

¹⁴ See Amnesty International's news service "*Iraq: death of civilian demonstrators must be investigated*," AI Index: MDE 14/103/2003, issued on 30 April 2003; *BBC News*, 29 April 2003, http://news.bbc.co.uk/1/hi/world/middle_east/2984663.stm

¹⁵ According to an *AFP* report the same day, on 10 May 2005 the Iraqi government announced that it was offering 50,000 US dollars for information leading to the capture of Shaikh al-Janabi. He was allegedly wanted for "providing financial, and manpower support to terrorist groups who come from outside the country."

¹⁶ "We Pray the Insurgents Will Achieve Victory", *Newsweek*, 10 September 2004, <http://www.msnbc.msn.com/id/5634250/site/newsweek>

¹⁷ See *USA: Guantanamo and beyond – the continuing pursuit of unchecked executive power* (AI Index: AMR 51/063/2005), May 2005.

Several low-ranking US soldiers have been charged or court-martialled for abusing Iraqi prisoners since the publication in 2004 of photographs showing torture and ill-treatment at Abu Ghraib prison, but no senior officers or US officials who authorized practices amounting to torture or ill-treatment have been prosecuted.¹⁸

Many Iraqis have complained about US forces' heavy-handedness in dealing with people they perceive as suspects. US soldiers have often conducted violent house searches and damaged or destroyed property. Iraqis have told Amnesty International that soldiers smashed their way into cars and cupboards even when the owners offered keys and begged them to use them.¹⁹ In some cases, women were reportedly forced to evacuate houses during searches wearing their nightdress only, a particularly humiliating experience for women living in a conservative society.

One woman who had opposed Saddam Hussain's policies was reported to have told a foreign journalist: "The biggest mistake of the occupation forces was to despise our traditions and our culture. They are not satisfied with having bombed our infrastructure, they tried to destroy our social system and our dignity. And this we cannot allow... We prefer to live under the terror of one of our own than under the humiliation of a foreign occupation."²⁰

Thousands of people have been held without charge on suspicion of activities against the MNF; their legal status remains unclarified. Many have been held in harsh conditions, including in unacknowledged centres, for months and have been denied access to lawyers and families for long periods.

There have also been numerous reports of confiscation of property, including large sums of money and jewellery, by US forces when making arrests. The property is reportedly seldom returned upon release of the detainee.

The behaviour and policies of the occupying forces appear to have encouraged many people to join armed groups, in addition to mistrust over the US government's intentions with regard to Iraq's oil reserves.

¹⁸ See Amnesty International's public statement issued on 28 April 2005 and entitled "*USA/Iraq: Abuses without accountability a year after Abu Ghraib*", AI Index: AMR 51/064/2005.

¹⁹ Interviews by Amnesty International delegates in Baghdad and Falluja, June, July and August 2003.

²⁰ Alix de la Grange, "The liberation of Baghdad is not far away", Uruknet.info, <http://www.uruknet.info/?p=3790>

2.4 Emergence of armed groups

Since mid-2003 a myriad of armed political groups opposed to the occupation of Iraq, and later to the continued presence of the MNF and the interim Iraqi government, have emerged in the country. These groups, which encompass a variety of ideologies, have targeted the MNF and anyone associated with them, including members of the Iraqi police force and the Iraqi National Guard, government officials, and civilians working for or in any way associated with the MNF. Some groups have, in addition, targeted members of the Shi'a and Christian communities.

The armed groups are mainly active in the predominantly Sunni areas of central, western and north-western Iraq known as the "Sunni Triangle". Most members are Iraqis, although there are non-Iraqis as well. In effect, for many Arabs and Muslims around the world, the occupation of Iraq has provided an opportunity to volunteer to go to Iraq to fight against the "infidels". Much as the US and its allies declared a global "war on terror", so Islamist groups such as *al-Qa'ida* declared a global war on the US and its allies. These groups see Iraq as a fertile ground for *Jihad* (holy war) and a key opportunity to settle scores with the US. Hundreds of Islamists from different countries are said to have gone to Iraq to fight against US forces.

The armed groups do not seem to be a united movement directed by a single leadership with one ideology. Most members of armed groups in Iraq reportedly do not know the identity of their leaders or the sources of their financing. They do, however, appear to share a common goal -- the departure of the MNF from Iraq and the downfall of the interim government.²¹ This goal is unlikely to change under Ibrahim al-Ja'fari's government.

The armed groups use weapons from the former army and security services. Following the fall of Baghdad on 9 April 2003 almost all army barracks, police stations and other security buildings were looted. Large quantities of weapons were stolen, including mortars, rocket-propelled grenades, hand grenades, assault rifles and light weapons, as well as explosives. Many of those involved in the insurgency or in armed groups are believed to be former army officers, Ba'athists and members of the various security agencies of the previous regime.

In recent months the Iraqi authorities and US military officials have frequently stated that they have arrested people they say are involved in the insurgency who were former security officers. For example, in early February 2005 the Iraqi authorities announced the arrest of a former army general, Khalil Ahmad 'Ali al-Luways (also

²¹ Samir Haddad and Mazin Ghazi, "An inventory of Iraqi resistance groups", *Al Zawra* (Baghdad), 19 September 2004, <http://www.fas.org/irp/news/2004/09/az091904.html>.

known as Abu Wedhah), in al-Huwaija, north of Baghdad, and said that he was involved in “a lot of terrorist operations against innocent [people]...”²² A spokesperson for the US army’s 42nd Infantry Division, in charge of four provinces north of Baghdad, acknowledged the prominence of former Ba’ath members in the insurgency. He said: “Here in our region the vast majority of the insurgents are former regime elements.”²³

Other groups are made up of radical Sunni Islamists or nationalists. There are at least two Islamist armed groups reportedly influenced by or linked to *al-Qa’ida* which have been responsible for gross human rights abuses. The first is *Tandhim Qa’idat al-Jihad fi Bilad al-Rafidayn* (*al-Qa’ida* of Jihad Organization in the Land of Two Rivers), which was reportedly set up by Abu Mus’ab al-Zarqawi, a Jordanian Islamist who was sentenced to death *in absentia* in Jordan on 6 April 2004 in connection with the murder of a US diplomat.²⁴ The date of Abu Mus’ab al-Zarqawi’s arrival in Iraq is not known. This group was initially called *al-Tawhid wal-Jihad* (Unity and Holy War) but in October 2004 Abu Mus’ab al-Zarqawi reportedly issued a statement through the internet stating that he was changing the name to *Tandhim Qa’idat al-Jihad fi Bilad al-Rafidayn*.²⁵ In November 2004 Abu Mus’ab al-Zarqawi and his supporters were among the targets of US military attacks on Falluja. The Iraqi interim government and the US military argued that they wanted to retake Falluja because it was being controlled by insurgents, including foreigners. It turned out that of the 1,000 men reportedly arrested during the assault, only 15 were confirmed as foreign, according to General George W. Casey, Jr., the top US ground commander in Iraq.²⁶ US military officials stated that many of the fighters had escaped Falluja to other predominantly Sunni Arab cities, including Mosul, before the assault.

The second group is *Ansar al-Sunna* (Protectors of the Sunna Faith), which is an outgrowth of *Ansar al-Islam* (Protectors of Islam), an Islamist group reportedly linked to *al-Qa’ida*. It was established in Iraqi Kurdistan in September 2001 after the unification of a number of small Islamist groups, including *Jund al-Islam* (Soldiers of

²² *Al-Sabah* newspaper (Baghdad), 14 February 2005. <http://www.alsabah.com/modules.php?name=News&file=article&sid=3233>.

²³ *AFP*, 3 March 2005.

²⁴ Laurence Foley was shot dead outside his home in Amman on 28 October 2002. Seven other people, including a Libyan national who reportedly shot Laurence Foley, were sentenced to death by the court. Other defendants received various prison terms in connection with the murder.

²⁵ Dan Murphy, “In Iraq, a clear-cut bin Laden-Zarqawi alliance”, *Christian Science Monitor*, 30 December 2004, <http://csmonitor.com/2004/1230/p01s03-woiq.html>.

²⁶ Tony Karon, “After Fallujah”, *Time* magazine, 16 November 2004. <http://www.time.com/time/magazine/printout/0,8816,783584,00.html>

Islam) which had taken root in the mountains along the Iranian border.²⁷ On 29 March 2003 US forces, together with PUK forces, attacked the town of Khurmala, near the Iranian border, where members of *Ansar al-Islam* were based, killing or scattering hundreds of fighters. Many of the fighters reportedly escaped to Iran, but later came back to northern Iraq and are based in Mosul. On 20 September 2003 *Ansar al-Sunna* officially declared its existence in an internet statement. The group is said to include Kurds, foreign *al-Qa'ida* supporters and Iraqi Sunni Arabs. Between 27 February 2004 and 17 March 2004 alone, *Ansar al-Sunna* claimed responsibility for 15 attacks in or around Mosul, most involving assassinations of Iraqi "collaborators".²⁸

Several other groups have claimed responsibility for specific attacks as reported in the media.²⁹ Among them is *al-Muqawama al-'Iraqiya al-Wataniya al-Islamiya – Fayaliq Thawrat 1920* (the Iraqi National Islamic Resistance – the 1920 Revolution Brigades). This group reportedly operates in West Baghdad and in al-Anbar, Diyala and Ninawa governorates. It has distributed statements claiming responsibility for specific attacks on US targets outside mosques after Friday prayers. For example, in a statement on 19 August 2004 the group said that between 27 July and 7 August 2004 it had conducted an average of 10 operations a day which resulted in deaths of US soldiers and the destruction of military vehicles.³⁰

Other groups include *al-Jabha al-Wataniya litahri al-'Iraq* (the National Front for the Liberation of Iraq), which reportedly includes small groups of nationalists and Islamists and its activities are spread around northern Iraq, Falluja, Samarra and Basra in the south; *al-Jaysh al-Islami fi al-'Iraq* (the Islamic Army in Iraq); *Jaysh Mohammad* (the Army of Mohammad); *al-Jabha al-Islamiya al-'Iraqiya al-Muqawima* (the Iraqi Resistance Islamic Front); *Jaysh Tahrir al-'Iraq* (the Iraqi Liberation Army); and *al-Sahwa wal Jihad* (the Awakening and Holy War).

²⁷ Michael Rubin, "Ansar al-Sunna: Iraq's New Terrorist Threat," *Middle East Intelligence Bulletin*, Vol.6 No.5, May 2004. http://www.meib.org/articles/0405_iraq1.htm

²⁸ Michael Rubin, "Ansar al-Sunna: Iraq's New Terrorist Threat," *Middle East Intelligence Bulletin*, Vol.6 No.5, May 2004. http://www.meib.org/articles/0405_iraq1.htm

²⁹ These include Arabic newspapers published in London such as *al-Hayat*, *al-Sharq al-Awsat* as well as international news agencies including *Reuters* and *AFP*.

³⁰ Samir Haddad and Mazin Ghazi, "An Inventory of Iraqi Resistance Groups", *Al Zawra* (Baghdad), 19 September 2004, <http://www.fas.org/irp/news/2004/09/az091904.html>.

2.5 Influence of Iraqi religious institutions on armed groups

Armed groups fighting against the MNF and Iraqi government forces in Iraq do not have recognized political wings or official spokespersons inside or outside the country. However, some Sunni religious entities and personalities appear to exercise influence over some of the groups. Such entities and personalities generally consider that Iraq is still under occupation by the MNF and that fighting against these forces and targeting them for killing is legitimate. Some of them also consider targeting “collaborators”, Iraqis and non-Iraqis, as legitimate.

The most prominent of these entities is *Hay'at 'Ulama al-Muslimeen* (the Association of Muslim Scholars - AMS), which was established on 14 April 2003 and is currently headed by Shaikh Harith al-Dhari. It groups Iraq's prominent Sunni scholars and is the highest Sunni religious authority in the country. Its headquarters are in Baghdad and it has branches in many Iraqi cities and towns. The AMS looks after Sunni mosques and undertakes social activities such as helping poor Sunni families as well as relatives of those detained or killed by the MNF since March 2003.

The AMS considers the military activities of some of the groups as legitimate resistance against occupation. Its representative abroad, Dr Muhammad 'Ayash al-Kubaisi, stated that “the widespread resistance operations in Iraq prove the issue can no longer be consigned to ‘restive’ city or ‘rebellious region’ – it is obviously a popular uprising by people refusing military occupation of their homeland... this gives us confidence that the blood of our brothers in Falluja has not been shed in vain. Rather, it is the price paid for a noble aim: the liberation of Iraq.”³¹

The AMS position is ambiguous when it comes to the targeting of civilians, indiscriminate attacks and other abuses highlighted in this report which are prohibited under international humanitarian law. Prominent AMS members have talked in media interviews about the “resistance”, but have rarely made the position of the AMS clear on issues relating to international humanitarian law, especially the principle of distinction between civilians and combatants. Some individuals have made statements which appear to approximate the principle of distinction, but these have lacked detailed elaboration.

The AMS calls for the withdrawal of the MNF from Iraq. It urged Sunni Arabs in Iraq to boycott the 30 January 2005 elections and declared that it would not recognize the new government. A prominent AMS member, Omar Ragheb, said: “We

³¹ Dr Muhammad Ayash al-Kubaisi, “Fallujans pay the price of liberation” (article written for Al-Jazeera.net and translated from Arabic, 18 November 2004). <http://english.aljazeera.net/NR/exeres/17B57930-F852-4895-938C-DBF2D66F8D75.htm>

do not recognize this government as it is illegitimate because of the fact that it does not represent the whole Iraqi people.”³²

Before the election results were officially announced the AMS suggested that it could help end the insurgency if it had a fixed date for the withdrawal of US troops. Omar Ragheb declared: “Then the country’s elders will tell the resistance: ‘no need to spill more blood’.”³³ On 2 February 2005 the AMS issued a statement saying: “These elections lack legitimacy because a large segment of different sects, parties and currents [groups] with their influence in Iraq boycotted [them].... This means the coming national assembly and government that will emerge will not possess the legitimacy to enable them to draft the Constitution or sign security or economic agreements.” The AMS warned the UN and the international community of the danger of “granting these elections legitimacy because this will open a door of evil and they will be the first to bear responsibility.”³⁴

The AMS considers targeting “collaborators” as legitimate. The AMS spokesperson, Muthanna Harith al-Dhari, who is a son of the Association’s President, stated on 26 September 2004: “[K]idnapping the collaborators is lawful when it comes to warfare. They are deemed as troops fighting alongside the occupation forces.” However, he strongly opposed the killing of “collaborators”. He suggested that they should be treated as prisoners of war.³⁵

The AMS has publicly condemned some deliberate killings of civilians, in particular those claimed by or attributed to Abu Mus’ab al-Zarqawi’s group, but this has not been extended to a broader condemnation of all attacks targeting civilians or to indiscriminate attacks. On 2 February 2005 a leading AMS member, Dr Muhammad Bashar al-Faydi, declared: “We are opposed to all forms of violence. We condemn it in the most absolute terms and we have nothing to do with the terrorist Al-Zarqawi. He is a foreigner and an enemy of Iraq. Our liberation struggle against the occupation is a completely different matter from his barbarous terrorism.”³⁶

The Higher Council for *al-Da’wa*, Guidance and Fatwa, another Sunni religious body, is also said to have some influence over certain armed groups. One of its members, Shaikh Fakhri al-Qaysi, stated in an interview that there was a “strong relationship between religious scholars and the Iraqi resistance men”. He said that the

³² *AFP*, 14 February 2005.

³³ *AFP*, 14 February 2005.

³⁴ *Reuters*, 2 February 2005.

³⁵ IslamOnline.net: “Targeting “Collaborators” Lawful: Iraqi Scholar.”
<http://www.islamonline.net/English/News/2004-09/27/article01.shtml>

³⁶ *BBC* monitoring service, 4 February 2005.

Salafi movement (fundamentalist Sunni school of Islam also called Wahabism) was the “legitimate representative of the resistance”. He added that the “resistance” was from the start influenced by religious scholars who managed to rally public opinion against the occupation and to encourage many people to join the “resistance” groups.³⁷

Other religious leaders have condemned some deliberate killings. A leading Sunni cleric in Falluja, Shaikh ‘Abdullah al-Janabi, said: “Honest resistance is a legitimate right against occupation all over the world. It is not by the ideas of small groups of people. If they think beheading civilians is a means of pressure over the occupation, then they do not understand the concept of honest and true resistance, which targets the American and British occupation. The beheadings are not happening in Falluja and it is not accepted or approved by the people here [in Falluja]... The resistance and mujahideen have nothing to do with these operations... The kidnappings in Falluja are very limited. The scholars and tribal sheikhs took part in the release of the Jordanian hostages... I do admit there are people who joined the resistance as an excuse to kidnap and kill the police and steal from innocent people...”³⁸

2.6 Statements by non-Iraqi religious leaders

Just before, during and after the US-led war on Iraq a few prominent Muslim scholars and religious institutions outside Iraq issued fatwas (religious edicts) or statements giving their interpretation of Islam’s position on the war and the reaction of Muslims. For example, on 22 February 2003 Dr Mohammad Sayyed al-Tantawi, the Shaikh of Al-Azhar in Egypt, said: “It is a religious duty to side with Iraq against any aggression to befall it”. He added that resisting unjustifiable military attacks on Islamic countries is “*Jihad* and an Islamic duty”.³⁹ On 5 April 2003 Dr al-Tantawi stated at a press conference in Cairo: “Whoever wants to head for Iraq to support the Iraqi people, the door is open, and I say the door for Jihad is open until the day of judgment... Whoever wants to go to fight alongside the Iraqi people, I welcome him... I tell [him]

³⁷ BBC monitoring service, 24 October 2004.

³⁸ “We Pray the Insurgents Will Achieve Victory”, *Newsweek*, 10 September 2004, <http://www.msnbc.msn.com/id/5634250/site/newsweek/>

³⁹ IslamOnline.net: “Resisting U.S. Aggression Islamic Duty: Al-Azhar Grand Imam”, <http://www.islamonline.net/English/News/2003-02/22/article14.shtml>

go with peace and I wish you well. We do not prevent anyone from going to help those who are facing injustice.”⁴⁰

Fatwas and statements by prominent Muslim figures before the war and during the first few months of Iraq’s occupation did not clarify what forms the resistance should take and whether civilians, Iraqis or foreign nationals, who may be perceived as cooperating with the occupying forces, should also be targeted. They did not acknowledge limitations, such as those provided in international humanitarian law, on methods that may be used.

Shaikh Yousef al-Qardhawi, a prominent Muslim scholar from Egypt but based in Qatar and head of the International Association of Muslim Scholars (IAMS), established in London in July 2004, called on Muslims in March 2003 to launch a *Jihad* to expel foreign troops from Iraq. He stated: “The American presence in the region is not at all accepted from all the Arab peoples, and for sure clashes will occur, and the one who dies while attacking the American bases is a true martyr if he dies while having the intention to do that for Allah’s Cause, as actions are judged by the intentions behind them... The American aggression on the whole region wants to impose the total American hegemony on us, and such a procedure cannot be accepted at all. The one who launches attacks against the American presence is really carrying the spirit of true defenders. When one dies while carrying out such attacks, then he is a martyr, *in sha’ Allah* [God willing] if his intention was to do the act for Allah’s Cause, even though some people consider him committing a wrong.”⁴¹

On 23 August 2004, 93 Muslim scholars from 30 countries issued a statement urging Muslims throughout the world to support “resistance to occupation in Iraq and Palestinian territories”. The statement said: “Islamic leaders from across the world condemn in the strongest terms all-time brutal crimes by occupation forces in Iraq and Palestine”. It added: “We are in full solidarity with Iraqis and Palestinians in their brave resistance, and we call on them to close ranks against occupation away from collaboration, extremism or sectarianism.”⁴²

On 5 November 2004, 26 prominent Saudi religious scholars issued an open letter stating that “armed attacks launched by Iraqi groups on US troops and their allies in Iraq were legitimate resistance.” The letter added: “Fighting the occupiers is a duty for all those who are able. It is a Jihad to push back the assailants... Resistance is

⁴⁰ IslamOnline.net: “Whoever Wants To Go to Iraq To Fight, Can Go: Tantawi,” <http://www.islamonline.net/english/news/2003-04/05/article15.shtml>

⁴¹ Islamonline.net: “Fatwa Bank”, 24 March 2003. <http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=94927>

⁴² IslamOnline.net: “93 Muslim Figures Call for Democracy, Support Resistance”. <http://islamonline.net/English/News/2004-08/23/article03.shtml>

a legitimate right. A Muslim must not inflict harm on any resistance man or inform about them. Instead, they should be supported and protected.”⁴³ The letter also prohibited Iraqis from providing any support for military operations conducted by the MNF against strongholds of armed groups fighting against the MNF.

A conference held in Beirut on 18-19 November 2004 by the IAMS issued a communiqué, signed by Shaikh al-Qardhawi, stating that “helping the Iraqi people in their uphill struggle against the occupation is a duty on every able Muslim in and outside Iraq.”⁴⁴

These calls for resistance are said to have encouraged many, from inside and outside Iraq, to join armed groups fighting against the MNF in Iraq.

In late August 2004, Shaikh al-Qardhawi, speaking at the headquarters of the Egyptian Journalists’ Syndicate in Cairo, appeared to suggest that all US nationals in Iraq could be targeted. Following condemnation by many in and outside the Middle East he said “... there was a question about American civilians in Iraq and I only replied with a question: ‘are there American civilians in Iraq?’”⁴⁵

On 26 September 2004, the IAMS denounced the kidnapping and killing of civilians. It stated: “It is forbidden to kidnap anyone who is opposed to a war launched against us, or is sympathetic to us... We denounce all cases of kidnapping where the victims have nothing to do with the occupation of Muslim land. They must be released immediately.”⁴⁶ The following day the Shaikh of al-Azhar, Mohammad Sayyed al-Tantawi, denounced the kidnapping of civilians in Iraq stating that such acts should not be linked to Islam or *Jihad*. He added: “Abduction of people is a crime that is condemned by Islam and by laws of humanity.”⁴⁷

Many prominent personalities in the Middle East vehemently criticized Shaikh al-Qardhawi’s fatwas and declarations, especially his ambiguous position on the killing of US civilian nationals in Iraq. For example, at the end of October 2004, more than 2,500 Arab and Muslim intellectuals from 23 countries signed a petition to the UN calling for an international treaty to ban the use of religion for incitement to violence. The petition also called on the UN Security Council to set up an

⁴³ AlJazeera.net: “Saudi Scholars: Support Iraqi fighters”, 6 November 2004.

<http://english.aljazeera.net/NR/exeres/554FAF3A-B267-427A-B9EC-54881BDE0A2>.

⁴⁴ Islamonline.net: “IAMS Backs Iraqi Resistance, Opposes Killing Civilians”.

<http://www.islamonline.net/English/News/2004-11/20/article02.shtml>

⁴⁵ http://www.qaradawi.net/site/topics/article.asp?cu_no=2&item_no=3411&version=1...

⁴⁶ IslamOnline.net: “IAMS Vigorously Condemns Kidnapping, Killing Civilians”,

<http://islamonline.net/English/News/2004-09/26/article06.shtml>

⁴⁷ *Arabic News*, <http://www.arabicnews.com/ansub/Daily/Day/040928/2004092832.html>

international court to try “the theologians of terror.”⁴⁸ Among those they singled out was Shaikh al-Qardhawi. ‘Abdel-Rahman al-Rashed, a prominent Saudi journalist and director of the Dubai-based satellite network *al-‘Arabiya*, stated: “The danger specifically comes from the ideas and the preaching of violence in the name of religion.” He added: “Let us listen to Yusuf al-Qardhawi, the sheikh – the Qatar-based radical Egyptian cleric – and hear him recite his fatwa about the religious permissibility of killing civilian Americans in Iraq. Let us contemplate the incident of this religious sheikh allowing, nay even calling for, the murder of civilians. This ailing sheikh, in his last days, with two daughters studying in ‘infidel’ Britain, soliciting children to kill innocent civilians. How could this sheikh face the mother of the youthful Nick Berg, who was slaughtered in Iraq because he wanted to build communication towers in that ravished country? How can we believe him when he tells us that Islam is the religion of mercy and peace while he is turning it into a religion of blood and slaughter?”⁴⁹

⁴⁸ Aljazeera.com: Stop Terror Sheikhs, Muslim Academics Demand, 30/10/2004.
http://www.aljazeera.com/cgi-bin/review/article_full_story.asp?service_id=5468

⁴⁹ Abdel Rahman al-Rashed, “A Wake up Call: Almost all terrorists are Muslim”, *Arab News*.
<http://www.arabnews.com/9-11/?article=32&part=2>

3. DIRECT ATTACKS ON CIVILIANS

“Every Iraqi or foreigner who works with the coalition is a target. Ministries, mercenaries, translators, businessmen, cooks or maids, it doesn’t matter the degree of collaboration. To sign a contract with the occupier is to sign your death certificate. Iraqi or not, these are traitors. Don’t forget that we are at war.”

Former security officers under Saddam Hussain involved in the insurgency speaking to a journalist.⁵⁰

3.1 Targeted individuals

Hundreds of Iraqis have been killed by armed groups because they were perceived as “traitors” or “collaborators”. Among them have been translators, drivers and other civilians working for the MNF, civil servants, government officials, judges and journalists. The attacks have sometimes resulted in the killing of people accompanying the “targets,” including children.

The following cases are recent examples of individuals targeted for killing by armed groups and represent a pattern of abuse:

- On 1 December 2004, *Ansar al-Sunna* posted a statement on the internet admitting the killing of three Iraqi civilians who worked for US forces after they had been abducted in western Iraq. The three Iraqis, Abram Sulaiman, Kahtan Nijras ‘Attiya and ‘Ali ‘Adnan Kadhem, were shown being shot. The statement said that all three were “collaborators” who worked as civilians in a US military base near al-Ramadi.⁵¹
- On 25 January 2005, a judge, Qais Hashem al-Shamari, aged 32, the secretary of Iraq’s Council of Judges, was shot dead together with his son in an ambush by armed men in a car. The judge and his son had just left home and were driving in eastern Baghdad. *Ansar al-Sunna* claimed responsibility for the killing stating that the “heroes laid a carefully-planned trap to one of the

⁵⁰ Alix de la Grange: “The liberation of Baghdad is not far away”, Uruknet.info, <http://www.uroknet.info/?p=3790>

⁵¹ *AFP*, 1 December 2004.

symbols of infidelity and apostasy in the new Iraqi government, the administrator of Iraq's judges."⁵²

- On 9 February 2005, gunmen killed 'Abdel-Hussain Khazal, a journalist, and his three-year-old son, outside their home in Basra. 'Abdel-Hussain Khazal was a correspondent for *al-Hurra*, a US government-funded satellite news network. He had just left his house and was standing near his car where his two bodyguards were waiting for him. Instead of driving off, he reportedly remembered something he had left in the house and his guards went to get it. A car filled with gunmen drove up and opened fire on him and his son. 'Abdel-Hussain Khazal was also a member of *al-Da'wa* party, ran a local newspaper and was a press officer for Basra city council.⁵³
- On 2 March 2005, Judge Barawiz Mahmud and his son were shot and killed by gunmen as they left their home in north Baghdad. Barawiz Mahmud worked for the Iraqi Special Tribunal set up to try Saddam Hussain and other prominent members of his government.⁵⁴

3.2 Attacks on religious and ethnic groups

"I was only about 150 metres away from the double explosions... People were screaming. I found out later that there were two suicide bombers wearing the uniforms of the Iraqi National Guard. After the first one detonated his explosives the people who survived started running in the other direction. But the second bomber was with them and he detonated himself. This happened within maybe half a minute of the first explosion. There were bodies and blood everywhere."

This chilling description of an attack in the predominantly Shi'a city of al-Hilla was given to Amnesty International by telephone from the devastated city. On 30 May 2005 at 9am, two people strapped with explosives blew themselves up in a crowd of people protesting outside the governorate building against the disbanding of their elite unit in the Iraqi National Guard. At least 27 people were killed and more than 100 injured. *Al-Qa'ida* of Jihad Organization in the Land of Two Rivers claimed responsibility for the attack.

Armed groups have targeted members of specific religious and ethnic groups, especially Shi'as, Kurds and Christians. They have also targeted institutions

⁵² *AFP*, 25 January 2005, *Reuters*, 25 January 2005.

⁵³ *Reuters*, 9 February 2005; the *Independent*, 10 February 2005, the *Guardian*, 10 February 2005.

⁵⁴ *Reuters*, 2 March 2005.

belonging to these groups, including mosques, churches and headquarters of political parties. The aim is apparently to ignite civil strife, mainly between Sunni and Shi'a Muslims. The armed groups are resentful of Kurds and Shi'as for generally having supported the military intervention in Iraq and for cooperating with the MNF.

The sectarian divide between Sunnis and Shi'as in Iraq has widened in the past two years. Radical Sunni Islamist groups see the Shi'a as "infidels" who should be killed. In early December 2004 *al-Qa'ida* of Jihad Organization in the Land of Two Rivers issued a statement referring to the Shi'a population as the "insurmountable obstacle, the lurking snake, the crafty and malicious scorpion, the spying enemy, and the penetrating venom... They are the enemy. Beware of them. Fight them. By God, they lie... the only solution is for us to strike the religious, military, and other cadres among the Shi'a with blow after blow until they bend to the Sunnis..."⁵⁵ The same statement said there were four groups of people in Iraq that were "enemies" -- the Americans, the Kurds, the Shi'a and the Iraqi security forces. Regarding the Kurds, the statement said: "These are a lump [in the throat] and a thorn whose time to be clipped has yet to come. They are last on the list, even though we are making efforts to harm some of their symbolic figures, God willing."⁵⁶

The following are some examples of attacks that targeted religious and ethnic groups:

- On 29 August 2003, at least 95 people were killed when car bombs exploded outside the Imam 'Ali Shrine in Najaf. Among the dead was Ayatollah Mohammad Baqer al-Hakim, leader of the Supreme Council of the Islamic Revolution in Iraq (SCIRI), one of the largest Shi'a political groups. The attack was reportedly carried out with 700 kilograms of explosives and hand grenades planted in two cars.⁵⁷
- On 1 February 2004, an attack by two suicide bombers in the city of Arbil, Iraqi Kurdistan, targeted offices of the two Kurdish groups, the Kurdistan Democratic Party (KDP) and the PUK, killing 109 people including KDP Deputy Prime Minister Sami 'Abdul Rahman and KDP Minister of Agriculture Sa'ad 'Abdullah. The two parties were using their Arbil headquarters to celebrate *'Id al-Adha*, a religious holiday. Responsibility for the attack was claimed by *Ansar al-Sunna*.

⁵⁵ http://www.cpa-iraq.org/transcrip/20040212_zarqawi_full.html,

⁵⁶ http://www.cpa-iraq.org/transcrip/20040212_zarqawi_full.html,

⁵⁷ Amnesty International: "Iraq: Occupying powers have a duty to protect civilians and prevent an escalation of violence." AI Index: MDE 14/166/2003, 29 August 2003.



People sift through wreckage after a car bomb exploded on Friday 29 August 2003 next to Imam Ali shrine Najaf, south of Baghdad. A massive car bomb exploded after Friday prayers at Iraq's holiest Shia Muslim mosque killing dozens of people, including Mohammed Baqer al-Hakim, leader of the Supreme Council for the Islamic Revolution in Iraq © AP Photo

- On 2 March 2004, coordinated blasts targeting Shi'as marking their holiest day in Karbala and Baghdad killed at least 143 people. Three suicide bombers blew themselves up in Baghdad and one in Karbala. Mortars were also used in the Karbala attack. The explosions killed at least 85 people in Karbala and 58 at the holy shrine in Baghdad's Kazimiya district.⁵⁸
- On 1 August 2004, car bombs exploded outside four churches in Baghdad and one in Mosul killing at least 11 people and injuring dozens of others. The attacks took place in the evening as Iraqi Christians gathered for church services. The first explosion happened outside the Armenian Church in Baghdad. The three other churches were hit within minutes. At least 10 people were killed in Baghdad and many were injured. One person was killed and at least 11 injured when a church was bombed in Mosul.⁵⁹
- On 19 December 2004, at least 48 people were killed and 90 injured in Najaf when a bomb exploded near the Imam 'Ali Shrine. The same day in Karbala a

⁵⁸ Amnesty International: "Iraq: Amnesty International strongly condemns latest bombings", AI Index: MDE 14/003/2004, 2 March 2004.

⁵⁹ *BBC News*, 2 August 2004.

suicide car bomber detonated his vehicle in a crowded bus station killing 13 people and injuring 30.⁶⁰

- On 13 January 2005, armed men shot dead a Shi'a cleric and representative of Grand Ayatollah 'Ali al-Sistani in Salman Pak (southeast Baghdad), Mahmud al-Madahaini, his son and four bodyguards after they left prayers. *Ansar al-Sunna* claimed responsibility for the killing in a statement posted on the internet the following day. Mahmud al-Madahaini had reportedly been the target of several threats and assassination attempts in the past.⁶¹
- On 21 January 2005, a car bomb exploded outside a Shi'a mosque in Baghdad killing at least 15 civilians – 11 men, two women and two children -- and wounding 39 others, including seven children. The explosion took place when worshippers were leaving the mosque after prayers of the 'Id al-Adha holiday.⁶²
- On 11 February 2005, a car bomb exploded outside a Shi'a mosque in Balad Ruz, northeast of Baghdad, when worshippers were leaving the mosque. At least 13 people, mostly civilians, were killed and nearly 40 injured. According to reports, the bomb was hidden in a truck carrying vegetables, parked in front of the mosque, and went off when Iraqi troops approached it.⁶³
- On 18 February 2005, attacks on Shi'a targets in and around Baghdad left at least 34 people dead and more than 50 injured. During Friday prayers, 17 people died and more than 25 were injured when a suicide bomber wearing an explosives belt blew himself up in the Kazimain mosque, frequented by Shi'a Muslims, in Abu Dishr in Dura. At the 'Ali al-Baya' mosque in western Baghdad, two suicide bombers killed three people and injured more than 15. Three people, including a child, were killed and five injured when a mortar shell hit a café in the Shi'a neighbourhood of al-Shu'la in Baghdad. The same night a suicide bomber drove his car into Al-Hadi mosque in al-Iskandariya, south of Baghdad, killing eight people and injuring 13 others.⁶⁴
- On 28 February 2005, at least 118 people were killed and 132 injured in a suicide car bomb attack near a police station and a busy market in al-Hilla, south of Baghdad. The victims were queuing outside a health clinic to receive medical certificates which would enable them to apply for jobs in the army

⁶⁰ *New York Times*, 20 December 2004.

⁶¹ *AFP*, 14 January 2005.

⁶² *AFP*, 21 January 2005.

⁶³ *BBC News*, 11 February 2005, <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc...>

⁶⁴ *Reuters*, 18 February 2005; *AFP*, 18 February 2005; *AFP*, 19 February 2005.

and police. Many of the victims were said to have been at the market across the road.⁶⁵ In a statement posted on the internet, *al-Qa'ida* of Jihad Organization in the Land of Two Rivers claimed responsibility for the attack.⁶⁶ It said: "A lion from the martyrdom-seeking brigade plunged into a gathering of apostates outside a centre for the registration of police and (national) guards (recruits) in al-Hilla and detonated his booby-trapped car, killing 125 of them."⁶⁷

- On 10 March 2005, a suicide bomber struck a packed Shi'a funeral tent in Mosul killing at least 51 people and injuring at least 77. The attack took place as mourners gathered next to a mosque where a funeral service was being held for Muqtada al-Sadr's representative in Mosul.⁶⁸
- On 1 May 2005, a suicide bomber drove his car into a funeral procession and killed at least 20 people in the town of Tal Afar near Mosul. A large crowd was attending the funeral of Talab Wahab, a senior KDP official who had been assassinated by armed men a few days earlier.⁶⁹
- On 4 May 2005, a suicide bomber struck the KDP office in Arbil killing at least 50 people and injuring more than 150. The office also served as a police recruiting centre and there were many people queuing outside to register for enrolment. *Ansar al-Sunna* reportedly claimed responsibility for the attack.⁷⁰
- On 11 May 2005, a suicide bomber blew up his car in a crowd of mainly Shi'a migrant labourers in Tikrit in the north. At least 28 people were killed and 60 injured. The workers, from southern Iraq, had gathered to look for work.⁷¹

⁶⁵ *Reuters*, 28 February 2005.

⁶⁶ *BBC Monitoring Service*, 1 March 2005.

⁶⁷ *AFP*, 1 March 2005.

⁶⁸ *AFP*, 11 and 12 March 2005.

⁶⁹ *Reuters*, 1 May 2005.

⁷⁰ *Reuters*, 4 May 2005.

⁷¹ *Reuters*, 11 May 2005.

4. INDISCRIMINATE ATTACKS RESULTING IN CIVILIAN DEATHS

Hundreds of people have been killed as a result of car bombs or suicide attacks directed at military convoys and bases of the MNF and at Iraqi forces. The deadliest attacks have hit the Iraqi police and the Iraqi National Guard. The attackers have generally disguised themselves as ordinary civilians, and sometimes as members of the police or other security forces. They appear to have made little or no effort to distinguish between military targets and civilians, or to avoid disproportionate harm to civilians when directing their attacks at military targets. Their attacks have left hundreds of civilians, including many children, dead and many more injured.

Suicide attacks have been mainly directed at Iraqi police stations. The Iraqi police and the Iraqi National Guard are considered by armed groups as “traitors” or “collaborators” in the hands of the “foreign occupiers”. The vast majority of members of these two security forces are Shi’as and Kurds.⁷²

From May 2003 until April 2004 at least 48 suicide bombers killed more than 700 people, mostly civilians. Initially, the Iraqi authorities insisted that the bombers came from outside the country, but from around April 2004 they started to admit that they included Iraqi nationals.

On 18 May 2005, Abu Mus’ab al-Zarqawi defended the killing of Muslims in suicide bomb attacks against the MNF, according to an audiotape attributed to him. He stated: “The killing of infidels by any method including martyrdom [suicide] operations has been sanctified by many scholars even if it means killing innocent Muslims. This legality has been agreed upon... so as not to disrupt Jihad... Protecting religion is more important than protecting [Muslim] lives, honour or wealth... The shedding of Muslim blood... is allowed in order to avoid the greater evil of disrupting Jihad.”⁷³

Under international humanitarian law, members of the police and similar civilian security forces are considered civilians, therefore unlawful targets for attack, unless they take a direct part in the hostilities or have been specifically designated as part of the armed forces and could be described as “militia forces” -- namely have responsible command, carry distinctive insignia, carry arms openly, and respect the

⁷² On 1 April 2005, 64 Sunni clerics signed a statement urging Sunni Arabs in Iraq to join the police and army because they were concerned that the new Iraqi security forces were dominated by Shi’as and Kurds. This marked a radical change in policy as Sunni clerics had previously spoken against joining the US-trained security forces.

⁷³ *Reuters*, 18 May 2005.

laws of war. Amnesty International is not in a position to determine whether each of the intended targets in the incidents described below met the criteria listed above. What is clear, however, is that the attacks were carried out in an unlawful manner, using indiscriminate means of attack or resulting in disproportionate harm to people who were indisputably civilians.

The following cases are examples of indiscriminate attacks resulting in civilian deaths:

- On 8 June 2004, 10 Iraqi civilians were killed and dozens were injured when a car bomb exploded outside the mayor's office in Mosul. The mayor, Major General Sammi al-Haj 'Issa, who also heads the governorate's security commission, and his bodyguards were reportedly passing by in a nine-car convoy when the bomb went off. Some of the bodyguards were injured.⁷⁴
- On 23 June 2004, at least 68 people were killed and many others injured in suicide car bomb attacks in southern Iraq. Three near-simultaneous car bombs hit three police stations in Basra during the morning rush hour. Two hours later a fourth car bomb attack hit the Iraqi police academy in Zubair, just outside Basra. The victims included policemen and civilians as well as 16 children.⁷⁵
- On 28 July 2004, a minibus packed with explosives blew up near a police station and a market in Ba'quba, north of Baghdad, killing 70 people and injuring 30. The blast destroyed many buildings. Scores of young men were queuing outside the police station to join the police force.
- On 20 October 2004, four children were killed and at least 20 people, including 11 US soldiers, were wounded in a double car bombing in the path of a US army convoy near a nursery school in Samarra, north of Baghdad.⁷⁶
- On 25 October 2004, three Iraqi civilians were killed and eight other people, including three Australian soldiers, were injured when a car bomb targeting an Australian military convoy exploded near the Australian Embassy in al-Hurriya Square, Baghdad.⁷⁷
- On 30 November 2004, at least seven Iraqi civilians were killed and 18 injured when a car bomb exploded in a crowded market in Baiji, north of Baghdad.

⁷⁴ *AFP*, 8 June 2004.

⁷⁵ People's Daily Online: "Suicide bombings kill 68 in southern Iraq," http://english.people.com.cn/200404/22/eng20040422_141184

⁷⁶ *AFP*, 20 October 2004.

⁷⁷ *Reuters*, 25 October 2004; *MSNBC News Services*, 25 October 2004, <http://www.msnbc.msn.com/id/6276868/print/1displaymode/1098/>

The bomb went off as a US military patrol was passing. A doctor at Baiji hospital reportedly said that he had received seven dead civilians from the explosion and 18 wounded, including a child.⁷⁸

- On 13 December 2004, at least seven Iraqi civilians were killed and 19 others injured when a suicide car bomb exploded at a checkpoint outside the heavily fortified Green Zone in Baghdad.⁷⁹ The suicide bomber reportedly drove up to an Iraqi National Guard checkpoint at an entrance used by contractors and Iraqis, and blew up his car as he was waiting to be searched.⁸⁰
- On 7 February 2005, a man claiming to help former policemen reapply for their jobs in Mosul detonated a bomb strapped to his body outside the Jumhuri Teaching Hospital. At least 12 people were killed and at least four were injured. A temporary office had been established at the hospital to receive some of the thousands of policemen who deserted when police stations were attacked on 11 November 2004.⁸¹ Also on 7 February a car bomb detonated outside a police station in Ba'quba, killing 15 people and injuring 17. About 400 new recruits were gathered at the station when the bomb went off.⁸²
- On 26 March 2005, two Iraqi civilians were killed and two others were injured when an explosive charge was detonated while a US convoy was travelling in al-Ramadi.⁸³
- On 10 May 2005, eight Iraqi civilians, including children, were killed and at least 23 were injured when a suicide car bomb blew up near a US patrol in al-Sa'dun Street, central Baghdad.⁸⁴

⁷⁸ *Reuters*, 30 November 2004.

⁷⁹ The Green Zone is in central Baghdad and houses the Iraqi government and many foreign embassies, including the US Embassy.

⁸⁰ *AFP*, 13 December 2004.

⁸¹ During that day several police stations were attacked and looted by insurgents in Mosul.

⁸² Anthony Shadid, "Iraqi police bear brunt of suicide bombings", *Star Tribune*, 8 February 2005, <http://www.startribune.com/stories/484/5228151.html>

⁸³ *BBC* monitoring service, 26 March 2005.

⁸⁴ *Reuters*, 10 May 2005; *AFP*, 10 May 2005.

5. TARGETING THE UN AND HUMANITARIAN ORGANIZATIONS

The UN and several humanitarian agencies have been targeted by car bombs or suicide attacks. The attacks have been aimed at the headquarters of these organizations, mostly in Baghdad, but there have been similar attacks in other cities and towns. International and national aid workers have also been victims of kidnapping and fatal attacks, particularly when travelling in vehicles that carry the organization's logo.

Such attacks, as well as hostage-taking (see below), have forced these organizations and agencies to leave the country or to severely reduce their operations. Most, if not all, have withdrawn their international staff. They are now operating from neighbouring countries, particularly Jordan, waiting for an improvement in the security situation.

The most devastating attack of this kind carried out by an armed group targeted the UN compound in Baghdad on 19 August 2003. A massive truck bomb exploded next to the Canal Hotel which housed the UN offices in Baghdad, killing 22 people, including Sergio Vieira de Mello, the UN High Commissioner for Human Rights and Special Representative of the UN Secretary-General in Iraq. At least 100 people were injured.⁸⁵



Scene at the United Nations headquarters shortly after the suicide attack on 19 August 2003, in Baghdad. A suicide attacker set off a truck bomb outside the UN headquarters, at the Canal Hotel. At least 22 UN workers and Iraqis were killed, including the Chief UN representative Sergio Vieira de Mello © AP Photo

⁸⁵ Amnesty International issued a public statement strongly condemning the attack. See “*Iraq: Amnesty International strongly condemns attack on UN headquarters*”, AI Index: MDE 14/160/2003, 19/08/2003.

Someone who was seriously injured during the blast told Amnesty International: “.... I came back to my office on the second floor to check my e-mail. I was going to see Sergio but a colleague of mine came to my office so I was delayed. We heard a massive explosion. The attack pushed my colleague on the ground. The windows and computers in my office were broken and pieces of glass were everywhere, the office was full of dust, I was not sure what was going on. I was bleeding, the blood was streaming from my head through my forehead and between my eyes. One of my colleagues told me later that I was frozen and speechless for some time. I went, together with two colleagues, downstairs and we walked through bodies, people were screaming, I saw offices destroyed... I started counting the bodies which were being brought outside. At that time we were told that Sergio was trapped inside his office...”

Following this attack the UN withdrew most of its staff from the country and its operations were significantly reduced.

Other attacks targeting humanitarian agencies include the following:

- On 20 July 2003, a pickup truck pulled alongside two vehicles belonging to the International Organization for Migration (IOM) which were travelling from Baghdad to al-Hilla. A man armed with an automatic weapon shot repeatedly at one of the vehicles forcing it to crash into a bus. As a result, the Iraqi driver was killed and one foreign national was injured.⁸⁶
- On 22 July 2003, a car belonging to the ICRC was shot at near Baghdad by people in a pickup truck. An international staff member, Nadisha Yassari Ranmuthu, was killed and the Iraqi driver of the car, Mazen Hamed Rashid,⁸⁷ was seriously injured.
- On 27 October 2003, a hospital ambulance sped towards the headquarters of



The ICRC office after the suicide attack on 27 October 2003 © AP Photo

⁸⁶ James Brandon, “Under Fire”, *Baghdad Bulletin*, 4 August 2003, http://www.baghdadbulletin.com/pageArticle.php?article_id=106&cat_id=28

⁸⁷ James Brandon, “Under Fire”, *Baghdad Bulletin*, 4 August 2003, http://www.baghdadbulletin.com/pageArticle.php?article_id=106&cat_id=28

the ICRC in Baghdad and exploded at the front of the building. At least 12 people, two Iraqi staff members and 10 passers-by, were killed and 15 injured.⁸⁸ An official of the ICRC stated: “The bombing on 27 October 2003 of the Baghdad offices of the International Committee of the Red Cross (ICRC) filled us with grief and outrage... On three occasions in 2003, we were confronted head-on with the violent death of colleagues in Iraq... Despite these tragedies, we can hardly ask the world to feel sorry for our dead while the number of civilian victims in Iraq and elsewhere in the region mounts every day. We have a duty to express our indignation at all the many defenceless people indiscriminately killed and injured by the violence... We have no choice but to acknowledge how difficult it is now for us to respond to the needs of the Iraqi people, to fully perform our task of coming to the aid of the wounded, of civilians caught up in conflict. The widespread rejection of neutral humanitarian action in Iraq imposes severe constraints on us...”⁸⁹

- On 19 October 2004, Margaret Hassan, the Iraq country director of Care International was taken hostage in Baghdad while on her way to work. Margaret Hassan, who was married to an Iraqi national and herself a national of Ireland, the UK and Iraq, had lived in Iraq for 30 years. Several video messages that showed her in captivity and clearly in distress were broadcast. On 27 October 2004, *al-Jazeera* television transmitted a video of her appealing for the withdrawal of UK troops and the release of all Iraqi women detainees. On 16 November 2004, her family said they believed she was dead, after a videotape appeared to show her being killed.⁹⁰ On 1 May 2005, Iraqi police and US forces arrested five people in al-Jaara area on the southern outskirts of Baghdad who reportedly confessed to the kidnapping and murder of Margaret Hassan.

⁸⁸ Amnesty International: “Amnesty International condemns the attack on the International Committee of the Red Cross”, AI Index: MDE 14/175/2003, 27 October 2003.

⁸⁹ International Committee of the Red Cross, “Iraq: indiscriminate violence increases civilian distress” by Balthasar Staehelin. The article was first published by *al-Hayat* newspaper on 27 October 2004 and was reproduced on the ICRC website. See

<http://icrc.org/web/eng/siteeng0.nsf/htmlall/665H8H?OpenDocument&style=cu...>

⁹⁰ “Leaders condemn ‘Hassan murder’”, *BBC*, 17 November 2004,

<http://news.bbc.co.uk/1/hi/uk/4018335.stm> and <http://news.bbc.co.uk/1/hi/uk/3946455.stm>



Some 200 demonstrators protest the kidnapping of Margaret Hassan, director of CARE International in Baghdad on 25 October 2004 © AP Photo

- On 13 January 2005, an Iraqi staff member of the ICRC, in his forties and married with four children, disappeared while on duty. A day later his body was found in Baghdad. On 15 January the ICRC issued a press release condemning his killing and urging armed individuals and groups to ensure the safety of the organization's staff and to allow them to deliver humanitarian assistance.⁹¹

⁹¹ ICRC press release No. 05/3, 15 January 2005, <http://www.icrc.org/web/eng/siteeng0.nsf/html/68nm36>

6. HOSTAGE-TAKING, ABDUCTIONS, TORTURE AND KILLINGS

Scores of foreign nationals as well as Iraqis have been taken hostage by various armed groups operating in Iraq. Many of the hostages were later killed. Most of the victims have been civilians, including aid workers, journalists, truck drivers and private contractors.

Hostage-taking of foreigners increased dramatically after April 2004 following the first attack on Falluja by the MNF. Armed groups fighting the MNF have used hostage-taking as an emotionally charged lever to put pressure on foreign governments that have troops in Iraq to withdraw them, or on foreign companies that have commercial activities in the country to suspend such activities.

It is difficult to distinguish between armed political groups and criminal gangs when it comes to hostage-taking as there are many credible reports suggesting that hostages, in particular foreign nationals, taken by criminal gangs are then handed over to armed political groups in exchange for money. In many cases armed political groups seem to have made the release of their victims conditional on payment of money even when they make political demands such as the withdrawal of foreign troops.

Iraqi and US military officials have sometimes announced the arrest of members of armed groups who are accused of hostage-taking and killing. On 29 January 2005 US forces arrested Mahdi Huwaidi who was said to have been responsible for the hostage-taking of prominent personalities in Mosul and releasing them in return for a ransom. He was said to have been responsible for the beheading of hostages and was allegedly behind the killings of members of the police and National Guard.⁹²

Many foreign governments and companies have reportedly negotiated with intermediaries that have influence over particular groups to secure the release of hostages. In some cases, significant ransoms were reportedly paid. The intermediaries are said to be mostly Sunni Muslim clerics or tribal leaders.

Foreign hostages are often shown terrified, sometimes wearing orange uniforms, on videotape broadcast by Arabic satellite channels, especially *al-Jazeera* and *al-'Arabiya*, and making pleas to their governments to withdraw their troops from Iraq. In many cases, hooded and armed men appear behind the victim and one of them

⁹² *Al-Zaman*, 31 January 2005.

reads a statement. A banner displaying the name of the armed group is often seen. Some of the hostages have been filmed being shot dead or beheaded.

The majority of hostages are Iraqis but they receive little international media attention. Most of the victims are sons of wealthy families and professional people such as medical doctors, university professors and businessmen. The aim is to extort money from their families.

The following cases of hostage-taking, torture and killing are a sample of a widespread pattern of abuse that clearly violates international humanitarian law, and which Amnesty International has on numerous occasions condemned.⁹³

- On 31 August 2004, 12 Nepalese hostages were reportedly executed by *Ansar al-Sunna*. The group published pictures on a website showing the presumed bodies of the hostages after their killing. The victims had worked for a Jordanian firm in Iraq. The group stated: “We have carried out the sentence of God against 12 Nepalese who came from their country to fight the Muslims and to serve the Jews and the Christians... believing in Buddha as their God.”⁹⁴ The group announced that it had captured the 12 men in early August 2004 while travelling overland from Jordan to Iraq.
- On 16 September 2004, two US nationals, Eugene Armstrong and Jack Hensley, and a British national, Kenneth Bigley, were abducted in Baghdad. The two US nationals were beheaded a few days later. On 8 October 2004 Kenneth Bigley was confirmed to have been executed too by *al-Qa’ida* of Jihad Organization in the Land of Two Rivers. A video released by the kidnappers showed six hooded armed men standing behind Kenneth Bigley. One of the kidnappers cut off the victim’s head as three others held the victim down.⁹⁵
- On 24 January 2005, an internet video showed an Egyptian national being killed reportedly by *al-Qa’ida* of Jihad Organization in the Land of Two Rivers. The man, Ibrahim Mohammad Ismail, was reportedly accused of working as a driver for a Kuwaiti company that provided US forces with drinking water. The video showed the man on his knees, handcuffed and

⁹³ See, for example, Amnesty International’s public statements: “*Iraq: Beheading of civilians condemned, hostages must be released*” (AI Index: MDE 14/021/2004), 12 May 2004; “*Iraq: Amnesty International appalled by execution of 12 Nepalese*” (AI Index: MDE 14/046/2004), 31 August 2004; “*Iraq: Hostage-taking and killing must end immediately*” (AI Index: MDE 14/049/2004), 22 September 2004.

⁹⁴ *Washington Post*, 1 September 2004, <http://www.washingtonpost.com/ac2/wp-dyn/A48832-2004Aug31?language=printer>

⁹⁵ *BBC News*, 10 October 2004, <http://news.bbc.co.uk/1/hi/uk/3728596.stm>

blindfolded on a street, then a masked man shooting him four times in the head in broad daylight as cars passed by. After the execution the men, who identified themselves as members of *al-Qa'ida* of Jihad Organization in the Land of Two Rivers, stated that “despite all the warnings by the mujahedeen... these apostates still help the aggressing occupiers kill and shed the blood of innocent people who refuse to be humiliated.”⁹⁶

- On 18 February 2005, Major General Ghaleb al-Jazairi, the police chief of Najaf, told journalists that the bodies of his two sons had been discovered. Haydar and Baha', both in their early twenties, were abducted a day earlier when travelling, among thousands of people, from Najaf to Karbala' to commemorate 'Ashura, one of the holiest events in the Shi'a calendar.⁹⁷ The two men were reportedly abducted and killed because of their father's career and position in the police.

Many of the hostages, both Iraqis and foreign nationals, were said to have been tortured. According to the Egyptian Organization for Human Rights, Egypt received the bodies of 28 Egyptians killed in Iraq; the bodies bore marks of torture. The organization concluded that the Egyptian workers may have been targeted by armed groups because they worked for Saudi and Kuwaiti contractors.⁹⁸

Below are the cases of two Jordanian former hostages interviewed by Amnesty International in Amman in October and December 2004.

- Mohammad Ahmad Salama, a 35-year-old truck driver from Jordan, was taken hostage, together with his colleague Fayez al-'Adwan, on 25 July 2004. They were working for a Jordanian company that delivers goods to US forces in Iraq. The two stopped their vehicle, which was transporting wood, in a village near al-Qa'im, close to the Syrian border, to buy some food. They were forced at gunpoint by five masked men into a car. They were then blindfolded and driven away. After a short drive they were taken to a house where they were interrogated. The interrogation reportedly concentrated on the kind of relationship between the Jordanian company they worked for and the US military in Iraq.

Mohammad Ahmad Salama said that they were tortured during the first day of interrogation.⁹⁹ Methods of torture included beating with fists on different

⁹⁶ *AFP*, 24/01/2005; *Reuters*, 23/01/2005.

⁹⁷ *Reuters*, 18 February 2005.

⁹⁸ Gihan Shahine, “Fatwa fight”, *Al-Ahram Weekly*, <http://weekly.ahram.org.eg/print/2004/708/eg4.htm>

⁹⁹ Interview by Amnesty International, 10 October 2004.

parts of the body, especially the face, as well as electric shocks to their feet through two wires tied to their toes. Their hands were tied behind their backs while their mouths were taped shut. The same day their captors videotaped the two hostages who were instructed to call on their employer to stop all commercial operations in Iraq otherwise they would be executed. Mohammad Ahmad Salama stated that it was a terrifying experience. Their captors pointed a long knife to the back of his neck and a weapon to his colleague's head. The two hostages were held for 16 days during which they were moved between different locations several times. After the first five days the kidnappers moved them to another place, a few miles away, and a different armed group took over their guard.

According to Mohammad Ahmad Salama, following the broadcast of the videotape on *al-Jazeera* television, the Jordanian Embassy started negotiating with an intermediary. The captors apparently asked for US\$200,000 from the Jordanian company in return for the release of the two hostages. Mohammad Ahmad Salama stated that the company refused to pay but he was later told by an official at the Jordanian Embassy in Baghdad that the Embassy paid an undisclosed amount through the intermediary who reportedly was a Sunni cleric. On the 16th day of their captivity the two hostages were driven to nearby Falluja, where the Sunni cleric was waiting. He drove them to the Embassy in Baghdad.

- Hisham Taleb Ahmed al-'Izza, a Jordanian truck driver, told Amnesty International that he was abducted from the street in the Karrada district in Baghdad on 30 September 2004 by three armed men.¹⁰⁰ He was blindfolded, his hands tied behind his back, and was forced into the boot of a car. He was driven to a house where he saw in one room a few people who appeared to be hostages. He was taken to a different room and beaten repeatedly for half an hour. He was given a mobile phone and was told to contact his employer in Jordan and say that he would be executed if the company did not stop its activities in Iraq. He was told that the "*mujahedin*" wanted a US\$500,000 ransom. The kidnappers called the director of the company in Amman and demanded the money, but he refused to pay.

On the fourth day of his captivity Hisham al-'Izza was taken to a hangar. Many armed men were there with an Iraqi hostage who was accused of collaborating with US forces. This hostage was beheaded in front of Hisham al-'Izza. The severed head was placed on his back by one of the armed men. The beheading was filmed with a video camera. The captors told Hisham al-

¹⁰⁰ Interview by Amnesty International, 11 December 2004.

‘Izza that if his family did not pay a ransom he would have the same fate.¹⁰¹ He was then taken back to the house. After 10 days of captivity the hostage-takers lowered their demand to US\$100,000 and warned that if his family did not pay he would be killed in 15 days. He was taken to what appeared to be the leader of the group. Hisham al-‘Izza said he could only afford US\$30,000 which his brother managed to collect from relatives and friends. The group’s leader rejected the proposal and said he would accept US\$50,000 and no less. Eventually, Hisham al-‘Izza’s family managed to borrow the rest of the money from a bank. The family was told to give the money to an Iraqi national based in Amman, which they did. Hisham al-‘Izza was released and he discovered that he had been held in Falluja. He was taken to Baghdad and from there he managed to travel back to Jordan.



Four Turkish hostages are displayed by an Iraqi armed group at an undisclosed location. Photo released on 8 June 2004
© AP Photo



Two truck drivers – Victor Tawfiq, Jerges of Egypt (left), and Bulent Yanik of Turkey – sit in front of a group of men holding them hostage at an undisclosed location. Photo released on Saturday 12 June 2004
© AP Photo

¹⁰¹ At least one other former hostage stated after his release on al-‘Arabiya television network in December 2004 that he had been forced to witness a beheading of a hostage by his captors.

7. ATTACKS ON WOMEN AND GIRLS

Scores of women and girls have died in attacks by armed groups. In some cases, the deaths have been the result of indiscriminate attacks. In other cases, women campaigning to protect women's rights have been threatened, kidnapped and killed by members of armed groups in Iraq. Sometimes, the perpetrators have identified themselves as members of Islamist groups, linking their attack to the women's activism for women's rights. At other times, the women's activism appears to have contributed to the attack on them. A recent report on Iraq by Women for Women International¹⁰² is dedicated to "Iraqi women who have been targeted merely because of their leadership activities, the positions they held, or for being otherwise visible in public" and lists the names of several who have been kidnapped or killed over the past year.¹⁰³

Members of the Organization of Women's Freedom in Iraq (OWFI) have reported threats received because of their advocacy of women's rights. Chairperson Yanar Mohammed reported that in January and February 2004 she received several death threats by e-mail from an Islamist group known as the *Army of Sahaba*. She asked US officials for protection, but was reportedly told they had more urgent matters to address. Yanar Mohammed and her colleagues at the Baghdad office of OWFI were forced to avoid public appearances and wear bullet-proof vests.¹⁰⁴

Several women's centres established by the US authorities to provide support for women, including literacy programmes, computer training and political awareness raising, have had to reduce or review their activities following threats and attacks.

Amira Salih, the manager of a US-funded women's centre in Karbala, reportedly stepped down after she received repeated death threats.¹⁰⁵ Another women's rights activist from Karbala told Amnesty International that in April 2004 she was stopped by Iraqi police in front of a women's centre where she wanted to attend a meeting. A police officer advised her that this was an unsafe location and that she should not enter.¹⁰⁶

¹⁰² Women for Women International is an international non-governmental organization - NGO operating since 2003 in Iraq. For more information see <http://www.womenforwomen.org>.

¹⁰³ *Windows of Opportunity, The Pursuit of Gender Equality in Post-War Iraq*, Women for Women International, January 2005.

¹⁰⁴ *IRINnews*, "Women's groups under threat in new Iraq", 24 March 2004.

¹⁰⁵ Annia Ciezadlo, "After an Advocate's Killing, Iraqi Women Try to Stay Course", *Christian Science Monitor*, 1 April 2004.

¹⁰⁶ Amnesty International interview, 30 August 2004.

The killing of US lawyer Fern Holland and Iraqi assistant Salwa Oumashi in an armed attack on 9 March 2004 added to the climate of threat and insecurity experienced by many women working for women's rights. Fern Holland was a civilian employee of the CPA. She played a key role in supporting US-funded women's rights projects in the governorates of Babil, Karbala and Najaf, including by setting up women's centres in al-Hilla and Karbala. Although those responsible for the killings have not been identified, it is widely believed that both victims were targeted because of their promotion of women's rights.

Several women political leaders have been targets of politically motivated armed attacks:

- 'Aqila al-Hashimi, one of three female members in the dissolved IGC, was ambushed on 20 September 2003 by armed men who sprayed her two-car convoy with machine-gun fire. On 25 September she died as a result of her serious injuries. She was a senior adviser in the Ministry of Foreign Affairs both before and after the war.
- Raja Khuzai, former IGC member and now member of the Transitional National Assembly, reported that she received death threats for opposing proposed amendments to the Personal Status Law. "There was a proposal, Resolution 137, which was against women's rights... I succeeded in having this resolution cancelled in February [2004]. After that I received so many death threats, telephone calls, letters to me and my family".¹⁰⁷
- On 29 March 2004, Nisreen Mustafa Berwari, who has kept her position as Minister of Municipalities and Public Works, survived an attack on her convoy in Mosul in which two of her bodyguards were killed.
- On 23 June 2004, sisters Janet and Shaza Sadaa Udishu, aged 38 and 26 respectively, were killed by gunmen in Basra. The women, who were Christians and worked for the US firm Bechtel, were killed in a taxi outside their home near an Assyrian church in central Basra. According to one witness, a car blocked the taxi and two gunmen ran out and fired point blank at the sisters. The taxi driver was wounded in the leg but survived. The sisters were later buried in their home city Mosul.¹⁰⁸
- On 20 November 2004, Amal al-Ma'amalachi, a women's rights activist and adviser at the Ministry of Municipalities and Public Affairs, was killed with her secretary, bodyguard and driver in Baghdad. She was on her way to work

¹⁰⁷Anthony Paul, "Grandmother lends voice to Iraq's women" *Straits Times*, 25 August 2004. See also: *Al-Mashriq*, 15 March 2004, Baghdad.

¹⁰⁸*AFP*, 23 June 2004.

when her car was riddled with gunshots and she was hit by at least 10 bullets. She was a co-founder of the Advisory Committee for Women's Affairs in Iraq and the Independent Iraqi Women's Assembly, which were established after the overthrow of Saddam Hussain's government.

- On 27 April 2005, gunmen shot and killed an Iraqi woman member of the newly elected Transitional National Assembly outside her home in eastern Baghdad. Lami'a 'Abed Khadawi, who was a member of former Prime Minister Iyad 'Allawi's political party, was attacked shortly after she returned home following a meeting of the National Assembly. She was the first member of parliament to be killed since the 30 January 2005 elections.¹⁰⁹

A number of women have been taken hostage by armed groups, some of them in connection with political demands. Three relatives of former Prime Minister Iyad 'Allawi, two of them women, were abducted from their home in Baghdad on 10 November 2004 and held hostage. An unknown armed group, *Ansar al-Jihad* (Protectors of Holy War), claimed responsibility and demanded that US and Iraqi military operations in Falluja be halted and political prisoners released.¹¹⁰ The group threatened to kill the hostages unless their demands were met within 48 hours.¹¹¹ On 15 November 2004 the release of the two female relatives, one aged 75 years and the other pregnant, was reported.¹¹²

¹⁰⁹ Aljazeera.com: Iraqi woman MP shot dead in Baghdad, 27 April 2005.

http://www.aljazeera.com/me.asp?service_ID=8016

¹¹⁰ In November 2004, US and Iraqi troops launched a major offensive aimed at gaining control of the city of Falluja.

¹¹¹ "Relatives of Iraqi PM kidnapped", *BBC*, 10 November 2004,

http://news.bbc.co.uk/1/hi/world/middle_east/3998681.stm

¹¹² "Iraq PM's relatives released by kidnappers", *CBC News*, 15 November 2004,

<http://www.cbc.ca/story/world/national/2004/11/15/allawi-releases-iraq-041115.html>

Foreign women in Iraq have also been held as hostages, often in an attempt to have foreign troops withdrawn from Iraq. Hostages have been beaten and threatened with execution, and at least one has reportedly been killed. They have included Japanese, Polish and Italian nationals. Following their release in September 2004, Simona Toretta from Italy reported that she and her colleague, Simona Pari, were treated with respect by their captors, but that “there were times when we feared we’d be killed”.¹¹³



Italian aid organization “Un Ponte Per Baghdad” (A Bridge for Baghdad) volunteers, Simona Pari (left) and Simona Torretta, who were kidnapped on 7 September 2004 © AP Photo

¹¹³ “Italy celebrates hostages’ return”, *BBC*, 29 September 2004, <http://news.bbc.co.uk/1/hi/world/europe/3699350.stm>.

8. KILLING OF CAPTURED POLICE AND MILITARY PERSONNEL

Scores of members of the Iraqi police, the regular army and the Iraqi National Guard have been seized, disarmed and then shot dead. Some of the executions were videotaped and shown on the internet. The summary killing of any member of the armed forces who has been taken prisoner or of any other person taking no active part in the hostilities is prohibited absolutely in international humanitarian law.¹¹⁴ The following examples illustrate this pattern of abuse:

- On 23 and 24 October 2004, the bodies of 49 new recruits in the Iraqi National Guard were found near the village of Mandali, near Ba'quba, northeast of Baghdad. The 49 recruits had just left the training base in the area to start 20 days of leave and were travelling south on three buses. According to press reports they were stopped at a checkpoint by members of an armed group who were reportedly dressed as Iraqi police. They were lined up in four rows and shot dead. Villagers nearby heard the gunfire, found the bodies and called the police. In a statement published on a website, *al-Qa'ida* of Jihad Organization in the Land of Two Rivers claimed responsibility for the killing.¹¹⁵
- On 20 November 2004, the bodies of nine Iraqi soldiers, all shot in the back of the head, were discovered in Mosul. The bodies were found by US soldiers and were said to be members of the Iraqi regular army based at the Kisik military base about 30 miles west of Mosul.¹¹⁶
- Fifteen Iraqi National Guards were ambushed and then abducted by armed men after finishing work at a US military base in al-Anbar governorate in western Iraq on 15 January 2005. The Iraqi police confirmed that 15 Iraqi soldiers had been seized by armed men. On 22 January *Ansar al-Sunna* claimed in an internet statement that it had executed the 15 men. The statement added: "After having announced the kidnapping of 15 Iraqi apostate soldiers in the region of Hiyt, and after their interrogation, they confessed to the crimes they committed with the crusader forces against civilians and against the

¹¹⁴ See Section 10 of this report.

¹¹⁵ Karl Vick, "Insurgents Massacre 49 Iraqi Recruits," *Washington Post*, 25 October 2004; *Reuters*, 25 October 2004.

¹¹⁶ *Associated Press*, 21 November 2004, quoted in <http://www.foxnews.com/story/0,2933,139170,00.html>

mujahidin... They were executed with bullets so that they serve as an example.”¹¹⁷

- On 2 February 2005, 12 Iraqi army recruits were killed by armed men on a road near Kirkuk. According to reports the armed men stopped a convoy of Iraqi army recruits in the village of Zab near Kirkuk, forced 12 of them to lie on the road and shot them one by one.¹¹⁸

¹¹⁷ Aljazeera.net: “Attacks target Iraqi troops”, <http://english.aljazeera.net/NR/exres/554FAF3A-B267-427A-B9EC-54881BDE0A2>.

¹¹⁸ *Washington Post*, 4 February 2005, <http://washingtonpost.com/ac2/wp-dyn/A61839-2005Feb3?language=printer>

9. THREATS AND VIOLENCE BEFORE THE JANUARY 2005 ELECTIONS

Armed groups in Iraq were vehemently opposed to the holding of elections to the Transitional National Assembly on 30 January 2005. Before the elections, voters in many parts of Iraq, especially in Baghdad and in northern and western towns and cities, received many threats, including that they would be killed, that their children would be abducted and that their houses would be burned down.

A poster on a school wall in al-Amin district of Baghdad warned the population: “Do not cooperate with evil and the enemy.”¹¹⁹ The school, which was designated as a polling station, was reportedly attacked three times in the week before the election. A leaflet stated that “the hand of the *mujahedin* will reach all of the polling stations and the workers in it and all people who take part in it. Anyone who does not listen must fear the result and he should blame himself.” Another leaflet distributed in Baghdad just days before the election warned the population to stay 500 yards away from any polling stations or risk being hit by snipers, rockets and bombs.¹²⁰

In Mosul, most Kurds and Turkomen living in the city voted in the elections but the majority of Sunni Arabs did not. In many cases Sunni Arabs may not have voted because of threats by armed groups. Slogans written on walls in Sunni Arab neighbourhoods such as Hay al-Wihda threatened the decapitation of anyone who voted.¹²¹

Before the elections three armed groups, *al-Qa'ida* of Jihad Organization in the Land of Two Rivers, *Ansar al-Sunna* and the *Islamic Army in Iraq*, threatened to turn the polls into a bloodbath.¹²² In a statement posted on the internet at the end of December 2004, *Ansar al-Sunna* warned that “all polling stations and those in them will be targets for our brave soldiers.”¹²³ Another statement, attributed to Osama Bin Laden, also issued in December 2004, urged Muslims to attack US forces and any

¹¹⁹ AFP, 28 January 2005.

¹²⁰ AFP, 28 January 2005.

¹²¹ *Al-Zaman* newspaper (London), Issue 2025, 31 January 2005, <http://www.azzaman.com/azzaman/http/display.asp?fname=/azzaman/articles/2005/0...>

¹²² AFP, 31 January 2005.

¹²³ Dan Murphy, “In Iraq, a clear-cut bin Laden-Zarqawi alliance”, *Christian Science Monitor*, 30 December 2004, <http://csmonitor.com/2004/1230/p01s03-woiq.html>.

Iraqis who work with the interim arrangements, including voters and election workers.¹²⁴

Election workers were threatened in many areas of central and western Iraq. In Mosul, 700 employees of the electoral commission reportedly resigned on 30 December 2004 after being threatened.¹²⁵

Several election workers and at least three candidates were killed by armed groups in different parts of Iraq. On 16 January Riadh Radhi, a candidate in Basra's provincial council elections, held at the same time as elections for the National Assembly, was killed when gunmen fired on his car as he was driving with his family. On 18 January, two candidates running for the National Assembly, 'Ala' Hamid and Shaker Jabbar Sahla, were killed by armed men in Basra and Baghdad respectively.¹²⁶

The elections were held as scheduled amid unprecedented security measures introduced by the Interim Government of Iraq and supported by the MNF. The measures included the banning of all civilian car traffic and increasing troop strength.

¹²⁴ Dan Murphy, "In Iraq, a clear-cut bin Laden-Zarqawi alliance", *Christian Science Monitor*, 30 December 2004, <http://csmonitor.com/2004/1230/p01s03-woiq.html>.

¹²⁵ *Associated Press*, 30 December 2004, reported in <http://www.chron.com/cs/CDA/printstory.mpl/front/2970477>

¹²⁶ See <http://leehiphopshow.ipbhost.com/lofi/version/index.php/t1409-50.html>

10. APPLICABLE INTERNATIONAL LAW

Amnesty International opposes attacks on civilians, indiscriminate attacks, torture and ill-treatment, and all other unlawful acts described in this report, regardless of the identity, status or position of the perpetrator or victim, and regardless of the cause espoused by the perpetrators. Armed groups in Iraq are required to comply strictly with international law, including international humanitarian law. If these rules are violated, the people responsible must be held accountable for their actions. The prime obligation to bring to justice the perpetrators of such crimes falls to the Iraqi authorities. In so far as some attacks amount to war crimes or crimes against humanity, they are the concern of the international community as a whole.

International humanitarian law sets out standards of humane conduct applicable to all parties in armed conflicts, including state armed forces and armed groups. In the words of the ICRC, the foremost authority on international humanitarian law, “whenever armed force is used the choice of means and methods is not unlimited.”¹²⁷ This basic rule is explicitly reflected in a number of international humanitarian law treaties.¹²⁸ In addition, there are rules of customary international law, namely international rules derived from consistent state practice and consistent consideration by states of these rules as binding on them (*opinio juris*). Some of these rules, pertaining to international humanitarian law and human rights law, apply to the conduct of all parties to any armed conflict. Finally, international criminal law provides that anyone who perpetrates gross violations of international human rights and humanitarian law, whether in the context of an armed conflict or outside of one, is individually responsible and should be brought to justice.

This report covers the period from April 2003 to May 2005. During this period, in June 2004, the UN Security Council declared that the occupation of Iraq would end with the transfer of power to the IGI;¹²⁹ the subsequent transfer of power to this interim government, on 28 June 2004, therefore, meant that the legal nature of the armed conflict in Iraq changed, a change reflected in the rules of international humanitarian law applicable to it.

From the beginning of the war on Iraq by the US-led coalition forces on 18 March 2003, the provisions of international humanitarian law relevant to international armed conflicts were applicable in Iraq. These include relevant provisions codified in

¹²⁷ Statement by the ICRC, Geneva, 5 December 2001.

¹²⁸ Including Article 22 of the Regulations annexed to Hague Convention IV Respecting the Laws and Customs of War on Land (1907) and Article 35(1) of Additional Protocol I (see below).

¹²⁹ UN Security Resolution 1546, 7 June 2004, para. 2.

the four Geneva Conventions of 1949¹³⁰ and their Additional Protocols of 1977,¹³¹ as well as norms of international customary law.

Certain provisions of the four Geneva Conventions, and Additional Protocol II, apply directly to all parties to non-international armed conflicts.

On 8 August 2004, the ICRC issued a statement clarifying its position on the armed conflict in Iraq following the 28 June 2004 handover of power. The ICRC explained:

*“The current hostilities in Iraq between armed fighters on the one hand opposing the Multinational Force (MNF-I) and/or the newly established authorities on the other, amount to a non-international armed conflict. This means that all parties including MNF-I are bound by Article 3 common to the four Geneva Conventions, and by customary rules applicable to non-international armed conflicts.”*¹³²

10.1 International humanitarian law

Even though the most fundamental principles of international humanitarian law were originally drafted to regulate the conduct of national armies during international wars, they have come to apply, either through treaties or through customary international law, to all parties to armed conflict, whether international or non-international.

The principle of distinction

A fundamental principle of international humanitarian law is that parties to an armed

¹³⁰ These are:

- Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- Geneva Convention II for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces;
- Geneva Convention III relative to the Treatment of Prisoners of War;
- Geneva Convention IV relative to the Protection of Civilian Persons in Time of War.

¹³¹ These are:

- Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I);
- Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II).

¹³² International Committee of the Red Cross: “Iraq post 28 June: protecting persons deprived of freedom remains a priority”, 5 August 2004, available on the internet at <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/63KKJ8?OpenDocument&style=cu>.

conflict must at all times distinguish between non-combatants (civilians, prisoners of war, the wounded and sick, and others) and combatants, and between civilian objects and military objectives. It is never permitted to target civilians, other non-combatants, and civilian objects for attack. This principle, known as the principle of distinction, is codified in the four Geneva Conventions and their two Additional Protocols. The principle of distinction is a rule of customary international humanitarian law, binding on all parties to armed conflicts, whether international or non-international.¹³³

International humanitarian law defines a civilian as any person who is not a member of the armed forces of a party to the conflict.¹³⁴ Members of the armed forces comprise all organized armed forces, groups and units which are under a command responsible to the party, including militia and volunteer corps forming part of such forces.¹³⁵

The principle of proportionality

Attacks which although directed at a military target may cause disproportionate harm to civilians or civilian objects are prohibited under international humanitarian law. Additional Protocol I defines a disproportionate attack, which is one type of “indiscriminate” attack, as:

“...an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹³⁶

Detailed provisions for the protection of the civilian population from attacks are contained in Additional Protocol I. Its principal provisions regarding the protection of the civilian population are regarded as rules of customary international law. Protocol I confirms the rule that “the civilian population and individual citizens shall enjoy protection against dangers from military operations” (Article 51 (1)) and specifies rules to ensure such protection. The civilian population as such, as well as individual civilians, must not be the object of attack. Acts or threats of violence whose primary purpose is to spread terror among the civilian population are prohibited (Article 51 (2)).

The Preamble to the Protocol reaffirms that its provisions “must be fully applied in all circumstances to all persons who are protected by those instruments,

¹³³ See, for instance, ICRC (Jean-Marie Henckaerts and Louise Doswald-Beck, eds.), *Customary International Humanitarian Law, Vol. 1: Rules* (Cambridge: Cambridge University Press, 2005).

¹³⁴ Additional Protocol I, Article 50.

¹³⁵ Additional Protocol I, Article 43.

¹³⁶ Additional Protocol I, Article 51(5)(b).

without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict.”

While there are no explicit provisions for proportionality directly applicable to non-international armed conflicts, this obligation is considered to be inherent in the principle of humanity which is applicable to these conflicts, as seen above.¹³⁷

The principle of humane treatment of civilians and other non-combatants

Civilians and other non-combatants under the control of a party to an armed conflict, whether they are under military occupation or are detained by that party, “shall at all times be humanely treated”.¹³⁸ This obligation includes, among other things,¹³⁹ the duty to take care of the wounded and sick as well as prohibitions on murder; torture and humiliating and degrading treatment; sexual crimes such as rape; extrajudicial executions; discrimination on grounds such as race, sex or religion and prosecution of groups on such grounds; and hostage-taking.

All parties to a non-international¹⁴⁰ armed conflict are obliged to apply Article 3 common to the four Geneva Conventions, which applies to “armed conflict not of an international nature,” and which is considered as reflecting rules of customary international law.

Common Article 3 extends protection to “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause...” The Article provides that “in all circumstances” such people “shall be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria”. The Article prohibits certain acts against these people “at any time and in any place whatsoever”, including: “(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment”; and sentencing and executions without a proper trial. Amnesty

¹³⁷ See, for instance, ICRC, *Customary International Humanitarian Law, Vol. 1*, pp. 48-9.

¹³⁸ Geneva Convention IV Article 27.

¹³⁹ Provisions for these obligations may be found throughout the four Geneva Conventions and their Additional Protocols, both as positive duties and (for the most part), if violated, as “grave breaches” (of the Conventions and Additional Protocol I) which incur individual criminal responsibility.

¹⁴⁰ In the case of Iraq (as well as Afghanistan), the participation of foreign forces in the armed conflict means it is an “internationalized” internal armed conflict. This is distinguishable from an “international” armed conflict in that the foreign forces are fighting alongside the state against an internal enemy rather than against the state.

International opposes executions under any circumstances, by governments or armed groups, in line with its total opposition to the death penalty in all its forms.

10.2 International criminal law and the responsibility of armed groups

War crimes and crimes against humanity are among the most serious crimes under international law, and are considered offences against humanity as a whole. Bringing perpetrators of these and other serious crimes to justice is therefore the concern and responsibility of the whole international community. This view is illustrated in the Preamble to the Rome Statute of the International Criminal Court, adopted in July 1998, which affirms “that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation.”¹⁴¹

International criminal law relates to crimes under international law, which may be drawn from treaty (for example, the definition of torture under the Convention against Torture), custom (for example, the definitions of crimes against humanity, although they are now codified in the Rome Statute of the International Criminal Court) or conventional and customary international humanitarian law (war crimes, particularly grave breaches of the Geneva Conventions and violations of the laws and customs of war).

International criminal law has made great advances over the past 15 years. The development of definitions of crimes, the jurisprudence of the two *ad hoc* international criminal tribunals for Rwanda and former Yugoslavia, and, crucially, the drafting and adoption of the Rome Statute of the International Criminal Court and its subsequent ratification by scores of states have been significant steps towards establishing a legal system that would end impunity for perpetrators of the worst crimes known to humanity -- genocide, crimes against humanity, war crimes, torture, extrajudicial executions and “disappearances”.

The Rome Statute criminalizes acts perpetrated within the specific context of armed conflict (war crimes) as well as acts perpetrated in any circumstances (genocide and crimes against humanity). The Rome Statute provisions on war crimes

¹⁴¹ Rome Statute of the International Criminal Court, adopted on 17 July 1998 (A/CONF.183/9), entered into force on 1 July 2002, preamble.

and crimes against humanity reflect the rules of customary international law, and are therefore binding on all parties in Iraq, including armed groups.

War crimes

Under customary international humanitarian law, war crimes can be committed during international and non-international armed conflicts.¹⁴² They include acts such as wilful killing; torture or inhuman treatment; taking of hostages; intentionally directing attacks against the civilian population; intentionally directing attacks against people involved in humanitarian assistance or peacekeeping; indiscriminate attacks, which violate fundamental principles of international humanitarian law, including distinction between civilians and civilian objects, on the one hand, and members of armed forces and military objectives, on the other; killing those who have surrendered; attacking religious institutions; and "[k]illing or wounding treacherously a combatant adversary"¹⁴³, for example by approaching enemy soldiers pretending to be a civilian so as to attack them by surprise.

Many of the acts perpetrated by armed groups in Iraq during both the international and non-international phases of the conflict since March 2003 constitute war crimes.

It should be noted that the principle of command and superior responsibility, namely the responsibility of commanders or superiors for acts of people under their effective command and control, is applicable to leaders of armed groups just as it is to those of armed forces.¹⁴⁴

Crimes against humanity

Under customary international law, as reflected in the Rome Statute, crimes against humanity are acts specified by the Statute committed as part of a "widespread or systematic attack directed against any civilian population", "pursuant to or in furtherance of a State or organizational policy to commit such attack."¹⁴⁵ Among the

¹⁴² See Jean-Marie Henckaerts & Louise Doswald-Beck, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press & International Committee of the Red Cross 2005). Customary international humanitarian law is largely reflected in Article 8 of the Rome Statute of the International Criminal Court (Rome Statute).

¹⁴³ Article 8(2)(e)(ix) of the Rome Statute of the International Criminal Court.

¹⁴⁴ See, for instance, *The Prosecutor v Aleksovski*, Judgment, Case No. IT-95-14/1, ICTY Trial Chamber, 25 June 1999; Zegveld, *supra*, note XXX, pp. 98-99.

¹⁴⁵ Rome Statute, Article 7(1), (2). Article 7(2)(a) of the Rome Statute defines an "attack directed against any civilian population" as "a course of conduct involving the multiple commission of acts

relevant crimes listed in the Statute are murder, unlawful imprisonment, torture and other inhumane acts.¹⁴⁶ Acts that constitute war crimes may also amount to crimes against humanity if they meet the requirements of the definition.

Such acts have been committed by armed groups in Iraq as part of attacks against civilians that are widespread and systematic, and perpetrated as part of a publicly declared policy to target civilians. The attacks therefore satisfy the definition of crimes against humanity.

Bringing the perpetrators to justice

With regard to international armed conflict, each of the state parties to the Geneva Conventions, is required to search for persons suspected of “grave breaches” (war crimes) of those Conventions and do one of the following: (1) bring such persons before its own courts, (2) extradite such persons to any state party willing to do so, or (3) surrender such persons to an international criminal court with jurisdiction to try persons for these crimes. A similar duty exists under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with respect to torture committed during peacetime or armed conflict.

Customary international humanitarian law now recognizes that states have a duty to investigate and, if there is sufficient admissible evidence, prosecute or extradite persons in their jurisdiction suspected of war crimes committed during a non-international armed conflict. States may also exercise universal jurisdiction over crimes against humanity as a matter of customary international law.

With regard to crimes such as war crimes, genocide, crimes against humanity and other crimes under international law, the question of whether the perpetrator belonged to an army of a state, an armed group or any other capacity is of little relevance – anyone responsible for such crimes may and should be brought to justice.

referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.”

¹⁴⁶ Rome Statute, Article 7(1).

11. RECOMMENDATIONS

To the armed groups

Amnesty International calls on all armed groups in Iraq to:

- Immediately cease all attacks against civilians and other non-combatants, all indiscriminate and disproportionate attacks and all attacks carried out while pretending to be a civilian;
- In particular, immediately cease all attacks against members of the UN and international and local humanitarian organizations and agencies, and ensure unhindered and safe access for humanitarian agencies to all areas;
- Immediately cease all abductions and hostage-taking;
- Immediately cease all executions, torture and ill-treatment of people under their control;
- Immediately cease all threats of death or abduction against civilians;
- End immediately the harassment, death threats and violent attacks against women who exercise their rights to freedom of expression and to freedom of religion;
- Remove any members suspected of abuses from positions and situations where they might continue to perpetrate abuses;
- Publicly condemn all attacks against civilians and other non-combatants, indiscriminate attacks, hostage taking, executions, torture and ill-treatment, and issue instructions to members strictly prohibiting such acts in all circumstances.

To the Iraqi government and the Multinational Force

Amnesty International urges the Iraqi Transitional Government and the MNF to:

- Exercise due diligence and protect the human rights of everyone under their jurisdiction, in particular civilians, Iraqis and non-Iraqis, including their rights to life, liberty and security of person;
- Ensure that all attacks against civilians and other non-combatants, as well as other abuses of international human rights and humanitarian law, are promptly and thoroughly investigated and that those suspected of carrying out or ordering such

actions, as well as those organizing or assisting in such actions, are brought to justice, according to procedures that meet international standards of fairness and without imposing the death penalty or other cruel, inhuman or degrading punishment;

- Ensure that all operations by Iraqi armed forces and other security forces against armed groups and individuals belonging to these groups comply with applicable international human rights and humanitarian law, in particular the prohibition on attacks against civilians and other non-combatants, indiscriminate attacks, collective punishments, torture and ill-treatment, excessive use of force and arbitrary detention;
- Ensure that all operations by the MNF within Iraqi territory against armed groups and individuals suspected of involvement in attacks against civilians comply with applicable international human rights and humanitarian law, in particular the prohibition on attacks against civilians and other non-combatants, indiscriminate attacks, collective punishments, torture and ill-treatment, excessive use of force and arbitrary detention.

To religious and community leaders in Iraq and abroad

Amnesty International urges religious and community leaders, especially of the Sunni community, to:

- Publicly condemn all attacks by armed groups against civilians and other non-combatants, indiscriminate and disproportionate attacks, hostage-taking, executions, torture and ill-treatment, and declare and disseminate widely that such acts are never justified, and must not be carried out under any circumstances;
- Publicly condemn attacks targeting women and groups promoting women's rights;
- Initiate a public campaign, including through the media, aimed at promoting opposition to all abuses by armed groups.
- Take all possible steps to use their authority and influence with respect to armed groups and their supporters to convince armed groups not to commit abuses.

To other governments in the region and elsewhere

Amnesty International calls upon other governments to:

- Unequivocally condemn all abuses by armed groups and, where such governments have links with armed groups in Iraq, use their influence to get such groups to cease attacking civilians;
- Prevent their territory being used by anyone to provide military or other assistance to armed groups in Iraq that could contribute to abuses such as those described in this report;
- Bring to justice anyone suspected of involvement in abuses against civilians who may be found in their jurisdiction and cooperate with the Iraqi authorities in their efforts to bring to justice the perpetrators.