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 ABUSE, ASSAULT AND MURDER OF PRISONERS IN IRAQ
 

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*On 26 February 2004 in Baghdad, the representatives of the International Committee of the Red Cross met with US Ambassador Paul Bremer, the head of the Coalition Provisional Authority, and the legal adviser to the United Kingdom's Special Representative in Iraq, Sir Jeremy Greenstock. Their task was to present a new Report which was the culmination of a series of earlier reports detailing alleged abuse of prisoners that dated back to April 2003, shortly after the invasion of Iraq was launched. The International Committee of the Red Cross is mandated by international agreement to monitor the full application of the Geneva Conventions regarding the treatment of persons deprived of their liberty. The Committee's 24-page report (reproduced below) detailed serial transgressions of the Conventions on the part of the Coalition Forces in Iraq during the arrest, internment and interrogation of persons deprived of their liberty. It spelt out which articles of the Conventions were being broken, and what the Coalition Forces and their Governments had to do to come back into compliance. The Report cites assaults and even the killing of persons who have been arrested, and the systematic abuse, amounting to torture, of special categories of detainees. (The normal usage of the Report refers to 'Coalition Forces', seldom distinguishing between their origins.) What was the response of the British Government to these grave charges? How did its law officers assess the reported transgressions of the Geneva Conventions? What did Ministers do to correct the catalogue of wrongdoing reported by the Red Cross, as a result of its 29 visits to 14 internment facilities in central and southern Iraq between March and November 2003? Questioned by the BBC on the Today programme (20 May 2004), Sir Jeremy Greenstock represented these events in a slightly different light:*

Greenstock: '...My legal adviser attended the meeting between the Red Cross and Ambassador Bremer, and made sure that the passages about the British actions were sent straight back to the Ministry of Defence. But the Red Cross never drew my attention personally to the passages about American abuse and I was not aware of it.

BBC: So the references to British abuse went straight to the MoD, and you had every reason to assume to a ministerial desk?

Greenstock: Yes, it went on the military net. We passed them across to our military colleagues in Baghdad, and we assumed that they were being dealt with, and in fact, as I understand, they were being dealt with... I'm talking about the end of February, into March.'

*Whatever the Ministry of Defence did with Sir Jeremy's messages, they allegedly did not penetrate to members of the British Government. Adam Ingram, Minister for the Armed Forces, told the House of Commons on 4 May 2004:*

'To date, I have received no such reports, but some may be in the process of being compiled.'

*The Minister of Defence, Geoff Hoon, embroidered this answer, without throwing any further light on the question, on 10 May 2004:*

'The interim ICRC report was not seen by Ministers until very recently. That is because it was an interim report to Ambassador Bremer, passed to the United Kingdom in strict confidence.'

*In fact, there is no evidence that it was an interim report. Rather, it was a full and 'culminating' report, handed to both Bremer and Greenstock's representatives acting on behalf of the Coalition authorities. Hoon continued:*

'... The report to Ambassador Bremer was passed to Sir Jeremy Greenstock, then to the military representative in Iraq, and from there to the Permanent Joint Headquarters..'

*As might be expected, Hoon's account of events appears to diverge from that of the Prime Minister's Official Spokesman, given below.*

*With greater candour, the Foreign Secretary returned to the Red Cross Report in the House of Commons the following day:*

'With the benefit of hindsight it should have been made available to ministers but as it happens it was not.'

*The Prime Minister did not address the question of the Red Cross report until 12 May:*

'I first saw it on Monday. I did not know of the allegations in the report at the time... The report was not passed to Ministers in February.'

*Clearly aware of the confusing impressions given by assorted Ministers, the No.10 apparatus arranged for a press briefing the day before the Prime Minister answered questions in the House:*

'Asked to clarify whether Sir Jeremy Greenstock had seen the ICRC report, the Prime Minister's Official Spokesman (PMOS) said a meeting had been held when ICRC personnel had presented their report to Paul Bremer and British representatives, including Sir Jeremy's legal advisers. As a result of that meeting, the report had been sent to the relevant people in Iraq to be dealt with. It was important for people to recognise that its contents were already being acted on, which was why it had been handled in the way that it had. Confusion had arisen because we had thought that Sir Jeremy himself had read the report, when in fact

'...the single most iconic image to come out of the abuse scandal – that of a hooded man standing naked on a box, arms outspread, with wires dangling from his fingers, toes and penis – may do a lot to undercut the administration's case that this was the work of a few criminal MPs. That's because the practice shown in that photo is an arcane torture method known only to veterans of the interrogation trade. "Was that something that [an MP] dreamed up by herself? Think again," says Darius Rejali, an expert on the use of torture by democracies. "That's a standard torture. It's called 'the Vietnam.' But it's not common knowledge. Ordinary American soldiers did this, but someone taught them."

Who might have taught them? Almost certainly it was their superiors up the line. Some of the images from Abu Ghraib, like those of naked prisoners terrified by attack dogs or humiliated before grinning female guards, actually portray "stress and duress" techniques officially approved at the highest levels of the government for use against terrorist suspects. It is unlikely that President George W. Bush or senior officials ever knew of these specific techniques, and late last week Defense spokesman Larry Di Rita said that "no responsible official of the Department of Defense approved any program that could conceivably have been intended to result in such abuses." But a NEWSWEEK investigation shows that, as a means of pre-empting a repeat of 9/11, Bush, along with Defense Secretary Rumsfeld and Attorney General John Ashcroft, signed off on a secret system of detention and interrogation that opened the door to such methods. It was an approach that they adopted to sidestep the historical safeguards of the Geneva Conventions, which protect the rights of detainees and prisoners of war. In doing so, they overrode the objections of Secretary of State Colin Powell and America's top military lawyers – and they left underlings to sweat the details of what actually happened to prisoners in these lawless places.'  
*Newsweek investigation by John Barry and others, 24 May 2004*

he hadn't. Asked if Sir Jeremy had notified Downing Street of the mistake, the spokesman said no. It had become apparent that there was a discrepancy between what the Defence Secretary had said yesterday and what the Foreign Secretary had said today. Yes, it was a slight mistake, but it did not change the substance of the matter one iota. Asked how the error had come to light, the spokesman said that as he understood it, a member of the Opposition had spotted the discrepancy today and had pointed it out. Asked at what stage Sir Jeremy had finally found out about the ICRC report, the spokesman said that Sir Jeremy had always been aware of the report. He underlined the fact that it had not contained any new allegations about British troops that were not already being dealt with. That was why Ministers had not been informed of it. Put to him that Sir Jeremy would surely have warned the Prime Minister about it, the spokesman said that he was not aware of any such conversations.

Asked repeatedly if anyone had been aware of the substance of the allegations made by the Red Cross apart from Sir Jeremy Greenstock's legal advisers and

officials in London who had received the report from Sir Jeremy's office, the spokesman pointed out that the Red Cross tended to deal with one country at a time when drafting reports. Both President Bush and the Prime Minister had made clear their shared view about the mistreatment of prisoners. It was for other Governments to deal with Red Cross reports relating to their own troops. Put to him that the ICRC's interim report in February had talked about 'Coalition Forces', the spokesman pointed out that the report had been presented to the Coalition Provisional Authority, not to the British Government. Officials had been asked by the CPA to deal with those concerns pertaining to British troops, which was precisely what they had done.

Asked if officials had been given a full copy of the ICRC report containing allegations about US troops as well as British forces, the spokesman said that officials had seen the report and had dealt with those concerns relating to British troops. Asked what British officials had known about other allegations, the spokesman said that the confidentiality under which the Red Cross operated meant that officials had responded in the way they had. The report was therefore a matter for the Red Cross. Asked if he was suggesting that Sir Jeremy Greenstock's legal advisers had decided not to pass on the concerns about US troops raised by the ICRC in their report because the Red Cross considered the confidential terms of their *modus operandi* as sacrosanct, the spokesman said that the officials had acted on their understanding of the Red Cross's very strict rules. We would welcome the publication of the ICRC's February and April reports. However, we had to abide by the wishes of the Red Cross.

Put to him repeatedly that there would be no breach of confidence were British officials to ask US officials what measures were being taken to prevent the mistreatment of Iraqi prisoners in the light of the fact that both sides had seen the same report, the spokesman said that the Red Cross gave us information relating to the conduct of our detention centres and the people we had detained. It was our responsibility to act within the parameters set out by the Red Cross. Asked if he was suggesting that we had not known about the mistreatment of Iraqi prisoners by US troops, the spokesman said that he was simply setting out the terms under which we operated when dealing with the Red Cross. Put to him that it seemed ridiculous that the Coalition had gone into Iraq to stop the abuse and yet we were unable to do so all because of the Red Cross's commitment to confidentiality, the spokesman said that he was not a spokesman for the Red Cross. All he could do was explain the circumstances in which officials had found themselves. In answer to further questions, the spokesman took the opportunity to point out that action had been taken both by the British and the US as a result of the ICRC report. In the end that was what was most important. As the Prime Minister had underlined many times recently, the mistreatment of prisoners was wrong, was not to be condoned and was entirely counter-productive. That was the factual position.

Asked if the Prime Minister agreed with the Foreign Secretary's view that in hindsight it would have been better had Ministers been told about the report, the

spokesman said that as he had said this morning, there were always lessons to be learned in Government, as the Foreign Secretary had articulated today. Both the Prime Minister and President Bush had condemned in completely unambiguous terms the mistreatment of any prisoner and had underlined that such things should not happen. It was also important for people to recognise that this was not something which characterised the entire Coalition Force in Iraq. The Coalition was there to stop abuse. As General Sir Mike Jackson had said when the allegations had first appeared, we welcomed any evidence of mistreatment so that it could be properly assessed and acted upon if necessary. That position had not changed.

Asked if the Prime Minister believed that the Arab world distinguished between the conduct of the different countries comprising the Coalition, the spokesman said that as he had told journalists repeatedly this morning and over the last two days, the Prime Minister in no way under-estimated the damage done by allegations of mistreatment. That was why he had made it plain to everyone that he believed it was important for prisoners to be treated properly.

Asked if any action had been taken to ensure that future Red Cross reports would be brought to the attention of Ministers, the spokesman said that obviously there would have to be a discussion about this matter. It was not up to the Government to decide whether ICRC reports could be published more widely.

Asked if the Prime Minister had been shocked to discover that US troops had been involved in the mistreatment of Iraqi prisoners or if he had known what was going on prior to publication of the allegations and pictures in the media, the spokesman said that allegations of mistreatment should not have come as a surprise to anyone, including the media, because of the well known case of the man who had unfortunately died in custody. Equally, the fact that investigations were taking place should not have come as any surprise because that had been confirmed. However, what Ministers had not known about was the Red Cross report – and that was the basis on which we had been answering questions. Asked if Ministers had known about the scale of the alleged abuse, the spokesman said that any allegations which had been made had been investigated, as you would expect. As the Prime Minister had made clear, such activity would not be tolerated. It was wrong and counter-productive. Asked if he was implying that the Prime Minister had known what US troops were up to before the press had got hold of the story, the spokesman cautioned journalists against putting words into his mouth. As he had said, it had been widely known that allegations of mistreatment had been made and that they were being investigated.

Asked repeatedly if the Prime Minister had been aware of allegations of torture and ‘systemised humiliation’ in the Abu Ghraib prison before the photos had appeared in the media, the spokesman said the Prime Minister had always made it clear that mistreatment of any kind was wrong. Pressed by BBC News 24 to stop treating journalists like idiots and answer the question, the spokesman said that he would never treat journalists like idiots. He was trying to answer questions politely, regardless of the way they were being asked. He thought that a bit of civility wouldn’t go amiss. The answer to the question was that if the Prime Minister was

aware of anything untoward, he would of course act accordingly. He had always made it clear that any mistreatment was wrong and counter-productive. It went without saying that these actions went against the values of the Coalition.

Asked when people would know that the Prime Minister was becoming a liability in the light of today's report in *The Guardian*, the spokesman said that as a Civil Servant he was unable to comment on party matters.'

## 'SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW'

*The 'Report of the International Committee of the Red Cross (ICRC) on the treatment by the coalition forces of prisoners of war and other protected persons by the Geneva Conventions in Iraq during arrest, internment and interrogation' is dated February 2004.*

### Executive summary

In its 'Report on the Treatment by the Coalition Forces of Prisoners of War and other protected persons in Iraq', the International Committee of the Red Cross (ICRC) draws the attention of the Coalition Forces (the CF) to a number of serious violations of International Humanitarian Law. These violations have been documented and sometimes observed while visiting prisoners of war, civilian internees and other protected persons by the Geneva Conventions (hereafter called persons deprived of their liberty when their status is not specifically mentioned) in Iraq between March and November 2003. During its visits to places of internment of the Coalition Forces, the International Committee of the Red Cross collected allegations during private interviews with persons deprived of their liberty relating to the treatment by the Coalition Forces of protected persons during their capture arrest, transfer, internment and interrogation.

The main violations, which are described in the ICRC report and presented confidentially to the Coalition Forces, include:

- Brutality against protected persons upon capture and initial custody, sometimes causing death or serious injury
  - Absence of notification of arrest of persons deprived of their liberty to their families causing distress among persons deprived of their liberty and their families
  - Physical or psychological coercion during interrogation to secure information
  - Prolonged solitary confinement in cells devoid of daylight
  - Excessive and disproportionate use of force against persons deprived of their liberty resulting in death or injury during their period of internment
- Serious problems of conduct by the Coalition Forces affecting persons deprived of their liberty are also presented in the report:
- Seizure and confiscation of private belongings of persons deprived of their liberty
  - Exposure of persons deprived of their liberty to dangerous tasks

- Holding persons deprived of their liberty in dangerous places where they are not protected from shelling

According to allegations collected by ICRC delegates during private interviews with persons deprived of their liberty, ill-treatment during capture was frequent. While certain circumstances might require defensive precautions and the use of force on the part of battle group units, the International Committee of the Red Cross collected allegations of ill-treatment following capture which took place in Baghdad, Basrah, Ramadi and Tikrit, indicating a consistent pattern with respect to times and places of brutal behavior during arrest. The repetition of such behavior by Coalition Forces appeared to go beyond the reasonable legitimate and proportional use of force required to apprehend suspects or restrain persons resisting arrest or capture, and seemed to reflect a usual *modus operandi* by certain Coalition Forces battle group units.

According to the allegations collected by the International Committee of the Red Cross, ill-treatment during interrogation was not systematic, except with regard to persons arrested in connection with suspected security offences or deemed to have an 'intelligence' value. In these cases, persons deprived of their liberty under supervision of the Military Intelligence were at high risk of being subjected to a variety of harsh treatments ranging from insults, threats and humiliations to both physical and psychological coercion, which in some cases was tantamount to torture, in order to force cooperation with their interrogators.

The International Committee of the Red Cross also started to document what appeared to be widespread abuse of power and ill-treatment by the Iraqi police which is under the responsibility of the Occupying Powers, including threats to hand over persons in their custody to the Coalition Forces so as to extort money from them, effective hand over of such persons to the custody of the Coalition Forces on allegedly fake accusations, or invoking Coalition Forces orders or instructions to mistreat persons deprived of their liberty during interrogation.

In the case of the 'High Value Detainees' held in Baghdad International Airport, their continued internment, several months after their arrest, in strict solitary confinement in cells devoid of sunlight for nearly 23 hours a day constituted a serious violation of the Third and Fourth Geneva Conventions.

The International Committee of the Red Cross was also concerned about the excessive and disproportionate use of force by some detaining authorities against persons deprived of their liberty involved during their internment during periods of unrest or escape attempts that caused death and serious injuries. The use of firearms against persons deprived of their liberty in circumstances where methods without using firearms could have yielded the same result could amount to a serious violation of International Humanitarian Law. The International Committee of the Red Cross reviewed a number of incidents of shootings of persons deprived of their liberty with live bullets, which have resulted in deaths or injuries during periods of unrest related to conditions of internment or escape attempts. Investigations initiated by the Coalition Forces into these incidents

concluded that the use of firearms against persons deprived of their liberty was legitimate. However, non-lethal measures could have been used to obtain the same results and quell the demonstrations or neutralize persons deprived of their liberty trying to escape.

Since the beginning of the conflict, the International Committee of the Red Cross has regularly brought its concerns to the attention of the Coalition Forces. The observations in the present report are consistent with those made earlier on several occasions orally and in writing to the Coalition Forces throughout 2003. In spite of some improvements in the material conditions of internment, allegations of ill-treatment perpetrated by members of the Coalition Forces against persons deprived of their liberty continued to be collected by the International Committee of the Red Cross and thus suggested that the use of ill-treatment against persons deprived of their liberty went beyond exceptional cases and might be considered as a practice tolerated by the Coalition Forces.

The International Committee of the Red Cross report does not aim to be exhaustive with regard to breaches of International Humanitarian Law by the Coalition Forces in Iraq. Rather, it illustrates priority areas that warrant attention and corrective action on the part of Coalition Forces, in compliance with their International Humanitarian Law obligations.

Consequently the International Committee of the Red Cross asks the authorities of the Coalition Forces in Iraq:

- to respect at all times the human dignity, physical integrity and cultural sensitivity of the persons deprived of their liberty held under their control
- to set up a system of notifications of arrest to ensure quick and accurate transmission of information to the families of persons deprived of their liberty
- to prevent all forms of ill-treatment moral or physical coercion of persons deprived of their liberty in relation to interrogation
- to set up an internment regime which ensures the respect of the psychological integrity and human dignity of the persons deprived of their liberty
- to ensure that all persons deprived of their liberty are allowed sufficient time every day outside in the sunlight, and that they are allowed to move and exercise in the outside yard
- to define and apply regulations and sanctions compatible with International Humanitarian Law and to ensure that persons deprived of their liberty are fully informed upon arrival about such regulations and sanctions
- to thoroughly investigate violations of International Humanitarian Law in order to determine responsibilities and prosecute those found responsible for violations of International Humanitarian Law
- to ensure that battle group units arresting individuals and staff in charge of internment facilities receive adequate training enabling them to operate in a proper manner and fulfill their responsibilities as arresting authority without resorting to ill-treatment or making excessive use of force.



## Introduction

The International Committee of the Red Cross is mandated by the High Contracting Parties to the Geneva Conventions to monitor the full application of and respect for the Third and Fourth Geneva Conventions regarding the treatment of persons deprived of their liberty. The International Committee of the Red Cross reminds the High Contracting Parties concerned, usually in a confidential way, of their humanitarian obligations under all four Geneva Conventions, in particular the Third and Fourth Geneva Conventions as far as the treatment of persons deprived of their liberty is concerned and under Protocol I of 1977 additional to the Geneva Conventions, confirmed and reaffirmed rules of customary law and universally acknowledged principles of humanity.

The information contained in this report is based on allegations collected by the International Committee of the Red Cross in private interviews with persons deprived of their liberty during its visits to places of internment of the Coalition Forces between March and November 2003. The allegations have been thoroughly revised in order to present this report as factually as possible. The report is also based on other accounts given either by fellow persons deprived of their liberty inside internment facilities or by family members. During this period, the International Committee of the Red Cross conducted some 29 visits in 74 internment facilities in the central and southern parts of the country. The testimonies were collected in Camp Cropper (Core Holding Area, Military Intelligence section, 'High Value Detainees' section); Al-Salihlyye, Tasferat anti Al-Russafa prisons; Abu Ghraib Correctional Facility (including Camp Vigilant and the 'Military Intelligence' section); Umm Qasr and Camp Bucca, as well as several temporary internment places such as Tallil Trans-shipment Place, Camp Condor, Amarah Camp and the Field Hospital in Shaibah,

The International Committee of the Red Cross conditions for visits to persons deprived of their liberty in internment facilities are common for all countries where the organization operates. They can be expressed as follows:

- The International Committee of the Red Cross must have access to all persons deprived of their liberty who come within its mandate in their place of internment
- The International Committee of the Red Cross must be able to talk freely and in private with the persons deprived of their liberty of its choice and to register their identity
- The International Committee of the Red Cross must be authorized to repeat its visits to the persons deprived of their liberty
- The International Committee of the Red Cross must be notified of arrests, transfers and releases by the detaining authorities

Each visit to persons deprived of their liberty is carried out in accordance with the International Committee of the Red Cross's working procedures expressed as follows:

- At the beginning of each visit, the ICRC delegates speak with the detaining authorities to present the International Committee of the Red Cross's mandate and the purpose of the visit as well as to obtain general information on

internment conditions, total of interned population and movements of persons deprived of their liberty (release, arrest, transfer, death, hospitalization).

- The ICRC delegates, accompanied by the detaining authorities tour the internment premises.
- The ICRC delegates hold private interviews with persons of their choice who are deprived of their liberty, with no time limit in a place freely chosen and if necessary register them.
- At the end of each visit, the delegates hold a final talk with the detaining authorities to inform them about the International Committee of the Red Cross's findings and recommendations.

The aim of the report is to present information collected by the International Committee of the Red Cross concerning the treatment of prisoners of war by the Coalition Forces, civilian internees and other protected persons deprived of their liberty during the process of arrest, transfer, internment and interrogation.

The main places of internment where mistreatment allegedly took place included battle group unit stations; the military intelligence sections of Camp Cropper and Abu Ghraib Correctional Facility; Al-Baghdadi, Heat Base and Habbania Camp in Ramadi governorate; Tikrit holding area (former Saddam Hussein Islamic School); a former train station in Al-Khaim, near the Syrian border, turned into a military base; the Ministry of Defence and Presidential Palace in Baghdad, the former *mukhabarat* office in Basrah, as well as several Iraqi police stations in Baghdad.

In most cases, the allegations of ill-treatment referred to acts that occurred prior to the internment of persons deprived of their liberty in regular internment facilities, while they were in the custody of arresting authorities or military and civilian intelligence personnel. When persons deprived of their liberty were transferred to regular internment facilities, such as those administered by the military police, where the behavior of guards was strictly supervised, ill-treatment of the type described in this report usually ceased. In these places, violations of provisions of International Humanitarian Law relating to the treatment of persons deprived of their liberty were a result of the generally poor standard of internment conditions (long term internment in unsuitable temporary facilities) or of the use of what appeared to be excessive force to quell unrest or to prevent attempted escapes.

### **Treatment during arrest**

Protected persons interviewed by International Committee of the Red Cross delegates have described a fairly consistent pattern with respect to times and places of brutality by members of the Coalition Forces arresting them.

Arrests as described in these allegations tended to follow a pattern. Arresting authorities entered houses usually after dark, breaking down doors, waking up residents roughly, yelling orders, forcing family members into one room under military guard while searching the rest of the house and further breaking doors,

cabinets and other property. They arrested suspects, tying their hands in the back with flexi-cuffs, hooding them, and taking them away. Sometimes they arrested all adult males present in a house, including elderly, handicapped or sick people. Treatment often included pushing people around, insulting, taking aim with rifles, punching and kicking and striking with rifles. Individuals were often led away in whatever they happened to be wearing at the time of arrest – sometimes in pyjamas or underwear – and were denied the opportunity to gather a few essential belongings, such as clothing, hygiene items, medicine or eyeglasses. Those who surrendered with a suitcase often had their belongings confiscated. In many cases personal belongings were seized during the arrest, with no receipt being issued (see below).

Certain Coalition Forces military intelligence officers told the International Committee of the Red Cross that in their estimate between 70% and 90% of the persons deprived of their liberty in Iraq had been arrested by mistake. They also attributed the brutality of some arrests to the lack of proper supervision of battle group units.

*In accordance with provisions of International Humanitarian Law which oblige the Coalition Forces to treat prisoners of war and other protected persons humanely and to protect them against acts of violence, threats thereof, intimidation and insults (Art. 13, 14, 17, 87, Third Geneva Convention; Art 5, 27, 31,32, 33 Fourth Geneva Convention), the International Committee of the Red Cross asks the authorities of the Coalition Forces to respect at all times the human dignity, physical integrity and cultural sensitivity of the persons deprived of their liberty hold under their control. The ICRC also asks the authorities of Coalition Forces to ensure that battle group units arresting individuals receive adequate training enabling them to operate in a proper manner and fulfill their responsibilities without resorting to brutality or using excessive force.*

### **Notification to families and information for arrestees**

In almost all instances documented by the International Committee of the Red Cross, arresting authorities provided no information about who they were, where their base was located, nor did they explain the cause of arrest. Similarly, they rarely informed the arrestee or his family where he was being taken and for how long, resulting in the *de facto* ‘disappearance’ of the arrestee for weeks or even months until contact was finally made.

When arrests were made in the streets, along the roads, or at checkpoints, families were not informed about what had happened to the arrestees until they managed to trace them or received news about them through persons who had been deprived of their liberty but were later released, visiting family members of fellow persons deprived of their liberty, or ICRC Red Cross Messages. In the absence of a system to notify the families of the whereabouts of their arrested relatives, many were left without news for months, often fearing that their relatives unaccounted for were dead.

Nine months into the present conflict, there is still no satisfactorily

functioning system of notification to the families of captured or arrested persons, even though hundreds of arrests continue to be carried out every week. While the main places of internment (Camp Bucca and Abu Ghraib) are part of a centralized notification system through the National Information Bureau (and their data are forwarded electronically to the International Committee of the Red Cross on a regular basis), other places of internment such as Mosul or Tikrit are not. Notifications from those places therefore depend solely on capture or internment cards as stipulated by the Third and Fourth Geneva Conventions,

Since March 2003 capture cards *have* often been filled out carelessly, resulting in unnecessary delays of several weeks or months before families were notified, and sometimes resulting in no notification at all. It is the responsibility of the detaining authority to see to it that each capture or internment card is carefully filled out so that the International Committee of the Red Cross is in a position to effectively deliver them to families. The current system of General Information Centers, set up under the responsibility of the Humanitarian Assistance Coordination Centers, while an improvement, remains inadequate, as families outside the main towns do not have access to them, lists made available are not complete and often outdated, and do not reflect the frequent transfers from one place of internment to another. In the absence of a better alternative, the International Committee of the Red Cross's delivery of accurate capture cards remains the most reliable, prompt and effective system to notify the families, provided cards are properly filled out.

The International Committee of the Red Cross has raised this issue repeatedly with the detaining authorities since March 2003, including at the highest level of the Coalition Forces in August 2003. Despite some improvement hundreds of families have had to wait anxiously for weeks and sometimes months before learning of the whereabouts of their arrested family members. Many families travel for weeks throughout the country from one place of internment to another in search of their relatives and often come to learn about their whereabouts informally (through released detainees) or when the person deprived of his liberty is released and returns home.

Similarly, transfers, cases of sickness at the time of arrest, deaths, escapes or repatriations continue to be notified only insufficiently or are not notified at all by the Coalition Forces to the families in spite of their obligation to do so under International Humanitarian Law.

*In accordance with provisions of both the Third Geneva Convention (Art. 70, 122, 123) and the Fourth Geneva Convention (Art. 106, 136 137, 138, 140), the International Committee of the Red Cross reminds the Coalition Forces of their treaty-based obligation to notify promptly the families of all prisoners of war and other protected persons captured or arrested by them. Within one week, prisoners of war and civilian internees must be allowed to fill out capture or internment cards mentioning at the very least their capture/arrest, address (current place of detention/internment) and state of health. These cards must be forwarded as rapidly as possible and may not be delayed in any manner. As long*

*as there is no centralized system of notifications of arrest set up by Coalition Forces, it is of paramount importance that these capture cards be filled out properly, so as to allow the International Committee of the Red Cross to transmit them rapidly to the concerned families.*

*The same obligation of notification to families of captured or arrested persons applies to transfers, cases of sickness, deaths, escapes and repatriation and identification of the dead of the adverse party. All these events must be notified to the International Committee of the Red Cross with the full details of the persons concerned, so as to allow the International Committee of the Red Cross to inform the concerned families (Art 120, 121, 122, 123 Third Geneva Convention; Art. 129,130, 136, 137, 140 Fourth Geneva Convention).*

### **Treatment during transfer and initial custody**

The International Committee of the Red Cross collected several allegations indicating that following arrest persons deprived of their liberty were ill-treated, sometimes during transfer from their place of arrest to their initial internment facility. This ill-treatment would normally stop by the time the persons reached a regular internment facility, such as Camp Cropper, Camp Bucca or Abu Ghraib. The International Committee of the Red Cross also collected one allegation of death resulting from harsh conditions of interment and ill-treatment during initial custody.

One allegation collected by the International Committee of the Red Cross concerned the arrest of nine men by the Coalition Forces in a hotel in Basrah on 13 September 2003. Following their arrest, the nine men were made to kneel, face and hands against the ground, as if in a prayer position. The soldiers stamped on the back of the neck of those raising their head. They confiscated their money without issuing a receipt. The suspects were taken to Al-Hakimiya, a former office previously used by the *mukhabarat* in Basrah and then beaten severely by Coalition Forces personnel. One of the arrestees died following the ill-treatment, (name obscured, aged 28, married, father of two children). Prior to his death, his co-arrestees heard him screaming and asking for assistance.

The issued 'International Death Certificate' mentioned 'Cardio-respiratory arrest – asphyxia' as the condition directly leading to the death. As to the cause of that condition, it mentioned 'Unknown' and 'Refer to the coroner'. The certificate did not bear any other mention. An eyewitness description of the body given to the International Committee of the Red Cross mentioned a broken nose, several broken ribs and skin lesions on the face consistent with beatings. The father of the victim was informed of his death on 18 September, and was invited to identify the body of his son. On 3 October, the commander of the Coalition Forces in Basrah presented to him his condolences and informed him that an investigation had been launched and that those responsible would be punished. Two other persons deprived of their liberty were hospitalised with severe injuries. Similarly, a week later, an International Committee of the Red Cross medical doctor examined them in the hospital and observed large haematomas with dried scabs on the abdomen, buttocks, sides, thigh, wrists, nose and

forehead consistent with their accounts of beatings received.

During a visit of the International Committee of the Red Cross in Camp Bucca [near Umm Qasr in southern Iraq] on 22 September 2003, a 61-year old person deprived of his liberty alleged that he had been tied, hooded and forced to sit on the hot surface of what he surmised to be the engine of a vehicle, which had caused severe burns to his buttocks. The victim had lost consciousness. The International Committee of the Red Cross observed large crusted lesions consistent with his allegations.

The International Committee of the Red Cross examined another person deprived of his liberty in the 'High Value Detainees' section in October 2003 who had been subjected to a similar treatment. He had been hooded, handcuffed in the back, and made to lie face down on a hot surface during transportation. This had caused severe skin burns that required three months hospitalisation. At the time of the interview he had been recently discharged from hospital. He had to undergo several skin grafts, the amputation of his right index finger, and suffered the permanent loss of the use of his left fifth finger secondary to burn-induced skin retraction. He also suffered extensive burns over the abdomen, anterior aspects of the lower extremities, the palm of his right hand and the sole of his left foot. The International Committee of the Red Cross recommended to the Coalition Forces that the case be investigated to determine the cause and circumstances of the injuries and the authority responsible for the ill-treatment. At the time of writing the results of the report were still pending.

During transportation following arrest, persons deprived of their liberty were almost always hooded and tightly restrained with flexi-cuffs. They were occasionally haematoma and linear marks compatible with repeated whipping or beating. He had wrist marks compatible with tight flexi-cuffs.

The International Committee of the Red Cross also collected allegations of deaths as a result of harsh internment conditions, ill-treatment, lack of medical attention, or the combination thereof, notably in Tikrit holding area formerly known as the Saddam Hussein Islamic School.

Some Coalition Forces military intelligence officers told the International Committee of the Red Cross that the widespread ill-treatment of persons deprived of their liberty during arrest, initial internment and 'tactical questioning' was due to a lack of military police on the ground to supervise and control the behavior and activities of the battle groups units, and the lack of experience of intelligence officers in charge of the 'tactical questioning'.

*In accordance with provisions of International Humanitarian Law which oblige the Coalition Forces to treat prisoners of war and other protected persons humanely and to protect them against acts of violence, threats thereof, intimidation and insults (Art 13, 14, 17, 87, Third Geneva Convention; Articles 5, 27, 31, 32, 33 Fourth Geneva Convention), the International Committee of the Red Cross asks the authorities of the Coalition Forces to respect at all times the human dignity, physical integrity and cultural sensitivity of the persons deprived of their liberty held in Iraq under their control.*

*The International Committee of the Red Cross also asks the authorities of the Coalition Forces to ensure that battle group units transferring and/or holding individuals receive adequate training enabling them to operate in a proper manner and meet their responsibilities without resorting to brutality or using excessive force.*

### **Treatment during interrogation**

Arrests were usually followed by temporary internment at battle group level or at initial interrogation facilities managed by military intelligence personnel, but accessible to other intelligence personnel (especially in the case of security detainees). The ill-treatment by the Coalition Forces personnel during interrogation was not systematic, except with regard to persons arrested in connection with suspected security offences or deemed to have an 'intelligence' value. In these cases, persons deprived of their liberty supervised by the military intelligence were subjected to a variety of ill-treatments ranging from insults and humiliation to both physical and psychological coercion that in some cases might amount to torture in order to force them to cooperate with their interrogators. In certain cases, such as in Abu Ghraib military intelligence section, methods of physical and psychological coercion used by the interrogators appeared to be part of the standard operating procedures by military intelligence personnel to obtain confessions and extract information. Several military intelligence officers confirmed to the International Committee of the Red Cross that it was part of the military intelligence process to hold a person deprived of his liberty naked in a completely dark and empty cell for a prolonged period to use inhumane and degrading treatment, including physical and psychological coercion, against persons deprived of their liberty to secure their cooperation.

### **Methods of ill-treatment**

The methods of ill-treatment most frequently alleged during interrogation included

- Hooding, used to prevent people from seeing and to disorient them, and also to prevent them from breathing freely. One or sometimes two bags, sometimes with an elastic blindfold over the eyes which, when slipped down, further impeded proper breathing. Hooding was sometimes used in conjunction with beatings thus increasing anxiety as to when blows would come. The practice of hooding also allowed the interrogators to remain anonymous and thus to act with impunity. Hooding could last for periods from a few hours to up to 2 to 4 consecutive days, during which hoods were lifted only for drinking, eating or going to the toilet;
- Handcuffing with flexi-cuffs, which were sometimes made so tight and used for such extended periods that they caused skin lesions and long-term after-effects on the hands (nerve damage), as observed by the International Committee of the Red Cross;
- Beatings with hard objects (including pistols and rifles), slapping, punching, kicking with knees or feet on various parts of the body (legs, sides, lower back, groin);

- Pressing the face to the ground with boots;
- Threats (of ill-treatment, reprisals against family members, imminent execution or transfer to *Guantanamo*):
- Being stripped naked for several days while held in solitary confinement in an empty and completely dark cell that included a latrine;
- Being held in solitary confinement combined with threats (to intern the individual indefinitely, to arrest other family members, to transfer the individual to Guantanamo), insufficient sleep, food or water deprivation, minimal access to showers (twice a week), denial of access to open air and prohibition of contacts with other persons deprived of their liberty;
- Being paraded naked outside cells in front of other persons deprived of their liberty, and guards, sometimes hooded or with women's underwear over the head;
- Acts of humiliation such as being made to stand naked against the wall of the cell with arms raised or with women's underwear over the head for prolonged periods – while being laughed at by guards, including female guards, and sometimes photographed in this position;
- Being attached repeatedly over several days, for several hours each time, with handcuffs to the bars of their cell door in humiliating (i.e. naked or in underwear) and/or uncomfortable position causing physical pain;
- Exposure while hooded to loud noise or music, prolonged exposure while hooded to the sun over several hours, including during the hottest time of the day when temperatures could reach 50 degrees Celsius (122 degrees Fahrenheit) or higher;
- Being forced to remain for prolonged periods in stress positions such as squatting or standing with or without the arms lifted.

These methods of physical and psychological coercion were used by the military intelligence in a systematic way to gain confessions and extract information or other forms of cooperation from persons who had been arrested in connection with suspected security offences or deemed to have an 'intelligence value'.

### **Military Intelligence section, 'Abu Ghraib Correctional Facility'**

In mid-October 2003, the International Committee of the Red Cross visited persons deprived of their liberty undergoing interrogation by military intelligence officers in Unit 1A, the 'isolation section' of 'Abu Ghraib' Correctional Facility. Most of these persons deprived of their liberty had been arrested in early October. During the visit, ICRC delegates directly witnessed and documented a variety of methods used to secure the cooperation of the persons deprived of their liberty with their interrogators. In particular they witnessed the practice of keeping persons deprived of their liberty completely naked in totally empty concrete cells and in total darkness allegedly for several consecutive days. Upon witnessing such cases, the International Committee of the Red Cross interrupted its visits and requested an explanation from the authorities. The military intelligence officer in



charge of the interrogation explained that this practice was ‘part of the process’. The process appeared to be a give-and-take policy whereby persons deprived of their liberty were ‘drip-fed’ with new items (clothing, bedding, hygiene articles, lit cell, etc.) in exchange for their ‘cooperation’. The International Committee of the Red Cross also visited other persons deprived of their liberty held in total darkness, others in dimly lit cells who had been allowed to dress following periods during which they had been held naked. Several had been given women’s underwear to wear under their jumpsuit (men’s underwear was not distributed), which they felt to be humiliating.

The International Committee of the Red Cross documented other forms of ill-treatment, usually combined with those described above, including threats, insults, verbal violence, sleep deprivation caused by the playing of loud music or constant light in cells devoid of windows, tight handcuffing with flexi-cuffs causing lesions and wounds around the wrists. Punishment included being made to walk in the corridors handcuffed and naked, or with women’s underwear on the head, or being handcuffed either dressed or naked to the bed bars or the cell door. Some persons deprived of their liberty presented physical marks and psychological symptoms which were compatible with these allegations. The International Committee of the Red Cross medical delegate examined persons deprived of their liberty presenting signs of concentration difficulties, memory problems, verbal expression difficulties, incoherent speech, acute anxiety reactions, abnormal behaviour and suicidal tendencies. These symptoms appeared to have been caused by the methods and duration of interrogation. One person held in isolation that the International Committee of the Red Cross examined was unresponsive to verbal and painful stimuli. His heart rate was 120 beats per minute and his respiratory rate 18 per minute. He was diagnosed as suffering from somatoform (mental) disorder, specifically a conversion disorder, most likely due to the ill-treatment he was subjected to during interrogation.

According to the allegations collected by the International Committee of the Red Cross, detaining authorities also continued to keep persons deprived of their liberty during the period of interrogation, uninformed of the reason for their arrest. They were often questioned without knowing what they were accused of. They were not allowed to ask questions and were not provided with an opportunity to seek clarification about the reason for their arrest. Their treatment tended to vary according to their degree of cooperation with their interrogators: those who cooperated were afforded preferential treatment such as being allowed contacts with other persons deprived of their liberty, being allowed to phone their families, being given clothes, bedding equipment, food, water or cigarettes, being allowed access to showers, being held in a lit cell, etc.

### **Umm Qasr and Camp Bucca**

Since the establishment of Umm Qasr camp and its successor, Camp Bucca, persons deprived of their liberty undergoing interrogation, whether they had been arrested by British, Danish, Dutch or Italian armed forces were segregated from

other internees in a separate section of the camp designed for investigation. This section was initially operated by the British Armed Forces who called it Joint Field Intelligence Team. On 7 April, its administration was handed over to the US Armed Forces, which renamed it Joint Interrogation Facility/Interrogation Control Element. On 25 September 2003, its administration was handed back to the British Armed Forces.

Coalition Forces intelligence personnel interrogated persons deprived of their liberty of concern to them in this section. They were either accused of attacks against the Coalition Forces or deemed to have an 'intelligence value'. They could be held there from a few days to several weeks, until their interrogation was completed. During a visit in September 2003, the International Committee of the Red Cross interviewed in that section several persons deprived of their liberty that had been held there for periods from three to four weeks.

Initially, inmates were routinely treated by their guards with general contempt, with petty violence such as having orders screamed at them and being cursed, kicked, struck with rifle butts, roughed up or pushed around. They were reportedly handcuffed in the back and hooded for the duration of the interrogation and were prohibited from talking to each other or to the guards. Hooding appeared to be motivated by security concerns as well as to be part of standard intimidation techniques used by military intelligence personnel to frighten inmates into cooperating. This was combined with deliberately maintaining uncertainty about what would happen to the inmates, and a generally hostile attitude on the part of the guards. Conditions of internment improved according to the degree of cooperation of the person deprived of his liberty. Interrogated persons deprived of their liberty were held in two separate sections. Those under initial investigation were reportedly not allowed to talk to each other (purportedly to avoid exchange of information and 'versions of events' between them). They were not allowed to stand up or walk out of the tent but they had access to water with which to wash themselves. Once they had cooperated with their interrogators, they were transferred to the 'privileged' tent where the above-mentioned restrictions were lifted.

Persons deprived of their liberty undergoing interrogation by the Coalition Forces were allegedly subjected to frequent cursing, insults and threats, both physical and verbal, such as having rifles aimed at them in a general way or directly against the temple, the back of the head, or the stomach, and threatened with transfer to Guantanamo, death or indefinite internment. Besides mentioning the general climate of intimidation maintained as one of the methods used to pressure persons deprived of their liberty to cooperate with their interrogators, none of those interviewed by the International Committee of the Red Cross in Umm Qasr and Camp Bucca spoke of physical ill-treatment during interrogation. All allegations of ill-treatment referred to the phase of arrest, initial internment (at collecting points, holding areas) and 'tactical questioning' by military intelligence officers attached to battle group units, prior to transfer to Camp Bucca.

## **Previous actions taken by the International Committee of the Red Cross in 2003 on the issue of treatment**

On 1 April, the International Committee of the Red Cross informed orally the political advisor of the commander of British Armed Forces at the Coalition Forces Central Command in Doha about methods of ill-treatment used by military intelligence personnel to interrogate persons deprived of their liberty in the internment camp of Umm Qasr. This intervention had the immediate effect to stop the systematic use of hoods and flexi-cuffs in the interrogation section of Umm Qasr. Brutal treatment of persons deprived of their liberty also allegedly ceased when the 800th Military Police Brigade took over the guarding of that section in Umm Qasr. UK Forces handed over Umm Qasr holding area to the 800th Military Police Brigade on 09.04.03. The 800th Military Police Brigade then built Camp Bucca two kilometers away.

In May 2003, the International Committee of the Red Cross sent to the Coalition Forces a memorandum based on over 200 allegations of ill-treatment of prisoners of war during capture and interrogation at collecting points, battle group stations and temporary holding areas. The allegations were consistent with marks on bodies observed by the medical delegate. The memorandum was handed to [name obscured] US Central Command in Doha, State of Qatar. Subsequently, one improvement consisted in the removal of wristbands with the remark 'terrorist' given to foreign detainees.

In early July the International Committee of the Red Cross sent the Coalition Forces a working paper detailing approximately 50 allegations of ill-treatment in the military intelligence section of Camp Cropper, at Baghdad International Airport. They included a combination of petty and deliberate acts of violence aimed at securing the cooperation of the persons deprived of their liberty with their interrogators: threats (to intern individuals indefinitely, to arrest other family members, to transfer individuals to Guantanamo) against persons deprived of their liberty or against members of their families (in particular wives and daughters); hooding; tight handcuffing; use of stress positions (kneeling, squatting, standing with arms raised over the head) for three or four hours; taking aim at individuals with rifles, striking them with rifle butts, slaps, punches, prolonged exposure to the sun, and isolation in dark cells. International Committee of the Red Cross delegates witnessed marks on the bodies of several persons deprived of their liberty consistent with their allegations. In one illustrative case, a person deprived of his liberty arrested at home by the Coalition Forces on suspicion of involvement in an attack against the Coalition Forces was allegedly beaten during interrogation in a location in the vicinity of Camp Cropper. He alleged that he had been hooded and cuffed with flexi-cuffs, threatened to be tortured and killed, urinated on, kicked in the head, lower back and groin, force-fed a baseball which was tied into the mouth using a scarf and deprived of sleep for four consecutive days. Interrogators would allegedly take turns ill-treating him, When he said he would complain to the International

Committee of the Red Cross he was allegedly beaten more. An International Committee of the Red Cross medical examination revealed haematoma in the lower back, blood in urine, sensory loss in the right hand due to tight handcuffing with flexi-cuffs, and a broken rib.

Shortly after that intervention was sent, the military intelligence internment section was closed and persons deprived of their liberty were transferred to what became the 'High Value Detainees' section of the airport, a regular internment facility under the command of the 115th Military Police Battalion. From this time onwards, the International Committee of the Red Cross observed that the ill-treatment of this category of persons deprived of their liberty by military intelligence declined significantly and even stopped, while their interrogation continued through to the end of the year 2003.

### **Allegations of ill-treatment by Iraqi police**

The International Committee of the Red Cross has also collected a growing body of allegations relating to widespread abuse of power and ill-treatment of persons in the custody of Iraqi police. This included the extensive practice of threatening to handover these persons to the Coalition Forces for internment, or claiming to act under the Coalition Forces' instructions, in order to abuse their power and extort money from persons taken in custody. Allegations collected by the International Committee of the Red Cross indicated that numerous people had been handed over to the Coalition Forces on the basis of unfounded accusations (of hostility against the Coalition Forces, or belonging to opposition forces) because they were unable or unwilling to pay bribes to the police. Alleged ill-treatment during arrest and transportation included hooding, tight handcuffing, verbal abuse, beating with fists and rifle butts, and kicking. During interrogation, the detaining authorities allegedly whipped persons deprived of their liberty with cables on the back, kicked them in the lower parts of the body, including in the testicles, handcuffed and left them hanging from the iron bars of the cell windows or doors in painful positions for several hours at a time, and burned them with cigarettes (signs on bodies witnessed by International Committee of the Red Cross delegates). Several persons deprived of their liberty alleged that they had been made to sign a statement that they had not been allowed to read. These allegations concerned several police stations in Baghdad including Al-Qana, Al-Jiran Al-Kubra in al-Amariyya, Al-Hurriyyeh in Al-Doura, Al-Salhiyye in Salhiyye, and Al-Baiah. Many persons deprived of their liberty drew parallels between police practices under the occupation with those of the former regime.

In early June 2003, for instance, a group of persons deprived of their liberty was taken to the former police academy after they had been arrested. There, they were allegedly hooded and cuffed and made to stand against a wall while a policeman placed his pistol against their heads and pulled the trigger in a mock execution (the pistol was in fact unloaded); they were also allegedly forced to sit on chairs where they were hit on the legs, the soles of their feet and on their sides with sticks. They also allegedly had water poured on their legs and had electrical

shocks administered to them with stripped tips of electric wires. The mother of one of the persons deprived of liberty was reportedly brought in and the policemen threatened to mistreat her. Another person deprived of his liberty was threatened with having his wife brought in and raped. They were made to fingerprint their alleged confessions of guilt, which resulted in their transfer to the Coalition Forces to be interned pending trial.

*The International Committee of the Red Cross reminds the authorities of the Coalition Forces that prisoners of war and other protected persons in the custody of occupying forces must be humanely treated at all times: they must not be subjected to cruel or degrading treatment and must be protected against all acts of violence (Art. 13, 14, Third Geneva Convention; Art. 27, Fourth Geneva Convention). Torture and other forms of physical and psychological coercion against prisoners of war and other interned persons for the purpose of eliciting confession or information is prohibited in all cases and under all circumstances without exception (Art. 17 and 87, Third Geneva Convention; Art. 5, 31 and 32. Fourth Geneva Convention). Confessions extracted under coercion or torture can never be used as evidence of guilt (Art. 99, Third Geneva Convention, Art. 31, Fourth Geneva Convention). Such violations of International Humanitarian Law should be thoroughly investigated in order to determine responsibilities and prosecute those found responsible (Art. 129, Third Geneva Convention and Art. 146, Fourth Geneva Convention).*

## **Treatment in regular internment facilities**

### **General conditions of treatment**

The International Committee of the Red Cross assessed the treatment of persons deprived of their liberty in regular internment facilities by Coalition Forces personnel as respectful with a few individual exceptions due to individual personalities or occasional loss of control on the part of the guards. Abusive behavior by guards, when reported to their officers, was usually quickly reprimanded and disciplined by superiors.

The International Committee of the Red Cross often noted a serious communication gap between detention personnel and persons deprived of their liberty, primarily due to the language barrier, which resulted in frequent misunderstandings. This was compounded by a widespread attitude of contempt on the part of guards, in reaction to which persons deprived of their liberty, who often complained of being treated like inferiors, adopted a similar attitude.

The International Committee of the Red Cross occasionally observed persons deprived of their liberty being slapped, roughed up, pushed around or pushed to the ground either because of poor communication (a failure to understand or a misunderstanding of orders given in English was construed by guards as resistance or disobedience), a disrespectful attitude on the part of guards, a reluctance by persons deprived of their liberty to comply with orders, or a loss of temper by guards.

Disciplinary measures included being taken out of the compound, handcuffed

and made to stand, sit, squat or lie down in the sand under the sun for up to three or four hours, depending on the breach of discipline (disrespectful behavior towards guards, communication between persons deprived of their liberty transferring from one compound to another, disobeying orders); temporary suspension of cigarette distribution, and temporary segregation in disciplinary confinement sections of the detention facilities.

Despite the fact that reductions in the availability of water or food rations or, more commonly, cigarettes were occasionally observed, the prohibition on collective punishment provided for under International Humanitarian Law (Art. 26.6, 87.3, Third Geneva Convention and Art. 33, Fourth Geneva Convention) appeared to be generally respected by detaining authorities.

### **‘High Value Detainees’ section, Baghdad International Airport**

Since June 2003, over a hundred ‘high value detainees’ have been held for nearly 23 hours a day in strict solitary confinement in small concrete cells devoid of daylight. This regime of complete isolation strictly prohibited any contact with other persons deprived of their liberty, guards, family members (except through Red Cross Messages) and the rest of the outside world. Even spouses and members of the same family were subject to this regime. Persons deprived of their liberty whose ‘investigation’ was nearing completion were reportedly allowed to exercise together outside their cells for twenty minutes twice a day or go to the showers or toilets together. The other persons deprived of their liberty still under interrogation reportedly continued to be interned in total ‘segregation’ (i.e. they were allowed to exercise outside their cells for twenty minutes twice a day and to go to the showers or toilets but always alone and without any contact with others). Most had been subjected to this regime for the past five months. Attempts to contact other persons deprived of their liberty or simply to exchange glances or greetings were reportedly sanctioned by reprimand or temporary deprivation of time outside their cells. Since August 2003, the detainees have been provided with the Koran. They have been allowed to receive books of a non-political nature, but no newspapers or magazines on current affairs. The internment regime appeared to be motivated by a combination of security concerns (isolation of the persons deprived of their liberty from the outside world) and the collection of intelligence. All had been undergoing interrogation since their internment in spite of the fact that none had been charged with criminal offence.

On 30 October 2003, the International Committee of the Red Cross wrote to the Detaining Authorities recommending that this policy be discontinued and replaced by a regime of internment consistent with the Coalition Force’s obligations under the Geneva Conventions.

*The internment of persons in solitary confinement for months at a time in cells devoid of daylight for nearly 23 hours a day is more severe than the forms of internment provided for in the Third and Fourth Geneva Conventions (investigation of criminal offences or disciplinary punishment). It cannot be used*

*as a regular, ordinary mode of holding of prisoners of war or civilian internees. The International Committee of the Red Cross reminds the authorities of the Coalition Forces in Iraq that internment of this kind contravenes Articles 21, 25, 89, 90, 95, 103 of the Third Geneva Convention and Articles 27, 41, 42, 78, 82, 118, 125 of the Fourth Geneva Convention. The International Committee of the Red Cross recommends to the authorities of the Coalition Forces that they set up an internment regime which ensures respect for the psychological integrity and human dignity of the persons deprived of their liberty and that they make sure that all persons deprived of their liberty are allowed sufficient time every day outside in the sunlight and the opportunity to move about and exercise in the outside yard.*

### **Excessive and disproportionate use of force against persons deprived of their liberty by the detaining authorities**

Since March 2003, the International Committee of the Red Cross recorded, and in some cases witnessed, a number of incidents in which guards shot at persons deprived of their liberty with live ammunition, in the context either of unrest relating to internment conditions or of escape attempts by individuals:

Camp Cropper, 24 May 2003: In the context of a hunger strike, unrest broke out in the camp prior to the International Committee of the Red Cross visit. One person deprived of his liberty suffered a gunshot wound.

Camp Cropper, 9 June 2003: Six persons deprived of their liberty were injured by live ammunition after a guard opened fire on the group in an attempt to quell a demonstration.

Camp Cropper, 12 June 2003: Two, or possibly three, persons deprived of their liberty were shot at when they attempted to escape through the barbed wire fence. One of them, Akheel Abd Al-Hussein from Baghdad, was wounded and later died after being taken to the hospital. The other person deprived of his liberty was recaptured and received treatment for gunshot wounds.

Abu Ghraib, 13 June 2003: When unrest flared up, guards from three watchtowers opened fire at the demonstrators, injuring seven persons deprived of their liberty and killing another, Alaa Jasim Hassan. The authorities investigated the matter and concluded that the 'shooting was justified as the three tower [guards] determined that the lives of the interior guards were threatened'.

Abu Ghraib, late June 2003: During unrest, one person deprived of his liberty was injured by live ammunition when a guard opened fire.

Abu Ghraib, 24 November 2003: During a riot four detainees were killed by US Military Police guards. The killing took place after unrest erupted in one of the compounds (no 4). The detainees claimed to be unhappy with the situation of detention. Specifically, lack of food, clothing, but more importantly the lack of judicial guarantees and, especially important during the time of Eid al-Fitr, lack of family visits or lack of contacts altogether. The detainees alleged to have gathered near the gate whereupon the guards panicked and started shooting. Initially, non-lethal ammunition was used which was subsequently replaced by live ammunition.

The report handed over by the Coalition Forces to the International Committee of the Red Cross states that detainees were trying to force open the gate. It further states that several verbal warnings were given and non-lethal ammunition fired at the crowd. After 25 minutes deadly force was applied resulting in the death of four detainees [names obscured].

The narrative report furnished by the Coalition Forces does not address the reason for the riot in any way and does not give any recommendations as to how a similar incident could be avoided. It does not question the use of lethal force during such an incident.

Camp Bucca, 16-22 April 2003: International Committee of the Red Cross delegates witnessed a shooting incident which caused the death of one person deprived of his liberty and injury of another. A first shot was fired on the ground by a soldier located outside the compound in a bid to rescue one of the guards allegedly being threatened by a prisoner of war armed with a stick; the second shot injured a prisoner of war in the left forearm, and the third shot killed another prisoner of war.

Camp Bucca, 22 September 2003: Following unrest in a section of the camp, one person deprived of his liberty, allegedly throwing stones, was fired upon by a guard in a watchtower. He suffered a gunshot wound to the upper part of the chest, the bullet passed through the chest and exited from the back. The investigation undertaken by the Coalition Forces concluded that 'the compound guards correctly utilized the rules of engagement and that numerous non-lethal rounds were dispersed to no avail'. The person deprived of his liberty 'was the victim of a justifiable shooting'. An International Committee of the Red Cross delegate and an interpreter witnessed most of the events. At no point did the persons deprived of their liberty, and the victim shot at, appear to pose a serious threat to the life or security of the guards who could have responded to the situation with less brutal measures. The shooting showed a clear disregard for human life and security of the persons deprived of their liberty.

These incidents were investigated summarily by the Coalition Forces. They concluded in all cases that a legitimate use of firearms had been made against persons deprived of their liberty, who, except perhaps in Abu Ghraib on 13 June 2003, were unarmed and did not appear to pose any serious threat to anyone's life justifying the use of firearms. In all cases, less extreme measures could have been used to quell the demonstrations or neutralize persons deprived of their liberty trying to escape.

In connection with the 22 September 2003 incident, the International Committee of the Red Cross wrote on 23 October to the Commander of the 800th MP Brigade and recommended the adoption of crowd control measures consistent with the rules and principles of the Third and Fourth Geneva Conventions and other applicable international norms relating to the use of force or firearms by law-enforcement personnel.

Since May 2003, the International Committee of the Red Cross repeatedly recommended to the Coalition Forces to use non-lethal methods to deal with



demonstrations, riots or escape attempts. In Camp Cropper, its recommendations were heeded. After initial deplorable incidents no further shooting of persons deprived of their liberty has occurred since November 2003. In mid-July, the International Committee of the Red Cross witnessed a demonstration in that camp: in spite of some violence by the persons deprived of their liberty, the problem was efficiently dealt with by the camp commander without any excessive use of force. He called in anti-riot military policemen, refrained from any act that might have provoked further anger from the persons deprived of their liberty, waited patiently for the emotions to calm down and then sought to establish dialogue with the persons deprived of their liberty through their section representatives. The unrest was quieted down without any violence.

*The International Committee of the Red Cross reminds the authorities of the Coalition Forces that the use of firearms against persons deprived of their liberty especially against those who are escaping or attempting to escape is an extreme measure which should not be disproportionate to the legitimate objective to be achieved (to apprehend the individual) and shall always be preceded by warning appropriate to the circumstances (Art. 42 Third Geneva Convention).*

*The Coalition Forces detaining personnel should be provided with adequate training to deal with incidents in their internment facilities. Firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and only when less extreme measures are not sufficient to restrain or apprehend him (Article 3 of the Code of Conduct for Law Enforcement Officials and Article 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials).*

*In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities. All deaths or serious injuries of a person deprived of his liberty caused or suspected to have been caused by a sentry should be immediately followed by a proper inquiry by the Detaining Power which should ensure the prosecution of any person(s) found responsible (Art 121, Third Geneva Convention; Art. 131, Fourth Geneva Convention).*

### **Seizure and confiscation of private belongings of persons deprived of their liberty**

The International Committee of the Red Cross collected numerous allegations of seizure and confiscation of private property (money, cars and other valuables) by the Coalition Forces in the context of arrests. In only a few cases were receipts issued to the arrested person or his family, detailing the items confiscated. This was perceived by persons deprived of their liberty as outright theft or pillage. The following examples will serve to illustrate the allegations:

[Mr A – name obscured] alleged that the Coalition Forces took US\$22,000 in cash and his personal luggage during his arrest;

[Mr B – name obscured] claimed that large amounts of money and personal effects were confiscated by the Coalition Forces when he was arrested at his

home on 27-28 May 2003. The items confiscated allegedly included 71,450,000 Iraqi dinars, 14,000 US dollars, two wedding rings, a video camera, a watch, real-estate property documents, his wife's residential documents, his father's will, his private diaries, as well as most of the family private documents and personal identity and other papers;

[Mr C – name obscured] claimed that his car was confiscated when he was arrested by the Coalition Forces in Basrah on 16 July 2003;

[Mr D – name obscured] claimed that Coalition Forces confiscated two million Iraqi dinars when arrested at his home on 21 August 2003;

[Mr E – name obscured] claimed that his money and two cars were confiscated when he was arrested by the Coalition Forces on 11 August 2003.

In Camp Cropper, Camp Bucco and Abu Ghraib, a system was gradually put in place whereby personal belongings in the possession of persons deprived of their liberty at the time of their arrival in these facilities which they could not keep with them (money, other valuables, spare clothing, identity papers) were registered and kept until their release. In these cases, a receipt was usually issued to the person deprived of his liberty and his belongings were returned when he was released. However, this system took no account of the property seized during arrest.

In response to property loss or damage caused to property by the Coalition Forces during raids and also to complaints regarding pension or salaries, the Coalition Forces established a compensation system open to everyone, including internees and the general public. Complaints could be filed at General Information Centers (GIC), set up under the responsibility of the Humanitarian Assistance Coordination Centers (HACC).

Supporting evidence, which is problematic given that arresting authorities rarely issue receipts, should back claims. The International Committee of the Red Cross is not yet able to assess the efficiency of this compensation system although it has had the possibility to visit one of the General Information Centers. There are nine General Information Centers in the city of Baghdad and one in the city of Mosul, there are however none in the other parts of the country therefore depriving a large number of persons of the possibility to file complaints.

*In accordance with international legal provisions, the International Committee of the Red Cross reminds the authorities of the Coalition Forces that pillage is prohibited by International Humanitarian Law (Art 33, Fourth Geneva Convention), that private property may not be confiscated (Art. 46.2, 1907 Hague Convention No IV), and that an army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State. (Art. 53, 1907 Hague Convention No IV).*

*In addition, persons deprived of their liberty shall be permitted to retain articles of personal use. Valuables may not be taken from them except in accordance with an established procedure and receipts must be issued (Art. 18. 68.2, Third Geneva Convention and Art. 97, Fourth Geneva Convention).*

## **Exposure of internees/detainees to dangerous tasks**

On 3 September 2003 in Camp Bucca, three persons deprived of their liberty were severely injured by the explosion of what apparently was a cluster bomb:

[Mr F – name obscured] bilateral below-knee amputation

[Mr G – name obscured] bilateral above-knee amputation

[Mr H – name obscured] left above-knee amputation

They were part of a group of 10 persons deprived of their liberty involved in voluntary work to clear rubbish along the barbed-wire fence of the camp. They were transferred to the British Field Military Hospital where they received appropriate medical treatment. Their injuries required limb amputations.

On 23 October 2003, the International Committee of the Red Cross wrote to the officer commanding the 800th Military Police Brigade to request an investigation into the incident. The International Committee of the Red Cross encouraged the Coalition Forces not to engage persons deprived of their liberty in dangerous labour.

*The International Committee of the Red Cross recommends to the authorities of the Coalition Forces that all three victims be properly compensated as provided for by both Third and Fourth Geneva Conventions (Art. 68, Third Geneva Convention and Art. 95, Fourth Geneva Convention).*

## **Protection of persons deprived of their liberty against shelling**

Since its reopening by the Coalition Forces, Abu Ghraib prison has been the target of frequent night shelling by mortars and other weapons, which resulted, on several occasions, in persons deprived of their liberty being killed or injured. During the month of July, the Commander of the facility reported at least 25 such attacks. On 16 August, three mortar rounds landed in the prison compound, killing at least five and injuring 67 persons deprived of their liberty. Subsequent attacks caused further deaths and injuries. An International Committee of the Red Cross team visited Abu Ghraib on 17 August and noticed the lack of protective measures: while the Coalition Forces personnel were living in concrete buildings, all persons deprived of their liberty were sheltered under tents in compounds which had no bunkers or any other protection, rendering them totally vulnerable to shelling.

Persons deprived of their liberty alleged that they had not been advised of what to do to protect themselves in the event of shelling. They were dismayed and felt that the authorities ‘did not care’. After these attacks, security was improved around the prison compound to reduce the risk of further attacks. However, steps taken to ensure the protection of persons deprived of their liberty remained insufficient. The inmates were allowed to fill and place sandbags around the perimeter of each tent. By late October, sandbags had not been placed around all tents and those sandbags that were in place did not offer adequate protection from shelling or projectile explosions.

*In accordance with International Humanitarian law provisions, the International Committee of the Red Cross reminds the authorities of the Coalition*

*Forces that the detaining power must not set up places of internment in areas particularly exposed to the dangers of war (Art. 23.1, Third Geneva Convention and Art. 83, Fourth Geneva Convention). In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection must be made available. In the event of an alarm, the internees must be free to enter such shelters as quickly as possible (Art. 23.2, Third Geneva Convention and Art 86, Fourth Geneva Convention). When a place of internment is found to be unsafe, persons deprived of their liberty should be transferred to other places of internment, offering adequate security and living conditions in accordance with the Third and Fourth Geneva Conventions.*

## Conclusion

This International Committee of the Red Cross report documents serious violations of International Humanitarian Law relating to the conditions of treatment of the persons deprived of their liberty held by the Coalition Forces in Iraq. In particular, it establishes that persons deprived of their liberty face the risk of being subjected to a process of physical and psychological coercion, in some cases tantamount to torture, in the early stages of the internment process.

Once the interrogation process is over, the conditions of treatment for the persons deprived of their liberty generally improve, except in the 'High Value Detainee' section at Baghdad International Airport where persons deprived of their liberty have been held for nearly 23 hours a day in strict solitary confinement in small concrete cells devoid of daylight, an internment regime which does not comply with provisions of the Third and Fourth Geneva Conventions.

During internment, persons deprived of their liberty also risk being victims of disproportionate and excessive use of force on the part of detaining authorities attempting to restore order in the event of unrest or to prevent escapes.

Another serious violation of International Humanitarian Law described in the report is the Coalition Force's inability or lack of will to set up a system of notifications of arrests for the families of persons deprived of liberty in Iraq. This violation of provisions of International Humanitarian Law causes immense distress among persons deprived of their liberty and their families, the latter fearing that their relatives unaccounted for are dead. The uncaring behavior of the Coalition Forces and their inability to quickly provide accurate information on persons deprived of their liberty for the families concerned also seriously affects the image of the Occupying Powers amongst the Iraqi population.

In addition to recommendations highlighted in the report relating to conditions of internment, information given to persons deprived of their liberty upon arrest, and the need to investigate violations of International Humanitarian Law and to prosecute those found responsible, the International Committee of the Red Cross wishes particularly to remind the Coalition Forces of their duty:

- to respect at all times the human dignity, physical integrity and cultural sensitivity of persons deprived of their liberty held under their control;
- to set up a system of notifications of arrests to ensure that the families of

persons deprived of their liberty are quickly and accurately informed;

- to prevent all forms of ill-treatment and moral or physical coercion of persons deprived of their liberty in connection with interrogations;
- to instruct the arresting and detaining authorities that causing serious bodily injury or serious harm to the health of protected persons is prohibited under the Third and Fourth Geneva Conventions;
- to set up an internment regime that ensures respect for the psychological integrity and human dignity of the persons deprived of their liberty;
- to ensure that battle group units arresting individuals and staff in charge of internment facilities receive adequate training enabling them to operate in a proper manner and fulfill their responsibilities without resorting to ill-treatment or using excessive force.

The practices described in this report are prohibited under International Humanitarian Law. They warrant serious attention by the Coalition Forces. In particular, the Coalition Forces should review their policies and practices, take corrective action and improve the treatment of prisoners of war and other protected persons under their authority. This report is part of the bilateral and confidential dialogue undertaken by the International Committee of the Red Cross with the Coalition Forces. In the future, the International Committee of the Red Cross will continue its bilateral and confidential dialogue with the Coalition Forces in accordance with provisions of International Humanitarian Law, on the basis of its monitoring of the conditions of arrest, interrogation and internment of persons deprived of their liberty held by the Coalition Forces.

## KILLINGS OF CIVILIANS IN BASRA AND AL-'AMARA

*With grateful acknowledgements to Amnesty International who issued this report on 11 May 2004.*

More than a year after the occupation of Iraq, civilians are still being killed unlawfully every day by Coalition Forces, armed groups and individuals. In recent weeks hundreds of civilians have been killed as clashes between Coalition Forces and armed groups and individuals opposed to the occupation have intensified. In Falluja alone, at least 600 people, including many children, have been killed during clashes between Coalition Forces and insurgents.<sup>1</sup> On 4 April US forces launched major operations in Falluja following the killing, burning and mutilation of four US private security guards by insurgents on 31 March. Clashes have also erupted between Coalition Forces and supporters of the Shi'a leader Muqtada al-Sadr in parts of Baghdad and in several other cities and towns. These clashes were prompted by the closure at the end of March of *al-Hawza al-Natiqa* newspaper, mouthpiece of Muqtada al-Sadr's group, and the arrest of one of his closest aides, Mustafa al-Ya'qubi, on charges relating to the April 2003 assassination in al-Najaf of well-known Shi'a cleric 'Abd al-Majid al-Khoie. The

newspaper was closed down by order of Ambassador Paul Bremer, head of the Coalition Provisional Authority, on the grounds that it was inciting violence.

In southern Iraq, dozens or possibly hundreds of civilians have been executed by armed groups and individuals since the start of the occupation. Killings often take place in the street in broad daylight. The violence is fuelled by the easy availability of small arms. Individuals, even the police, are reluctant to talk about these killings because they fear that speaking out will endanger their lives and those of their families. No one claims responsibility for these killings. The fact that the perpetrators are anonymous and the motivation often unclear only adds to people's sense of fear and insecurity. Iraqis appear to have no confidence that the British Army or the Iraqi police can protect them from such attacks or that the perpetrators will be held accountable before the law. It is therefore no surprise that in a recent poll conducted in Iraq by Oxford Research International, nearly 65 per cent of people interviewed said the restoration of public security in Iraq was their top priority.<sup>2</sup>

The United Kingdom (UK) Ministry of Defence has said that UK forces have been involved in the killing of 37 civilians since 1 May 2003. It acknowledges that this figure is not comprehensive as it is sometimes impossible for soldiers to confirm the number of casualties in a specific incident. In several cases documented by Amnesty International, UK soldiers opened fire and killed Iraqi civilians in circumstances where there was apparently no imminent threat of death or serious injury to themselves or others.

All governments are under a duty to take action to secure the right to life. In the case of suspected killings, such as those carried out by soldiers or police, a government must launch a thorough, competent, independent and impartial investigation into the allegations and bring to justice anyone reasonably suspected of responsibility. Despite this, the British Army has not even opened an investigation into many cases where civilians have been killed by UK forces in Iraq. Where investigations have been opened, the British Royal Military Police (RMP), which is responsible for conducting the investigations, has been highly secretive and has provided families with little or no information about the progress or conclusions of investigations.

Governments must also take action to prevent abuses of the right to life by individuals and armed groups. All killings must be investigated thoroughly and anyone suspected of responsibility must be put on trial. However, the Iraqi Police Service appears to be unable or unwilling to launch serious investigations into the frequent killings of middle-ranking Ba'ath Party members or killings linked to moral or religious disputes.

Southern Iraq had until recently been spared the massive attacks that have targeted Iraqi civilians in northern and central Iraq. Amnesty International delegates were present in southern Iraq conducting research for this report when nine coordinated attacks took place in Karbala and Baghdad on 1 March 2004, killing over 150 people. Amnesty International called for such attacks to be stopped immediately and for those responsible to be brought to justice.<sup>3</sup> Since

March 2004 the security situation in Basra and other southern cities and towns has deteriorated. For example, on 21 April, 73 people, including 17 children, were killed when several coordinated bombs exploded at three police stations in Basra and a police academy in Zubair area. Two school buses were travelling nearby when the bombs were detonated in central Basra.

This report focuses on killings of civilians in southern Iraq, whether perpetrated by state agents, individuals or armed groups, and is based on research carried out by Amnesty International delegates in southern Iraq between 9 February and 4 March 2004. Eyewitnesses and families of victims were interviewed, and sites of killings were visited. Amnesty International delegates also interviewed a large number of Iraqi police officers, including the heads of the Iraqi Police Service in Basra and in al-'Amara, capital of Maysan Province, as well as Iraqi judges and lawyers. Delegates also met Coalition Provisional Authority (CPA) officials responsible for law and order in southern Iraq.

Amnesty International requested meetings with the Commander Legal attached to UK forces stationed in Iraq and with the Royal Military Police. Both parties refused such meetings, referring Amnesty International's delegates back to the UK Ministry of Defence. The Royal Military Police told a delegate on the telephone: 'We have nothing to say to you.' Further information on the UK government's response to killings of Iraqi civilians by UK armed forces was obtained from UK parliamentary reports.

### **Killings by UK forces**

In a number of cases UK soldiers have opened fire and killed Iraqi civilians in circumstances where there was apparently no imminent threat of death or serious injury to themselves or others. In most such cases documented by Amnesty International, soldiers resorted to lethal force even though the use of such force did not appear to be strictly necessary in order to protect life. The following cases are just some of those studied by Amnesty International.

### **Killings of individuals**

#### ***Wa'el Rahim Jabar***

On 26 May 2003 a UK paratrooper shot and killed Wa'el Rahim Jabar, aged 20, in Hay Abu Romaneh district of al-'Amara. At that time, the security situation had not been stabilized in al-'Amara and it remained common for Iraqis to carry weapons in Hay Abu Romaneh. Wa'el Rahim Jabar was among the men assigned responsibility by the local community for protecting the area. On the day of his death, he was walking along the main street with a Kalashnikov rifle slung over his right shoulder, accompanied by two friends, Majed Jasem and Mu'taz 'Ati, who were unarmed. It was 9.10pm and dark, so they did not realize that there was a UK military foot patrol, consisting of four paratroopers with no interpreter, in the area. One of the paratroopers began shooting from a distance of about six metres, firing two rounds which struck Wa'el Rahim Jabar in the chest and neck, killing him immediately. The paratrooper reportedly fired without warning.

About 10 days later, a group of paratroopers visited the home of Daoud Salman Sajet, the victim's maternal uncle, and expressed their condolences about his nephew's death. They stressed, however, that the soldier had opened fire because the victim was carrying a weapon in public even though the British Army had warned Iraqis not to do this. In June 2003, the family's lawyer gave a CPA representative a complaint about the killing, including a request for compensation. By February 2004, the family had received no response. They were also unaware that an investigation into the killing had been initiated by the Royal Military Police.

As well as completing his education, Wa'el Rahim Jabar had been working as a baker to support his mother, wife and two children.

### ***Hassan Hameed Naser***

On 9 and 10 August 2003 there were violent demonstrations by Iraqis in Basra to protest against the lack of fuel in the city. On the second day, demonstrations were concentrated in northern Basra. In Karmat 'Ali, hundreds of youths gathered near the main transport garage in the early morning and threw stones at vehicles passing on the main road and at a patrol of three UK military armoured vehicles attached to B Company of the First Battalion the King's Regiment. Soldiers opened fire. Hassan Hameed Naser, an unemployed single man, was shot dead, apparently by the UK soldiers.

Qasem Hameed Naser, the victim's brother, told Amnesty International that he and his brother left home that morning to take public transport into central Basra. As they approached the garage, they saw young men nearby throwing stones at an armoured vehicle. Qasem Hameed Naser said that he could hear shots being fired from behind them. He thought that they came from an area close to a nearby school. Three armoured vehicles were positioned at intervals on the other side of the road. He said that suddenly a soldier positioned on the third vehicle, closest to the garage, began firing randomly. One of the rounds hit Hassan Hameed Naser's body. He was taken to Tahrir Hospital but died after an operation.

A UK military spokesman commented on the events at the time: 'There are four protests in northern Basra. They have turned into some small riots. There has been an instance where some UK soldiers came under fire, and they returned aimed shots.'

Following the killing, an officer from B Company of the First Battalion the King's Regiment visited Hassan Hameed Naser's family. He reportedly expressed his sorrow for the death but pointed out that there had been shooting during the demonstration. Another meeting between the officer and the family and representatives of the family's Khalaf 'ashira (clan) took place about 10 days later when the officer offered the family 2,000,000 Iraqi dinars (US\$1,405). The family refused the offer. Later, they decided to accept it but by then a new army company had been deployed in the area and the offer no longer stood.

On 1 December Qasem Hameed Naser submitted a claim for compensation to the Area Claims Office, which handles claims for compensation brought against UK forces in Iraq. The following day the Area Claims Officer rejected it because



it ‘revealed no evidence to substantiate... [the] claim’. An Iraqi interpreter who worked with the UK military intervened on behalf of the family and as a result the Area Claims Officer decided to reconsider the application for compensation.

Information provided by the UK Minister of State for the Armed Forces on 19 January 2004 indicated that no investigation had been launched by the UK military authorities into the killing of Hassan Hameed Naser.

### ***Hazam Jumah Kati’ and ’Abed ’Abd al-Karim Hassan***

On the evening of 4 August 2003, soldiers from the B Company of the First Battalion the King’s Regiment opened fire in Hay al-Shuhada, al-Majdiyeh, killing Hazam Jumah Kati’, an unemployed man aged about 60, and ’Abed ’Abd al-Karim Hassan, an unemployed man aged about 25. According to both men’s families, gunfire was heard in the area at about 11pm. Hazam Jumah Kati’ and ’Abed ’Abd al-Karim Hassan left their houses, which are close to each other on the same street, to find out what was happening. It later emerged that Iraqis nearby had fired into the air to mark the death of a local sheikh.

It was very dark that evening as there was no electricity. Both men were reportedly unarmed. Jumah Kati’, Hazam’s father, also went outside to see what was happening and stood near ’Abed ’Abd al-Karim Hassan’s home. About 15 minutes after the gunfire, a UK military patrol arrived and parked near where he was standing. By that stage Hazam Jumah Kati’ and ’Abed ’Abd al-Karim Hassan were both walking back home along the narrow road. The patrol opened fire. Jumah Kati’ told Amnesty International: ‘Then a man came and told me: “There are people dead on the road. They killed two people”. A group of us went to the patrol. One of us spoke English a bit. He asked: “Whom did you kill?” The soldier told him to accompany him [to the bodies]. I said to Captain Tai: “Why did you kill?” He said: “I am sorry. There was a mistake. I apologize.” I repeated the question: “Why did you kill them?” He said: “It was dark. One colleague was in a hurry. I am sorry. I don’t accept such behaviour.”’

Hazam Jumah Kati’ was hit by seven bullets in his chest and stomach. He died immediately. ’Abed ’Abd al-Karim Hassan was hit by five bullets in the right arm, the right leg, the chest and lower body and died later from his injuries.

Lieutenant Colonel Ciaran Griffin, Commander of the First Battalion the King’s Regiment, accompanied by a group of officers, went to Hay al-Shuhada’ on about 20 August to meet representatives of the families’ ’ashira, the Beni Skein. He apologized for the deaths but made it clear that the army was not prepared to give compensation because it did not accept responsibility for the deaths. Instead he offered to make a ‘donation’ to both families.

The British Army sent a letter to the Beni Skein ’ashira on 17 August 2003 signed by Lieutenant Colonel Ciaran Griffin. It states:

On the night of 4 August 2003 a patrol from the 1st Battalion The King’s Regiment observed a lot of shooting from the area of Al Majdiyeh and believed that there was a dangerous gun battle taking place. They drove to the edge of the village and went in on foot to investigate. The night was very dark, as there was no electricity for street

lighting and the moon had set. The patrol encountered two men, who appeared to be armed and a direct threat to their lives, so they opened fire and killed them.

In retrospect it became clear that the heavy shooting in Al Majdiyah was in sympathy for the funeral of a local man and that the two men who were shot by the British patrol had not intended to attack anyone. We greatly regret the deaths of Hasim Jumah Gattah and Abed Abdul-Kareem Hassan and we hope to work with the Ben Skein and all other tribes to avoid this type of misunderstanding in the future.

Although all good people are allowed to keep 2 weapons at home and another at their place of work, weapons are forbidden on the streets to avoid these misunderstandings with the Army and Police. If these rules had been obeyed this tragic event would not have happened.

Although the British Government cannot agree to pay compensation for these deaths, I have made a small donation to help their families through this sad period. This donation of 2,000,000 Iraqi Dinars for the family of Abed Abdu-Kareem Hassan and 3,000,000 Iraqi Dinars for the family of Hasim Jumah Gattah, should not preclude any future Iraqi government from paying compensation, if this becomes their policy.

Information provided by the UK Minister of State for the Armed Forces on 19 January 2004 indicates that no investigation was initiated by the UK military authorities into these killings.

### ***Hanan Saleh Matrud***

On 21 August 2003 a soldier from B Company of the First Battalion the King's Regiment shot and killed Hanan Saleh Matrud, an eight-year-old girl, in Karmat 'Ali. There are distinct differences in the accounts of what happened between Iraqi witnesses and the victim's family on one hand and the First Battalion the King's Regiment on the other. The latter's position is set out in a letter provided to the family and dated 12 October 2003. The letter states:

21AUG03. A patrol of two Warrior vehicles of B Company 1 KINGS was on task travelling on the western track of Qarmat Ali. The area of Qarmat Ali was at this time known to be hostile towards Coalition Forces. As the patrol moved north along the track it was engaged by heavy stone throwing from a number of mobs. A soldier concerned for his own safety and the safety of his patrol fired a warning shot into the air in an attempt to disperse the stone throwers. This had the desired effect, with the mob taking flight.

A number of minutes had passed with the patrol assessing the situation and calming the local people. The patrol then noticed a crowd of people running towards them from an area of buildings with a girl who had been cut across the abdominal area. The eight year old girl was Hanan Salih Matrood. She remained conscious but was obviously distressed and it was evident that the wound was serious. After being transferred to the Czech Hospital in Northern Basrah, Hanan died on the morning of 22AUG03.

The suggestion was that this wound sustained as a result of the warning shot, which has not been proven, but accepted as a possibility.

The letter, which was given to the family in English, also stated that Saleh Matrud, Hanan's father, agreed with the letter. However, Hanan's family denies that there was any stonethrowing when the soldier opened fire. One eyewitness,

Mizher Jabbar Yassin, said that an armoured vehicle stopped near the entrance to the alley which leads to Hanan's home, and three or four soldiers got out. A group of children, including Hanan, gathered about 60 or 70 metres from the vehicle inside the alley, attracted by the soldiers. Hanan was standing in the alley about 60 to 70 metres from the armoured vehicle. Suddenly a soldier aimed and fired a shot which hit Hanan in her lower torso. Hanan's uncle, Fellah Matrud, carried her to the armoured vehicle. At first the soldiers did not want to take her to hospital, but later did. She died the following day after an operation.

Shortly after Hanan's death, an officer from B Company, 'Major Gary', stationed at the nearby al-Hartha checkpoint, visited the family and proposed a truce between their 'ashira, the Qatrani, and the British Army. The family and the 'ashira refused a truce without compensation. In October, Saleh Matrud went to al-Hartha checkpoint to follow up on the question of compensation. An officer from B Company told him that a future Iraqi government would decide whether to compensate him and for this reason the company provided him with the letter of 12 October. This information was clearly inaccurate as a procedure for submitting claims for compensation for personal injury through the Area Claims Office at the airport had already been established.

According to Hanan's family, the military police photographed the area and interviewed witnesses the day after the killing, and photographed Hanan's body in the hospital. However, information provided by the UK Minister of State for the Armed Forces on 19 January 2004 indicates that no investigation was initiated by the UK military authorities into this killing.

### ***Walid Fayay Mazban***

Walid Fayay Mazban, a 42-year-old driver, was shot dead on 24 August 2003 at a temporary checkpoint in Sikek, Basra, by a soldier from the First Battalion the King's Regiment. He was the sole breadwinner for his wife, two children and two parents.

On the evening of 24 August UK soldiers were staffing a temporary checkpoint at the Suq al-Hattin crossroads on the edge of Sikek. According to an eyewitness, three soldiers stood across the northern side of the road, one was on the southwestern side and another was on the northeastern side. The area was very dark because there was no electricity. Saddam Hussein Danan, a neighbour of Walid Fayay Mazban who witnessed the killing, said:

I was on a bicycle about 50 meters behind Walid's vehicle. It was about 8.30pm. He was driving normally and suddenly there was gunfire. It was dark. There was no light.

I did not hear anything before the gunfire. There were maybe six or seven shots. When I heard the gunfire I ran away.

Walid Fayay Mazban was fired on from behind after he had turned his minibus left at the junction. According to his family, he was apparently fired on by a soldier who was standing on the southwestern side of the crossroads. Walid Fayay Mazban sustained multiple bullet injuries in his lower back, according to medical reports. His family reported that there were three bullet holes in the back of the minibus, which remains impounded by the UK military. Following the

shooting, Walid Fayay Mazban was transported by military ambulance to Fayha Hospital, where he died the following day.

Kadhém Finjan Hussein, formerly Chairman of the Local Councils in North Basra, who participated in negotiations between Walid Fayay Mazban's family and the British Army, told Amnesty International that the representatives from the British Army had told him that soldiers at the checkpoint had seen Walid Fayay Mazban's vehicle swerving in a suspicious manner. They had shouted 'stop' in English at the vehicle. After it failed to stop, it had been fired upon. Walid Fayay Mazban did not understand English and it is possible that he did not even hear the order to stop. Nothing suspicious was found by the British Army when the vehicle was searched.

Later in August, an officer from the King's Regiment attended a meeting with representatives of the family's 'ashira, al-Bubsayri, the family and Hussein Kadhém Finjan Hussein. According to Hussein Kadhém Finjan Hussein, the UK officer offered to pay 2,000,000 Iraqi dinars (\$US1,405) to assist the family. The officer stressed that this did not amount to admission of any legal liability for the killing. After initial refusal, the family accepted the sum. The family has not been told of any investigation into the circumstances of Walid Fayay Mazban's death. However, on 19 January 2004, the UK Minister of State for the Armed Forces stated that an investigation had been launched into the killing.

### *As'ad Kadhém Jasem*

On 4 September 2003 at least one soldier from the First Battalion the King's Regiment shot dead As'ad Kadhém Jasem, a taxi driver who was married with one son, at al-Hartha checkpoint, north of Basra.

As'ad Kadhém Jasem had approached al-Hartha checkpoint at speed in his taxi at around 11pm. Haidar Hisham Jasem, who was sitting next to him, told Amnesty International that As'ad Kadhém Jasem was driving at speed because he was worried that he might be stopped by thieves trying to steal his taxi. There was no electricity in the area, so everything was dark, and they failed to see the barrier blocking part of the lane as they approached the checkpoint. As'ad Kadhém Jasem swerved and managed to stop at the second barrier, which was by a building where UK troops were based. After the car stopped soldiers opened fire from the watchtower located behind the car near the first barrier. Two bullets penetrated the taxi and As'ad Kadhém Jasem was killed by one that hit him in the back of the head.

Haidar Hisham Jasem was held for questioning at the checkpoint. He only discovered later from UK soldiers that As'ad Kadhém Jasem had been killed. No one from the UK military has contacted him in connection with an investigation. He says that he was told by an officer through an interpreter that the soldiers involved would be put on trial.

'Ammar Kadhém Jasem, the brother of As'ad Kadhém Jasem, told Amnesty International that no one from the British Army contacted the family after the death. In October, he went to al-Hartha checkpoint and provided information about the killing and a request for compensation to an officer at the checkpoint. At the

end of 2003, members of the family went to the Presidential Palace, where the CPA and Brigade Headquarters are located, to follow up on the claim, but got no response. On 22 February 2004, 'Ammar Kadhem Jasem contacted the Area Claims Office by telephone to inquire about lodging a compensation claim. He was discouraged because an Iraqi interpreter told him that he was required to submit the name and unit of the soldier who had killed his brother. An Amnesty International delegate called later that day to clarify the situation. The Area Claims Officer stated that the information had been incorrect and explained that claimants were required to go to Basra International Airport and complete an application form.

Information provided by the UK Minister of State for the Armed Forces on 19 January 2004 indicates that no investigation was initiated by the UK military authorities into this killing.

### ***Hilal Finjan Salman***

Hilal Finjan Salman, a father of nine, had worked for 35 years as a guard for al-Ma'qal Girls Junior High School, located across the road from Ma'qal port. He was licensed to carry a weapon, a 10-bore Seminov rifle, to protect the school. He was also required to wear a luminous orange jacket when he carried his gun to show that he was authorized to carry a weapon. However, neither the British Army nor the Iraqi authorities had issued him with such a jacket.

Early in the morning of 4 October 2003 thousands of former Iraqi soldiers started to gather near the port to try to collect their salaries. UK soldiers were deployed inside the port and on its perimeter wall, including the area facing the school. Rioting broke out from early morning and people started to throw stones at the soldiers. From about 9.15am, demonstrators started to force themselves into the school compound. Hundreds of men entered the compound. The school employees, concerned about the safety of the more than 200 girls attending the school, took the girls into the school hall. According to some present in the school, Hilal Finjan Salman fired twice into the air from one of the schoolyards to intimidate the men. He then went up onto the roof facing the port and started to patrol from there, holding his rifle in one hand. All witnesses interviewed by Amnesty International agree that he did not open fire from the roof. At about 10.15am a UK soldier, standing above the port wall, fired on Hilal Finjan Salman, hitting his right shoulder and chest, killing him. UK soldiers entered the school and took Hilal Finjan Salman's body to hospital.

On 8 November Hassan Hilal Finjan Salman, the victim's son, submitted a claim for compensation. On 12 November the Area Claims Officer responded in writing saying that he would contact the family when he had completed his investigation. The family had received no further information on the progress of their application by February 2004. No investigation has apparently been initiated by the UK military authorities into the death. On 6 January 2004, the UK Minister of State for the Armed Forces said: 'On 4 October, on the periphery of a demonstration, UK soldiers killed an Iraqi gunman in self-defence. His automatic weapon and ammunition were recovered.'

***Ghanem Kadhem Kati'***

Following the overthrow of the Iraqi government, Ghanem Kadhem Kati', 22, returned home to Basra from exile in Iran. He started working with his father as a moneychanger. On the afternoon of 1 January 2004, a wedding celebration took place in Beit Asfar near his home during which bullets were fired in the air to celebrate the marriage. About 15 minutes later, two members of the UK armed forces took up positions by a low wall opposite the house of Ghanem Kadhem Kati'. They were apparently members of a boat patrol which operates on the Shatt al-Arab Waterway. A neighbour reported seeing one of the soldiers crouching at the end of the wall and aiming his rifle towards Ghanem Kadhem Kati'. The neighbour reportedly tried to warn the soldiers not to fire and to explain that the earlier shooting had been related to a wedding. After about seven or eight minutes, the soldier fired at Ghanem Kadhem Kati' from a distance of about 50 metres. Ghanem Kadhem Kati' was unarmed and standing with his back to the soldiers near the door of his home. Two bullets went through his body, killing him. Another bullet grazed the edge of the house and two others went through the door.

The Royal Military Police apparently launched an investigation into the killing. In mid-January, five eyewitnesses were interviewed by the Royal Military Police and later that month soldiers photographed the house and surrounding area. In February, the body of Ghanem Kadhem Kati' was exhumed and flown to Basra by helicopter for examination at a military hospital. Soldiers also removed the front door of the house, which contained two bullet holes. The Royal Military Police distributed a leaflet in English and Arabic asking witnesses to come forward and testify. DNA samples were taken from close relatives. No one, however, advised the family of Ghanem Kadhem Kati' of the procedures for applying to the Area Claims Officer for compensation.

**Killings of demonstrators**

On 10 January 2004, at least three Iraqis, **Muhannad Jasem Jureid**, 23, **Rahim Hanoun 'Adiou**, 35, and **Maher 'Abd al-Wahid Muften**, 17, were killed during an unauthorized demonstration in al-'Amara. At least 11 others were injured.

In the early morning hundreds of Iraqis started to gather near the Governorate building on Dijleh Street, hoping to register their names for new jobs in the Iraqi Civil Defence Corps. It then became apparent that no jobs were available. A protest began and turned violent. Many demonstrators threw stones at the Iraqi police, and some threw explosive devices. The police and the British Army, as well as some eyewitnesses interviewed by Amnesty International delegates, said that there was also shooting from the crowd. Some of the demonstrators broke into the Governorate building and stole things. Some others burgled nearby shops.

At some time after 9am more than 100 members of the Emergency Brigade, which is part of the Iraqi Police Service, were deployed. This new force had been set up in mid-2003. Most if not all of its members had had no policing experience prior to their recruitment. They also had received no training in riot control and were equipped only with Kalashnikov rifles. Its members were almost

exclusively drawn from the Muhammadiya 'ashira and are perceived as being closely allied to the Governor of Maysan Province, who is from the same 'ashira.

The Emergency Brigade began to fire randomly while advancing towards the Governorate building and the demonstrators. After a short time, UK soldiers from the First Battalion of the Light Infantry were deployed and placed themselves between the Emergency Force and the crowd. Muhannad Jasem Jureid and Maher 'Abd al-Wahid Muften were killed between 10am and 11am in Baghdad Street. Rahim Hanoun 'Adiou was shot and killed at about 3pm in Dijleh Street, outside the Rafidin Bank, reportedly by UK soldiers.

On 26 February Amnesty International discussed the incident with the Chief of Police of Maysan Province. He stated that the Iraqi police 'may have opened fire' but was not prepared to confirm that this had happened. He did not admit that the police had been responsible for killing or injuring any of the demonstrators. A British Army spokesman stated at the time of the demonstration that 'one, maybe two [of the dead] were possibly killed by UK troops... Those troops were firing in self-defence. It was quite clear that a number of objects were thrown at the UK troops, possibly grenades. I can assure everybody that they only fired in self-defence.' On 26 January the Minister of State for the Armed Forces stated that UK forces shot two Iraqis, one of whom subsequently died. He continued: 'Both were preparing to throw grenades, having already thrown other grenades or explosive devices at UK vehicles, and were a threat to our forces and to local Iraqi civilians.'

At the time, the media reported that five or six Iraqis had been killed. However, only three bodies were transferred to the Office of Forensic Medicine at al-Sadr General Hospital. A doctor at the hospital said that a family removed from the hospital the body of another person, who had been shot and injured in the demonstration and later died, before the body could be transferred to the Office of Forensic Medicine.

Maher 'Abd al-Wahid Muften and Rahim Hanoun 'Adiou both died of a single bullet wound in the back of the head. Muhannad Jasem Jureid died of a bullet wound to his body. The head of the Office of Forensic Medicine told Amnesty International delegates that no autopsies were carried out because the cause of death was obvious. He said there were no bullets left in the bodies but that, in any event, the office in al-'Amara would not have had the capacity to identify the type of ammunition used.

The Felonies Court of al-'Amara, responding to a request from the Public Safety Committee, the public body responsible for overseeing the work of the police in Maysan Province, opened an investigation into the events of 10 January. According to the three judges who are members of the investigation committee, the purpose of the investigation is to collect evidence and to bring charges against criminal suspects, who will be tried by the Felonies Court.

The committee is facing several difficulties. One is the absence of ballistic evidence and autopsy reports. The legal investigators, who are working under the supervision of the committee, were unable to inspect and gather material evidence, including spent rounds, from the area where the demonstration took

place. Another difficulty is the reluctance of witnesses to come forward. The Coordinator of the Coalition Provisional Authority and the Commanding Officer of the Coalition Forces in Maysan Province wrote jointly to the head of the Court of Appeal in Maysan Province welcoming the creation of the investigation committee, urging everyone to cooperate with it and offering to provide assistance to the committee. As of 28 February, the committee had not requested any assistance from the Coalition Provisional Authority or the Coalition Forces. The court would be unable to compel any members of the UK forces to testify before it because they are not subject to the jurisdiction of the Iraqi courts.

### **Investigations**

United Kingdom and other international military forces in Iraq enjoy immunity from Iraqi criminal and civil law; they are subject to the exclusive jurisdiction of their own states.<sup>4</sup> It is therefore crucial that the procedures established for investigating and prosecuting suspected unlawful killings of Iraqi civilians by UK forces are adequate and conform with international human rights standards, including Article 22 of the Basic Principles (see 'International standards' below). These procedures are the only means by which UK forces can be held accountable for their actions.

In a series of statements in the United Kingdom parliament, defence ministers have outlined the circumstances in which investigations are conducted into the killings of Iraqi civilians. A minister stated on 7 January 2004: 'The local commander reviews the circumstances to determine whether the UK forces involved acted within their rules of engagement. If he judges that they did – for example, they were returning fire against the deceased, having first been fired at themselves – no further action is taken other than a report of the incident being prepared and retained. If there is any doubt for whatever reason about the circumstances, the commanding officer must initiate an investigation by the Royal Military Police.'

According to the United Kingdom Minister of State for the Armed Forces, as of 2 February 2004, 37 deaths of civilians involving UK troops had been recorded since 1 May 2003. Of these, only 18 had been investigated by the Special Investigations Branch (SIB) of the Royal Military Police.

UK defence ministers' statements in parliament indicate that as of 19 January 2004, the Royal Military Police had conducted investigations into five cases where civilians were allegedly killed as a result of being shot by UK forces: 'Ali Salim 'Aziz, Jabar Wa'el Rahim, Walid Fayay Mazban, Hassan Sabah Latif al-Batat and Athir Karim Khalif. In three of these cases it was found that troops had behaved in accordance with their rules of engagement and that there was no case to answer. In the case of Athir Karim Khalif, the investigation was ongoing. One case had been referred to the Army Prosecuting Authority to determine whether charges would be brought. It appeared from Amnesty International's research that the Special Investigations Branch was also investigating the killing of Ghanem Kadhem Kati', although ministers have not mentioned this case.



After the Royal Military Police conducts an investigation, a report is submitted, together with supporting evidence, to the appropriate commanding officer and to the Army Legal Services. The Army Legal Services then advises the commanding officer whether there is a prima-facie case for disciplinary action. In serious cases, the Army Legal Services will advise the commanding officer on the procedure for referral to a higher authority and, if appropriate, on to the Army Prosecuting Authority. As of 19 January 2004, one case of a civilian killing had been referred to the Army Prosecuting Authority to determine whether charges would be brought.

Amnesty International is concerned that the decision to refer cases of civilian killings for investigation lies exclusively with commanding officers, who clearly lack the requisite level of independence and impartiality to conclude whether UK forces acted within their rules of engagement. Amnesty International has identified cases, set out above, of civilian killings where UK forces may have opened fire in breach of international standards on the use of force and no investigation has been conducted, presumably because commanding officers did not regard it as necessary to refer these incidents to the Royal Military Police.

Royal Military Police investigations are shrouded in secrecy and lack the level of public scrutiny required by international standards. In response to a question by a UK member of parliament requesting the names of the regiments that had been responsible for the detention of six Iraqis who had died in custody, the Minister of State for the Armed Forces responded on 8 March 2004: 'We do not release details of units who are involved in any incident that has been the subject of an Special Investigations Branch investigation, unless the case is referred for court martial.' Reports of Special Investigations Branch investigations are not published although the Minister of State for the Armed Forces has said that 'while the findings of investigations are subject to legal, operational and other security constraints, there may be some circumstances in which we are able to release certain details to entitled persons.'

Amnesty International met the families of 'Ali Salim 'Aziz, Jabar Wa'el Rahim, Walid Fayay Mazban, Hassan Sabah Latif al-Batat, Athir Karim Khalif and Ghanem Kadhemi Kati', who had all apparently been killed by UK forces in Iraq. Royal Military Police investigations into these cases had either been completed or were ongoing. In general these families had not been given any information by the British Army, even verbally, about the progress or conclusions of Royal Military Police investigations. The Royal Military Police's contact with the families appeared to be confined to evidence-gathering. Three families appeared to be unaware that an investigation had been opened – Amnesty International learned about these investigations from parliamentary reports.

Amnesty International does not believe that the Royal Military Police is the appropriate body to conduct investigations into killings of civilians by UK soldiers because of its unsatisfactory record regarding these investigations.

In the case of the al-'Amara demonstration killings on 10 January, Amnesty International believes that the criminal investigation being conducted by the Felonies Court is not sufficiently wide-ranging and transparent to comply with

international standards on investigations of suspected unlawful killing. These standards require that the investigation determines the cause, manner and time of death, the person responsible, and any pattern or practice that may have brought about the death. According to the investigating committee's members, such a committee does not normally make its findings public because its focus is to identify criminal suspects who should be charged and brought to trial.

### Reparation

According to Coalition Provisional Authority Order 17, the United Kingdom is responsible for handling claims for personal injury and death attributed to its forces in a manner consistent with UK law. In a letter sent to Amnesty International on 3 March 2004, the Senior Policy Adviser of the Headquarters Multi National Division (South East) Operation Telic set out the procedures for claims for compensation against UK military forces in Iraq. For a claim to be upheld, the applicant must demonstrate on the balance of probabilities that damage or loss is the result of an act of negligence by a member of the UK forces when acting in his/her official duties. Claims for loss or damage occurring prior to the cessation of decisive combat activities on 1 May 2003 are not acceptable on the basis that there is no legal liability to compensate for loss or damage sustained during hostilities.

In Iraq the responsibility for dealing with all such claims against UK forces is vested in the Area Claims Officer. A claimant must submit a claim in writing to the Area Claims Officer, stating all the relevant facts and enclosing appropriate evidence. This is normally done by the individual going to the main gate of Basra International Airport where the Area Claims Officer registers the claim. The Area Claims Officer then investigates the allegations with the appropriate unit and upon completion of that investigation the claimant is notified of the decision on their claim. If their claim is successful the claimant is 'reasonably compensated based on local levels of quantum', derived from Iraqi civil law levels that have been provided by a judge in Basra. According to the UK Minister of State for the Armed Forces, Iraqi civilians who receive compensation payments are required to sign a declaration accepting the offer and stating that they understand it to be 'a full and final settlement of all claims whatsoever relating to the incident'.

Where a claim against UK troops arises from activity that would not give rise to a legal liability to pay compensation under English law, an *ex gratia* payment may be made to the injured person or to the family of the deceased where this would be in accordance with local custom or directed to meet a particular urgent humanitarian need.

The Minister of State for the Armed Forces stated on 5 January 2004 that 23 compensation claims for compensation for deaths allegedly caused by UK forces since 1 May 2003 had been submitted.<sup>5</sup> Of these, seven had been repudiated, 13 were still under investigation, and three had received compensation payment, amounting in total to £8,125.

As we have seen, in practice many families whose relatives have been killed

by UK forces are not advised, when they come into contact with UK forces, of the procedures for applying for compensation. In several cases, UK forces have even provided families with wrong information, suggesting that they can only apply for compensation from a future Iraqi government or determining themselves that compensation is not payable.

Basra International Airport, where the Area Claims Officer is located, is not easily accessible to Iraqis, even those living in Basra. Public transport to this relatively remote area is prohibitively expensive for a poor family. Applicants must wait at the main gate to the airport, where there is no shelter from the sun, while soldiers try to contact the Area Claims Officer. Many complain that the Area Claims Officer is often not available to speak to them. They also complain that there are long delays in processing their applications. Families have very little idea of the criteria and procedures for consideration of their applications for compensation and are not provided with any written explanatory information. They do not have the opportunity to review and respond to information provided to the Area Claims Officer by the unit involved in the incident. If their claim is rejected, they receive what appears to be a standard response from the Area Claims Officer which does not provide detailed reasons for the rejection of their application. Most of the families interviewed by Amnesty International who had actually managed to submit applications to the Area Compensation Officer had little or no confidence in the process because of the lack of information and the delays. However, most of these families had made considerable efforts to follow up on their applications because of their bad economic situation.

Most families are not represented by lawyers. Many Iraqi lawyers in Basra and al-'Amara expressed to Amnesty International their lack of confidence in the compensation system, which they perceive as bureaucratic, slow and unfair to the applicant.

Some families have received *ex gratia* payments from UK forces. In most cases these payments have been negotiated between the British Army and representatives of an 'ashira. The payments are very small and are normally represented as being a contribution to assist the family. However, other families of civilians killed by the British Army have received nothing, even though they were also suffering economic hardship. The impression gained by Amnesty International is that such *ex gratia* payments have often been made to 'buy off' particular tribal or political interests which could make problems for the British Army. Negotiations with representatives of an 'ashira, structures which are patriarchal and represent the interests of a broad group of families, may not be the best way to ensure that such contributions reach the victims' immediate families, particularly dependent female relatives and children.

### **International standards**

The United Kingdom recognizes that it is an occupying power in Iraq and therefore the conduct of its armed forces is regulated by international humanitarian law, including the Fourth Geneva Convention relative to the

Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).<sup>6</sup> Article 27 of the Fourth Geneva Convention emphasizes that people protected by the Convention 'are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs.' It also requires the occupying power to treat protected persons humanely and provide them with protection, particularly from threats and acts of violence. Article 51 of Protocol 1 states that civilians should never be the object of attack.

The United Kingdom is obliged to apply in Iraq the provisions of the human rights treaties which it has ratified, as well as those which Iraq has ratified. In a situation of belligerent occupation, international human rights law complements and reinforces provisions of international humanitarian law, by providing content and standards of interpretation, for example on the use of force and firearms in non-combat situations.

Both the United Kingdom and Iraq are parties to the International Covenant on Civil and Political Rights.<sup>7</sup> The United Kingdom has also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms which is also applicable to the conduct of its armed forces in Iraq.<sup>8</sup> Article 6 of the International Covenant and Article 2 of the European Convention guarantee the right to life. Article 4 of the International Covenant emphasizes that there can be no derogation from this right, even in time of public emergency. Article 15 of the European Convention contains a similar provision, stating that there can be no derogation from the right to life, 'except in respect of deaths resulting from lawful acts of war.'

The Iraqi Police Service, as well as the Iraqi Ministry of the Interior and the Iraqi Governing Council to which the police are formally accountable, are required to ensure the right to life, as guaranteed by the International Covenant. The police must comply with international standards on the use of force and firearms, as set out below.

### **Use of force and firearms by law enforcement officials**

UK forces in southern Iraq are dealing with a complex situation. Sometimes they are engaged in combat activities, where the rules of international humanitarian law on the conduct of hostilities apply. At other times they find themselves dealing with law enforcement situations, for example the dispersal of violent demonstrations. In these non-combat situations, policing methods are required, in line with human rights standards of law enforcement such as the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (the Basic Principles).

The Basic Principles emphasize that the use of force, and, in particular, the use of firearms, by law enforcement officials, including soldiers, should be exceptional. Principle 9 states:

Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

Principle 9 also emphasizes that ‘intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.’ Principle 10 requires law enforcement officials, before using firearms, to identify themselves and give a clear warning of their intent to use firearms before opening fire, ‘unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons.’

The Basic Principles recognize that governments must provide adequate resources to law enforcement officials to enable them to comply with these standards. Principle 2 requires governments to provide and develop equipment to allow for differentiated use of force and firearms, and to provide law enforcement officials with self-defensive equipment such as shields, helmets, bulletproof vests and bulletproof means of transportation, in order to decrease the need to use weapons of any kind.

The Rules of Engagement for Operation *Telic*, which regulate the circumstances in which UK soldiers can use force in southern Iraq, are kept secret. The UK government maintains that the rules are consistent with the Code of Conduct and Basic Principles.

### **Conduct of investigations of suspected unlawful killings**

According to Article 22 and 23 of the Basic Principles, governments must establish effective reporting procedures for cases where law enforcement officials kill individuals, and reports must be submitted to the relevant administrative and judicial authorities. Governments must also initiate thorough, prompt and impartial investigations into these killings.

The European Court of Human Rights has developed detailed guidelines as to what a state must do in order to secure the right to life.<sup>9</sup> These include that an effective official investigation should be held when a person has been killed as a result of the use of force. In order for an investigation to be effective, it must be prompt, thorough, independent and impartial, and seen to be so.

The Court has ruled that the need to secure the independence of the investigation requires not only a lack of hierarchical or institutional connection on the part of the body carrying out the investigation, but also a practical independence. The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used was justified in the circumstances and, if it was not, to the identification and punishment of those responsible. The authorities must have taken reasonable steps to secure evidence relevant to the killing.

The Court has stressed that there must be a sufficient element of public scrutiny of the progress of the investigation, including decisions by the prosecuting authorities not to bring criminal charges. In all cases the victim’s

family must be able to be involved in the procedure to the extent necessary to safeguard their legitimate interests.

The UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions set out authoritative guidelines on how the United Kingdom should seek to secure the right to life in responding to suspected cases of such unlawful killings. Principle 9 requires 'thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.'

Principle 12 states that, 'Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as all information relevant to the investigation and shall be entitled to present other evidence.'

Principle 11 indicates that governments should pursue investigations through an independent investigative commission 'in cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons.'

### **Killings by individuals and armed groups**

Since the start of the occupation scores, possibly hundreds, of people have been deliberately killed by individuals or armed groups in southern Iraq for political reasons, including for perceived moral infractions such as selling or buying alcohol. These killings have occurred at a time when violent crime has increased dramatically. Small arms have become widespread in southern Iraq, helping to perpetuate and intensify violence. Light weapons, such as Rocket Propelled Grenades, are also easily available. Individuals are entitled to keep two small arms in their homes and one in their place of business without a licence. Firing into the air to mark weddings, funerals and or other events is common.

Dozens of political groups are operating in Basra. Members of these groups are frequently armed and some groups, particularly certain Shi'a Islamist groups, are feared by Basra's residents. In conducting research on killings related to politics or perceived moral infractions in Basra, Amnesty International met a wall of near total silence. Many people simply refused to talk about such killings. Others only spoke on condition of anonymity because they were afraid of retaliation by armed Shi'a Islamist groups.

No armed group has claimed responsibility for such killings, but there are strong indications that armed Shi'a Islamist groups are involved in at least some

of them. Armed groups are clearly involved in other human rights abuses, such as kidnapping, detention and torture. Certain killings have followed similar patterns and some have involved a high degree of organization. However, some of the assassinations of former Ba'ath Party members were undoubtedly committed by individuals acting out of revenge.

Basra and Maysan provinces have been spared the massive attacks that have been directed at Iraqi civilians in northern and central Iraq. However on 18 March 2004 an improvised explosive device, weighing between 200 to 300 pounds and packed into a Mercedes car, detonated in central Basra, killing three Iraqi civilians. A UK military patrol had just passed through the area.

### **Killings of Ba'ath Party members and former government officials**

Interviews with the Iraqi police indicate that dozens of middle-ranking Ba'ath Party members, as well as former government officials, have been killed in Basra in the past year. Iraqi police reported picking up more than 60 bodies, most of them former Ba'athists, from the streets. Most if not all had been shot in the head. The true number of bodies recovered by the police is probably much higher as officers in many police stations have been reluctant to discuss these killings with Amnesty International delegates.

On 29 August 2003, armed men kidnapped **Jawad Ja'far Naser** from his vegetable shop in al-Jaza'er Street, Basra. His body was later found in the Casino Lebanon area of Basra, a site where more than 20 bodies, most of them blindfolded, have been dumped over the past year, according to police. In one of his pockets was a note written in red ink, stating 'Jawad Ja'far Nas[er], Abu'l Khasib... party comrade and fida'i S[addam]. He participated in executions with 'Ali Hassan al-M[ajid] in Abu'l Hasib in [19]91.'

**Muhsen 'Abd al-Wahid al-Hajani**, a teacher in his early fifties and married with four children, held the rank of 'udu firqa in the Ba'ath Party. He lost his job as the school principal of Sayf Sa'ad School in Karmat 'Ali, Basra, as a result of the De-Baathification Order – Order No. 1 issued by the Coalition Provisional Authority on 16 May 2003 which removed senior Ba'ath Party officials holding the rank of 'udu firqa and above from employment in the state sector. On 26 October, Muhsen 'Abd al-Wahid al-Hajani left his home in Hay al-Salam, telling his family that he planned to register at the Directorate of Education in response to an announcement by the Directorate inviting teachers, who had been dismissed from their positions because of Order No. 1, to reapply for their positions or for a retirement pension. Shortly after he left the Directorate of Education, a car containing two people stopped near him. A man got out and shot him dead with a pistol. In the weeks following the announcement, at least seven dismissed teachers were killed in the same manner – all were shot dead shortly after leaving the Directorate of Education where they had registered their personal details, including the rank which they had held in the Ba'ath Party.

On the morning of 17 November 2003 **Samira Fadagh Mawhan**, a former

school principal who held the rank of 'udu firqa (group member) in the Ba'ath Party, was shot dead about 50 metres from her home in a quiet residential street in Hay al-Rafidin. According to witnesses, two men, armed with a Kalashnikov rifle and a pistol, drove into the street. The man with the pistol fired at Samira Fadagh Mawhan. A witness heard the gunman say, before he opened fire: 'Ah, Samira, how many innocent people did you kill?'

**Muhammad 'Aisa**, 26, became an English teacher in a Basra secondary school in 2000.<sup>10</sup> According to his family, he had to join the Ba'ath Party in order to work in the teaching profession. On the morning of 31 December 2003, Muhammad 'Aisa dropped his wife, who is also a teacher, at her school. He then drove towards Basra University to drop off his sister and another young woman. As he was driving through al-Tuweisah area, a white Land Cruiser with two men in it drove in front of his car and blocked the road. One of the men got out and fired five bullets into Muhammad 'Aisa's chest with a pistol, killing him instantly. The family does not know who killed him or why. One possibility is that he was killed because he was a Ba'ath Party member.

At about 7.30pm on 20 February 2004 a group of armed men raided the home of **Jabbar al-Badran** in Hay al-Andalus, Basra, and shot him dead. His son and daughter were also reportedly injured. Jabbar al-Badran had worked as a judge in the National Security Court until it was abolished by the Coalition Provisional Authority in May 2003. The court had been responsible for sentencing thousands of Iraqis to death and long terms of imprisonment after unfair trials often on the basis of confessions obtained by the use of torture.

Some Iraqis, including police officers, told Amnesty International that these killings were justified because Ba'athists and former government officials participated in the human rights violations of the former Iraqi government or provided information to security agencies which led to 'disappearances' and executions.

Amnesty International believes that it is fundamental for the countless victims of decades of grave violations of human rights by Iraqi government agents that those suspected of involvement are brought to justice as part of a process which conforms to international human rights law and standards. Executions in the street of people who may or may not have been responsible for past human rights violations does not bring Iraqis closer to securing truth, justice and accountability for past human rights violations. In fact, they make these goals even more difficult to achieve.

### **Killings of professionals**

Many Iraqi professionals, including academics, medical doctors and lawyers, have been victims of assassination, but there has been no clear indication as to why they have been targeted or by whom. At least three senior professionals have been assassinated in Basra and many professionals in the city told Amnesty International delegates they feared for their lives.

**Dr. Abdallah Hamed 'Abd al-Halim al-Fadhil**, a surgeon aged 45, was



appointed Deputy Dean for Scientific Affairs at the College of Medicine in Basra in 2001. He also worked as a consultant surgeon in Tahrir Hospital. On the afternoon of 20 September 2003 he was working in his private clinic in al-'Ashar. At about 7pm he left the clinic to have a word with another doctor. As he was speaking through a car window, a man approached him and said: 'Are you Dr. 'Abdallah?' He replied in the affirmative. The man then fired three rounds into the back of his head before escaping.

**Dr. As'ad Salim 'Abd al-Qader**, Dean of the Engineering Department, Basra University, and his colleague, Dr. Jasem Muhammad 'Abd al-Jabbar, were collected by a driver as usual from their homes on the morning of 4 October 2003. On their way to work, the car stopped at Dur al-Naft junction. Two men drew up on a motorcycle and opened fire, critically wounding Dr. As'ad Salim 'Abd al-Qader in the chest and injuring Dr. Jasem Muhammad 'Abd al-Jabbar.

In neither of these two cases was there any apparent motivation for the attacks.

### Alcohol-related killings

Since the fall of the Iraqi government, people selling alcohol in Basra, whether legally or illegally, have been subjected to a campaign of intimidation, including violent attacks and targeted killings. According to Iraqi law, it is legal for licensed stores to sell alcohol. Before the start of the occupation, these licences were only issued to Christians. About 300 of the 1,150 Christian families living in Basra before the occupation used to earn their livelihoods from the alcohol trade, according to the Chaldean Archbishop of Basra and Southern Iraq, Monsignor Gibril Kassab.

Violence targeting those involved in the alcohol trade started soon after the occupation began. Shops selling music and videos have also been attacked. On 8 May 2003 two merchants, **'Abd al-Ahad Slewa and Sabah Kamel**, were shot dead in separate incidents. As a result of these killings, the licensed stores closed. Attacks, however, continued. **Sarkun Nanu Muradu** and **Bashir Toma Elias**, who both used to run liquor stores, were killed in November and December 2003 respectively. **Bashir Toma Elias**, 53, who shut down his liquor store in Bashar Street, Old Basra, after the two killings on 8 May, was shot dead on 24 December. A retired English teacher who drove a taxi to support his wife and six children, he had gone to the market in Old Basra at about 9am to do some shopping for the Christmas celebrations. According to his family, a man with a beard approached him and fired a bullet into the back of his neck.

The violence peaked on 15 February 2004, when at least nine people were killed by armed men who fired randomly into the crowded main street in Old Basra near the footbridge, a well-known spot for illegal selling of alcohol by street vendors. At least six others were seriously injured. Many of the wounded were neither selling nor buying alcohol. The dead included **Lo'ay Naser Hasab**, 43, unemployed; **Husam Samir Muhsen 'Abbas**, 19, a restaurant worker; **'Ali Kadhem 'Abbas**, a police officer; **Usama Shakr Rajab**, an upholsterer; **Naser Sabih Sa'id**; **Fayeq Naser Nati**; and **Sa'ad Muhammad 'Abd al-Khadhr**.

According to the Iraqi police, two other unidentified individuals were killed; their bodies were removed for burial before they could be transferred to the Office of Forensic Medicine.

One of those killed, Lo'ay Naser Hasab, had returned from exile in Iran to rejoin his wife and children. He had driven to Old Basra to shop for the family dinner. His son, Salwan Lo'ay Naser, and his brother-in-law, Ahmad Naser Shayyal, accompanied him. Lo'ay Naser Hasab parked near the footbridge where a small group of men were selling alcohol. He got out of the car and his son and brother-in-law waited. Two unmarked white pick-up trucks containing 12 to 13 men wearing balaclavas drove down the street, did a U-turn, and drove up the opposite side of the street. The men suddenly started to fire into the busy street. Some of them walked along the street shooting. According to Salwan Lo'ay Naser and Ahmad Naser Shayyal, the shooting continued for about 15 minutes. The men used a variety of arms, including a machine gun mounted on a pick-up truck, rifles and pistols. Lo'ay Naser Hasab was hit in his temple, shoulder and lower back, and died shortly afterwards in Basra General Hospital.

Husam Samir Muhsen 'Abbas also died in the attack. A young man who worked in a local restaurant, he was responsible for supporting his disabled father and seven brothers and sisters. His maternal cousin, Murtada Salman Za'lan, 23, who was with him in the area, told Amnesty International: '[A]t some point between 6pm and 6.15pm, I heard the sound of gunfire. It lasted for about three minutes. I ran back to the source of the fire. I found Husam lying on the ground. He had been hit in the left side and the round had gone through his right side and through his right arm. I saw about 20 other people, including women and children, lying wounded on the ground on both sides of the road. I took Husam myself to Basra General Hospital. He was then transferred to Basra Teaching Hospital. Husam was bleeding internally. He underwent an operation but the doctors could not stop the internal bleeding and he died about two hours later.' Murtada Salman Za'lan added: 'We just want to know who did this but there is no result... We want the story of what happened to be published in the Iraqi newspapers. Until now no Iraqi newspaper or the local radio has talked about what happened.'

According to Archbishop Gibril Kassab, about 150 Christian families, many of whom were involved in the alcohol trade, have relocated to their original homes in and around Mosul in northern Iraq. He estimated that 20 or 30 families had left Basra permanently and the others plan to return if the security situation in Basra stabilizes.

Many people interviewed by Amnesty International blamed Islamist groups for the attacks, although no group has claimed responsibility. A senior Iraqi police official confirmed in February 2004 to Amnesty International that no prosecutions had been initiated for killings of alcohol vendors.

## **Investigations**

There appears to have been virtually no investigations or prosecutions of political killings by individuals and armed groups since the occupation began. The Iraqi

Police Service, which effectively collapsed in April 2003, remains ineffective, especially when dealing with complex crimes such as political killings. Many Iraqis interviewed by Amnesty International lacked confidence in the police's ability to provide security in southern Iraq. With regard to political killings, police officers interviewed by Amnesty International generally expressed the view that these cases were unsolvable because they had been committed by unidentified individuals and because eyewitnesses would not come forward. Generally, it appears that no initiatives by the Iraqi police to prevent such killings have been taken. Amnesty International did learn that the British Army and Iraqi police have undertaken joint patrols at night in recent months in the Casino Lebanon area to prevent dumping of corpses and that this measure had been successful. Amnesty International was unable to identify a single case in Basra city where a perpetrator of a political killing had been brought to trial.

Some police officers clearly did not regard conducting investigations into the killings of people linked to the Ba'ath Party as a priority or even a responsibility for the police. The head of one police station told an Amnesty International delegate that people 'were in the right' for seeking to avenge the deaths of their relatives who had 'disappeared' or been executed by the previous Iraqi government. Other police officers recognized, however, the threat that this phenomenon placed to the rule of law and human rights.

The capacity of the Iraqi Police Service in southern Iraq has been strengthened since May 2003. Offices have been renovated and re-equipped but the police still do not have sufficient mobile communications equipment or vehicles. There are now more police officers in both Basra and Maysan provinces, although some had no police training before they were recruited and lack policing skills. Both these and experienced police officers need to be trained if they are to meet new demands for policing based on respect for human rights and democratic values.

The challenges facing the Iraqi Police Service are greater than ever before. Police are expected to be accountable and operate in accordance with Iraqi law and international human rights standards. They are expected to tackle serious crime, including violent crime, which has dramatically increased since the fall of the Iraqi government. In the past the police frequently secured criminal convictions on the basis of confessions, often obtained through the use of torture and ill-treatment. Now the Iraqi police must rely increasingly on other sorts of evidence, such as eyewitness testimony and forensic evidence. However, as was frankly acknowledged by the Coalition Provisional Authority's Head of Law and Order, there is 'a huge gap in investigation procedures, which is a highly skilled and specialized art requiring specialized training'.

Police in southern Iraq also face threats and physical intimidation, even killing, for carrying out their duties. They are aware that in other parts of Iraq, hundreds of Iraqi police have been killed by armed groups.

On 20 February 2004, the Coalition Provisional Authority's Head of Law and Order for southern Iraq told Amnesty International delegates that strengthening the capacity of the Iraqi Police Service, as well as other Iraqi security forces, was

the top priority of the British Army in southern Iraq. An array of training programmes has been set up for newly recruited police, as well as veterans. The British Army and the Coalition Provisional Authority aim to support the police during their operations and through the provision of training and equipment. As part of this process the British Army, including the Royal Military Police, has embedded personnel in the police to mentor them.

### **International standards**

International human rights law obligates states to protect individuals against human rights abuses, including abuses of the right to life, committed by individuals or organizations. For example, Article 2(1) of the International Covenant on Civil and Political Rights requires the United Kingdom to ensure to everyone the rights guaranteed in the Covenant. States must exercise due diligence in preventing, investigating, prosecuting and providing an effective remedy for abuses of the right to life. If they fail to do so, they will be regarded under international law as being responsible for these abuses and in breach of their international obligations. Article 27 of the Fourth Geneva Convention also requires the United Kingdom, as an occupying power, to protect Iraqis, particularly from threats and acts of violence.

Armed groups are themselves required to respect minimum standards of international humanitarian law, justice and humanity, including a prohibition on deliberate or indiscriminate attacks on civilians.

### **Conclusions and recommendations**

On 7 January 2004 the United Kingdom Minister of State for the Armed Forces stated that UK forces 'are working in partnership with the Iraqi people to establish a safe and secure environment, and are doing so under the rule of law.' This is not the picture found by Amnesty International delegates in Iraq. As this report has shown, in certain cases UK armed forces have opened fire and killed Iraqi civilians in breach of international human rights standards relating to the use of force and firearms. Moreover, the British Army's response to suspected unlawful killing of civilians has undermined, rather than upheld, the rule of law. It has failed to conduct investigations into all killings of civilians, and the investigations that have been carried out have failed to ensure that 'justice was done and seen to be done' in the eyes of victims' families or the Iraqi or UK public. The investigations have been shrouded in secrecy – some victims have not even been aware that they have been opened. Families of victims have also not been given adequate information on how to apply for compensation.

Amnesty International also believes that the UK armed forces and the Iraqi Police Service have failed many of the families of people who have been killed by individuals and armed groups. They have failed by not exercising due diligence in preventing such abuses or in investigating, prosecuting and punishing those who carried out the killings.

Amnesty International welcomes the efforts of United Kingdom and other

governments to strengthen the capacity of the Iraqi Police Service. However, increased capacity must be matched by an increased willingness by the police to take action in such cases and uphold the rule of law.

**Amnesty International calls on the UK authorities, the Coalition Provisional Authority and the Iraqi Governing Council to:**

- Ensure that all individuals exercising law enforcement functions, whether members of the UK forces or the Iraqi police, secure the right to life through respect for the Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms, and principles of humanitarian law. Law enforcement officials should employ lethal force only when strictly unavoidable in order to protect life.
- Provide training to law enforcement officials, including military forces acting in that capacity, in the use of graduated force and firearms.
- Equip law enforcement officials, including military forces acting in that capacity, with self-defensive equipment in order to reduce the need to use firearms.
- Ensure that investigations are conducted into all suspected cases of unlawful killings of civilians by law enforcement officials, including military forces acting in that capacity.
- Ensure that such investigations are thorough, competent, impartial and independent, and seen to be so.
- Ensure that such investigations include an adequate autopsy, as well as collection and analysis of all physical and documentary evidence and statements from witnesses.
- Ensure that the results of such investigations are made public.
- Bring to justice in fair trials anyone reasonably suspected of responsibility for unlawful killings.
- Provide reparation, including payment of adequate compensation, to the families of people unlawfully killed by law enforcement officials, including military forces acting in that capacity.
- Keep families of victims of unlawful killings informed of the procedure for applying for compensation and of the progress of investigations into the killing.
- Exercise due diligence in preventing unlawful killings, as well as investigating, bringing to justice and punishing all individuals who carry out such abuses.
- Deliver civic education about community safety to counter cultures of violence.

**Amnesty International calls on the UK authorities to:**

- Make public the Rules of Engagement for Operation Telic.
- Ensure that UK forces can communicate effectively with Iraqi civilians by ensuring that competent interpreters are available.

- Establish a civilian-led mechanism to investigate all suspected killings by UK forces. Such a mechanism should be capable of applying international human rights law and standards relevant to the investigations of allegations of serious human rights violations by the military.
- Consider appointing liaison officers to act as a focal point of contact between families of people killed by UK forces on the one hand and the British Army and Coalition Provisional Authority on the other.

#### **Amnesty International calls on all armed groups operating in Iraq to:**

- Respect minimum standards of international humanitarian law, justice and humanity, including the prohibition on deliberate attacks on civilians, indiscriminate attacks and hostage-taking.

#### **Amnesty International calls on the international community to:**

- Prioritize the mobilization of international efforts to rebuild the capacity of the international civilian police force, as required by UN Security Council Resolution 1483.

#### **Notes**

- 1 On 4 April US forces launched major operations in Falluja following the killing, burning and mutilation of four US private security guards by insurgents on 31 March.
- 2 Oxford Research International Ltd., 'National Survey of Iraq, February 2004', p. 6.
- 3 Amnesty International, 'Iraq: Amnesty International condemns latest bombings,' (News Service No. 51. (MDE 14/003/20040).
- 4 Section 2(2) CPA Order 17.
- 5 These claims presumably include claims related to deaths in custody and deaths caused by traffic accidents, as well as deaths arising from shooting incidents.
- 6 The UK is a party to the Fourth Geneva Convention and Protocol I.
- 7 The Human Rights Committee, set up under the ICCPR, and other bodies monitoring the implementation by states of their human rights obligations under the treaties they have ratified, have consistently ruled that such obligations extend to any territory in which a state exercises jurisdiction or control, including territories occupied as a result of military action.
- 8 The European Court of Human Rights has recognized the extra-territorial applicability of the ECHR in situations where a state party exercises all or some public powers normally to be exercised by the government of a territory through the state party's effective control of the relative territory and its inhabitants as a consequence of *inter alia* military occupation. See *Bankovic v. the United Kingdom*, para. 71.
- 9 See *Margaret McCann v. the United Kingdom*, para. 161, and *Hugh Jordan v. the United Kingdom*, para 105.
- 10 The name of the victim has been changed to protect his relatives.

**MORE MISSING PAGES – THE TAGUBA REPORT**

*On 24 May 2004, Associated Press filed the following report under the headline 'Senate Copy of Report On Abuse May Be Short'.*

**2,000 Pages Missing, Committee Aides Say**

At least 2,000 pages might have been missing from the copy of the Army report on soldiers' abusive treatment of Iraqi prisoners that was delivered to the Senate Armed Services Committee.

The 6,000-page report, compiled by Maj. Gen. Antonio M. Taguba, formed the basis for hearings this month into the allegations. Taguba found 'numerous incidents of sadistic, blatant and wanton criminal abuses' had been inflicted on Iraqis held at Abu Ghraib prison outside Baghdad between last October and December.

Pentagon spokesman Lawrence Di Rita said he knew of no contact with the Pentagon by anybody at the committee about the reported missing pages. He said he understood there may have been a computer glitch that made some of the electronically stored pages difficult to open, but the problem was resolved. 'Certainly, if there is some shortfall in what was provided, it was an oversight,' Di Rita said in a statement.

*Time* magazine reported yesterday that committee aides noticed the report was missing a third of its pages after they divided the document and its 106 annexes into separate binders, stacking them and comparing the stack with an already counted stack of 6,000 pages.

One committee member, Sen. Pat Roberts (R-Kan.), said yesterday he would talk to the chairman, Sen. John W. Warner (R-Va.), to get the facts. 'I don't know' whether pages are missing, Roberts said, 'but we'll sure ... find out.' Roberts heads the Senate intelligence committee, which also has been given the report.

Sen. Jack Reed (D-R.I.), another Armed Services Committee member, said he became aware Friday of the possibility of the missing pages. Reed, who appeared with Roberts on CBS's 'Face the Nation' yesterday, indicated he would not be surprised if it were true because of the way, he said, that the Defense Department usually treats Congress. 'There's a lack of cooperation. There's a lack of candor. And that has hurt not only their perception but also gives rise to feelings or inferences that something is amiss deliberately,' Reed said. 'I hope that's not the case.'

'Last November in Iraq, I travelled to Fallujah during the early days of what would become known as the "Ramadan Offensive" ... I enquired of a young man there why the people of that city were attacking Americans more frequently each day. How many of the attacks, I wanted to know, were carried out by foreign fighters? How many by local Islamists? ...

The young man – I'll call him Salih – listened, answered patiently in his limited but eloquent English, but soon became impatient with what he plainly saw as my American obsession with categories and particulars. Finally he interrupted my litany of questions, pushed his face close to mine, and spoke to me slowly and emphatically:

For Fallujans it is a *shame* to have foreigners break down their doors. It is a *shame* for them to have foreigners stop and search their women. It is a *shame* for the foreigners to put a bag over their heads, to make a man lie on the ground with your shoe on his neck. This is a great *shame*, you understand? This is a great *shame* for the whole tribe.

It is the *duty* of that man, and of that tribe, to get revenge on this soldier – to kill that man. Their duty is to attack them, to *wash the shame*. The shame is a *stain*, a dirty thing; they have to *wash* it. No sleep – we cannot sleep until we have revenge. They have to kill soldiers.

He leaned back and looked at me, then tried one more time. "The Americans," he said, "*provoke* the people. They don't *respect* the people."

Torture and Truth, Mark Danner, *The New York Review of Books*, June 2004



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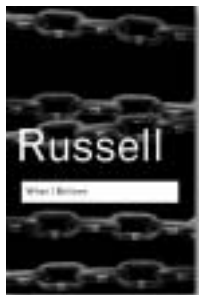
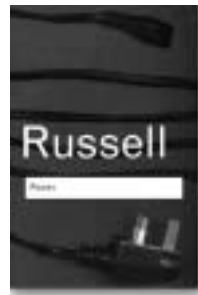
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