

## **A Face and a Name**

### **Civilian Victims of Insurgent Groups in Iraq**

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## I. Summary

Iraqi families were shopping and preparing for evening prayers at the People of Musayyib Husainiyya Mosque in the town of Musayyib on July 16, 2005, when the bomb blew up. A suicide bomber from an unknown armed group detonated his explosives next to a tanker truck filled with cooking gas, igniting a massive fire-ball that swept through the market and surrounding streets.

“I saw how the flames swallowed the panicked people as they ran away,” a local teacher said. “The fire chased the people down and ate them alive.”<sup>1</sup>

More than ninety civilians died in the mostly Shi`a Muslim town just south of Baghdad, including women and children. Hundreds more were badly burned or pierced by shrapnel.

The Musayyib bombing is but one example of an insurgent attack in Iraq targeting civilians. Since the U.S.-led invasion of the country in March 2003, armed opposition groups have purposely killed thousands of civilians—men, women and children. Across the country, insurgents have used car bombs and suicide bombers, like the one in Musayyib, to maximize the number of civilian injuries and deaths. They have assassinated government officials, politicians, judges, journalists, humanitarian aid workers and those deemed to be collaborating with the foreign forces in Iraq. They have tortured and summarily executed, sometimes by beheading, persons in their custody. And attacks against legitimate military targets, such as army convoys, have been carried out in such a manner that the foreseeable loss of civilian life was far disproportionate to the military gain. All of these attacks are serious violations of international humanitarian law—war crimes—and in some cases they are crimes against humanity.

This report aims to give the civilian victims of these attacks a face and a name. Through victim and witness testimony, it documents some of the crimes committed against civilians by insurgent groups, and addresses the arguments these groups and their supporters use to justify unlawful attacks.

It also places insurgent abuses in context; namely, the U.S.-led invasion of Iraq and the ensuing military occupation that resulted in tens of thousands of civilian deaths and

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<sup>1</sup> Borzou Daragahi and Saad Fakhrideen, “Iraqi Town Left Devastated by Attack,” *Los Angeles Times*, July 18, 2005.

sparked the emergence of these insurgent groups. Chief among the justifications insurgent groups use is that the United States illegally invaded Iraq and has killed untold thousands of Iraqi civilians over the past two-and-a-half years.

Previous Human Rights Watch reports have documented the use of indiscriminate and excessive force by U.S. forces during raids on residential areas and at checkpoints. Thousands of suspected insurgents in U.S. and Iraqi government custody have been detained without regard to the protections afforded by international law. U.S. forces have committed torture and humiliation of detainees at Abu Ghraib prison and other detention centers, and mistreatment of detainees by Iraqi authorities has been systematic. Few persons responsible for abuses—and none at higher levels—have been criminally prosecuted.

These abuses have enraged many Iraqis, as well as people outside Iraq, and are one motivating factor behind the insurgency's steady growth over the past two years. But they in no way justify attacks on civilians by insurgent groups, who are legally bound to respect international humanitarian law, regardless of their adversary's behavior, and whether or not they recognize the law. It is to promote the principle that civilians may never be the object of attack that Human Rights Watch has published this report.

The laws of war, binding on government armed forces and non-state armed groups, prohibit direct attacks on civilians, attacks made with no effort to distinguish between civilians and combatants, and attacks that cause civilian loss disproportionate to the expected military gain. Also prohibited are attacks intended primarily to spread terror among the civilian population. Crimes committed as part of a widespread or systematic attack against a civilian population are considered crimes against humanity. Anyone responsible for serious violations is subject to prosecution, including those commanders who ordered or knew or should have known of the unlawful attacks and did nothing.

The report divides the civilian victims into nine categories to explain how they have been attacked, why they were attacked and the justifications the attackers used. The commonality is that the insurgents considered their target in some way associated with the U.S.-led Multi-National Force in Iraq or the country's current government, which they view as an agent of the United States. For the insurgents, most of whom are Sunni Arabs, the Iraqi government is an illegitimate institution that serves the United States or is unfairly dominated by Shi'a Muslims and Kurds.

The report also documents attacks against Iraqi, U.S. and other coalition military forces that violate the laws of war. Some insurgent groups have committed war crimes by

executing, torturing or otherwise mistreating combatants in their custody. They have violated the laws of war by committing perfidious attacks on military targets, that is, attacks in which the attacker feigns being a civilian. And some insurgent attacks on military targets have unlawfully failed to discriminate between combatants and civilians or have caused disproportionate civilian casualties. While international law does not prohibit insurgents from attacking military targets, such attacks are violations of Iraqi criminal law for which the perpetrators may be prosecuted. Likewise, Iraqi government forces are liable under domestic law for torturing detainees and other misuses of force. This report assesses the conduct of the insurgents solely under the applicable provisions of the international laws of war.

A chapter on the insurgent groups describes the various groups active in Iraq, most of them composed of Sunni Arabs, who are fighting the multinational and Iraqi government forces. This is complex because “the insurgency” is a general term used to describe an array of groups with different structures, allegiances and aims, as well as seemingly different views on the acceptable objects and methods of attack. Some groups have at times condemned attacks on civilians, while others like Ansar al-Sunna, al-Qaeda in Iraq and the Islamic Army in Iraq have publicly extolled their responsibility for serious crimes through videos and statements on bomb attacks, abductions and executions of civilians.

The report presents the arguments some insurgent groups and their supporters use to justify attacks on civilians. Most of these stem from the view that all means are legitimate to liberate Iraq from foreign forces; thus, anyone perceived as associated with the occupation is open to attack. But none of the arguments justify the attacks documented in this report, which are in clear violation of international humanitarian law. Not only should all insurgent groups in Iraq cease such attacks, but the political and religious leaders in Iraq and other countries who have expressed support for the insurgency should condemn the targeting of civilians, all acts that put civilians unnecessarily at risk and the mistreatment of those in custody.

By documenting these abuses, Human Rights Watch is challenging the disregard for international law endorsed by some insurgent groups in Iraq. Regardless of the violations committed by U.S. and Iraqi forces, almost daily attacks on civilians have had a devastating impact on the people of Iraq and further undermine respect for the rule of law.

## **The Victims**

The exact number of civilians killed by unlawful insurgent attacks since the fall of Baghdad in April 2003 is unknown. The chaos of the conflict, the partial functioning of Iraqi institutions and the unwillingness of the United States to keep statistics on civilian deaths make accurate statistics very difficult to obtain. Still, all evidence suggests that insurgent attacks in Iraq have killed many more civilians than combatants.

The report divides the civilian victims of insurgent attacks into nine categories, although these often overlap. First are attacks on members of Iraq's various religious and ethnic groups. Some insurgent groups have struck Shi'a Muslim shrines in Karbala and Najaf with massive bombs, killing hundreds, as well as Shi'a mosques and funeral services in cities like Mosul and Baghdad. Insurgents have attacked Kurdish civilians, most severely in February 2004, when twin suicide bombers killed ninety-nine people in Arbil. And some groups have victimized Iraq's small Christian community through church bombings, abductions and murders, forcing tens of thousands of Christians to flee abroad or to the relative security of the Kurdish-controlled north.

In the eyes of some insurgent groups, Shi'a Muslims, Kurds and Christians are legitimate targets because they believe them to have sided with the occupying forces in Iraq, or to be supporting the current Iraqi government. To the extreme Islamist groups like al-Qaeda in Iraq, the Shi'a are apostates who have betrayed Islam. Kurdish fighters fought alongside U.S. forces in 2003, and the Kurdish peshmerga remain close to the Multi-National Force. And some attacks may be motivated by long-standing tension between the religious and ethnic groups, and the struggle for power in post-Saddam Iraq. None of these arguments or explanations justifies attacks on civilians within these groups.

A second targeted category is Iraqis who work for foreign governments or their armed forces as reconstruction contractors, translators, cleaners, and drivers or in other non-combatant jobs. Some insurgent groups consider Iraqis in these positions to be collaborators, and attacks against them are apparently meant as punishment and as a warning to others. In one case documented in this report, gunmen killed three women as they left a U.S. military base in Mosul where they worked as cleaners, and attacks like this have been frequent across Iraq.



A mother hugs her son outside a morgue in al-Najaf. Two car bombs exploded on August 29, 2003, killing up to eighty-seven people, including Ayatollah Muhammad Baqir al-Hakim.

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REUTERS

Third is Iraqis holding government or political posts. The list of assassinations is long, with victims from most of the major parties that have formally entered politics since 2003. Included in this group are members of the Iraqi Interim Government and election workers who were murdered while trying to organize the January 2005 election.

A fourth category is civilians who are waiting to sign up for the Iraqi police or armed forces, which have frequently been the target of car bomb and suicide bomb attacks outside recruitment centers. As they are not yet members of the security forces nor civilians actively participating in hostilities, they are not legitimate military targets under international humanitarian law.

A fifth category is staff of international and nongovernmental organizations, some of which have been active in Iraq since before the war. The most deadly attacks were the truck bombs that exploded at the United Nations (U.N.) headquarters in August 2003 and the International Committee of the Red Cross (ICRC) Baghdad headquarters in October that same year. Insurgent groups have threatened and sometimes killed humanitarian aid workers, most of them Iraqis. Almost all international humanitarian organizations have left Iraq for security reasons, severely limiting the aid they can provide a population in need.

A sixth category is journalists and media workers. Some insurgent groups have bombed media offices and targeted journalists with abductions and executions. The vast majority of victims are Iraqis who worked as local journalists or as reporters, drivers, cameramen and translators for international media, but foreign journalists have also lost their lives.

The seventh category is Iraq's intellectuals and professionals, including doctors, lawyers and academics. Armed groups have abducted between 160 and 300 Iraqi doctors since April 2003, and killed more than twenty-five, the Iraqi Ministry of Health concluded in April 2005. They have murdered at least forty-eight professors since mid-2003, a United Nations study said. Some of the abductions and killings may be criminally motivated because the victims were considered to have more money to pay in ransom. But some killings appear politically motivated, either because the victim had expressed sympathy for the U.S.-led intervention or had criticized the insurgency, or because the person was believed to hold such views. According to some Iraqis, the attacks are an attempt to destroy the country's intellectual elite.

The eighth category is women. Many women have been attacked because of their participation in the categories mentioned above—in their roles as politicians, civil servants, journalists and humanitarian aid workers, as well as for their work as cleaners

or translators for foreign governments or militaries. But some insurgent groups have attacked women's rights activists and Iraqi women for what they consider "immoral" or "un-Islamic" behavior, like promoting women's rights, socializing with men or not covering their heads in public. The violence and lack of security has had a major impact on Iraqi women, who once enjoyed a public role in the country's social and political life.

The ninth and final category is non-Iraqi nationals, including drivers, businesspeople, contractors, journalists, diplomats, humanitarian workers and others in civilian jobs. Since April 2003, insurgent groups have abducted more than 200 non-Iraqis from at least twenty-two countries, killing at least fifty-two. An estimated forty-three people are missing. The goal is often to pressure the victim's government or company into withdrawing from Iraq, or obtaining other concessions, such as the release of prisoners. A common motivation is money; non-Iraqis are targeted because of the ransom that the insurgent group, hope to extract.

Victims of insurgent attacks may be from overlapping categories, and the precise reason for their being targeted is not always clear. Some Christians and Kurds, for example, might have been killed because of their religion or ethnicity, or because they worked for the U.S. military. Insurgent groups might have targeted Shi'a Muslim leaders because of their religious or political importance, or because they were participating in the Iraqi governing structures. Certain women may have been targeted for their occupation as much as for their gender. Lastly, many Iraqis have lost their lives in attacks targeted against others because they were in the wrong place at the wrong time.

Finally, Iraqi insurgents are not just committing war crimes against civilians, but also against the Multi-National and Iraqi forces. One chapter of the report documents mistreatment and executions, sometimes by beheading, of multinational and Iraqi forces taken into custody by insurgent groups. In addition, many insurgent attacks on legitimate military targets have been carried out using perfidy, usually by pretending to be civilians in order to carry out a suicide attack.

### ***Insurgent Groups***

The term "insurgency" is used to describe a spectrum of armed opposition groups in Iraq with different structures and strategies, although they are united by common immediate goals: to expel the U.S.-led military coalition from Iraq and to overthrow the current Iraqi government. Determining who is who is difficult, if not impossible, with dozens if not hundreds of groups engaged in military activity, and many unverifiable claims of responsibility. As such, this report presents a general overview of the insurgency without details on the specific groups.



The insurgent groups covered in this report are comprised predominantly of Sunni Arabs, who make up approximately 20 percent of Iraq's population, and their activities are focused in the country's center, northwest and west. Individuals apparently join the insurgency for a variety of reasons: a desire to expel foreign forces from Iraq, fear of marginalization by a Shi'a-dominated government after decades of Sunni control and a struggle over strategic areas like Kirkuk. Some view the insurgency as part of a global Islamic fight against the United States. Others may join as a way to survive during a time of high unemployment. At the same time, many Sunni support the insurgents or their aims without joining their ranks. And untold other Sunni oppose the insurgents or their means, even publicly condemning attacks on civilians, and have themselves been attacked.

The insurgency can be divided very broadly into three general categories: extreme Islamist, Ba`thist and Sunni nationalist. As with the victims, the categories of armed groups overlap. The groups in the extreme Islamist category have generated the most attention due to prominent operations that have intentionally killed many civilians. The best known of these groups are Ansar al-Islam (Supporters of Islam), a Kurdish group that existed before the war, Ansar al-Sunna (Supporters of the Sunni) and al-Qaeda in Mesopotamia, apparently run by Abu Mus`ab al-Zarqawi, a Jordanian. These groups have claimed responsibility for detonating car bombs and suicide bombs in crowded civilian areas, abducting businessmen, contractors and journalists, and executing captive Iraqi police and soldiers, sometimes by distributing grisly videos of their deaths. In general, these groups say they seek a pure Islamic state, with legal and institutional structures based on strict interpretation of the Qur'an. For them, the armed conflict in Iraq is part of a global war they term *jihad* against the imperialism and military aggression of the United States and corrupt, un-Islamic dictatorships in the Arab world. Foreign fighters from Saudi Arabia, Syria, Yemen, Kuwait and Jordan have joined the fight, although their numbers in Iraq are unclear. Less than 5 percent of the killed or captured insurgents have been non-Iraqi, a coalition official said in spring 2005.

The second general category is linked to Saddam Hussein's ousted Ba`th Party. Apparently led and funded by former members of the Iraqi security structures, groups like Saddam's Fedayin (Saddam's Martyrs), al-`Awda (The Return) and Wahaj al-`Iraq (Flame of Iraq) have staged attacks against multinational and Iraqi government forces. They are also responsible for targeted killings and attacks on military targets, such as with roadside bombs, that failed to distinguish between combatants and civilians, or caused disproportionate civilian casualties. Available evidence suggests they have not been responsible for many of the suicide bomb attacks on civilians and the summary executions of captured members of the security forces, although they may cooperate with or fund groups responsible for such crimes. Some of the groups in this category

have a desire to see their old leader return, but others apparently have no current connection with Saddam Hussein.

The third general category is what some analysts call nationalist, or Sunni nationalist, comprised mostly of Sunni Arabs who wish to expel foreign forces from Iraq, but are not as driven by religion or ties to the Ba`th Party. Some of these groups say they want an Iraq guided by Islamic principles, but they do not share the vision of the extreme Islamist groups. Compared to groups like Ansar al-Sunna and al-Qaeda in Iraq, these groups apparently limit their attacks more to military targets, and some, like the al-Jabha al-Islamiyya al-`Iraqiyya al-Muqawima (Islamic Front of the Iraqi Resistance) have at times condemned attacks on civilians. However, some of these groups are also believed to have abducted civilians or targeted them for attack.

These three categories are not strictly defined, as religious and nationalist groups blend, and they are not meant to neatly classify insurgent groups as better or worse with respect to their compliance with the laws of war. The al-Jaysh al-Islami fi al-`Iraq (Islamic Army in Iraq), for instance, is a predominantly Sunni nationalist group with a strong Islamic bent. It has apparently not carried out car bomb or suicide bomb attacks on civilians, but it has repeatedly claimed responsibility for abductions and summary executions of civilians. Some Ba`th-affiliated groups, although stemming from a secular party, are apparently cooperating with and funding some of the Islamist groups.

The vast majority of insurgents are Sunni Arabs, but other armed groups operate in Iraq, including Shi`a Muslim groups. Among these groups is the al-Mahdi Army, led by the Shi`a cleric Muqtada al-Sadr, and the Badr Organization of the Supreme Council of the Islamic Revolution in Iraq (SCIRI). Credible information received by Human Rights Watch indicates that these groups are responsible for kidnappings, torture and assassinations, including revenge attacks against persons associated with the former government or Ba`th Party. However, their actions are not considered in this report because they are currently not engaged in hostilities against multinational or Iraqi government forces, and as such do not form part of the insurgency.

Lastly, not all abductions and killings of civilians in Iraq that appear linked to insurgent groups are their doing. Common crime is rampant throughout Iraq. Criminals masked as insurgents have abducted people for ransom or for sale to insurgent groups. Likewise, some insurgent groups apparently engage in common crimes, such as kidnapping and robbery, to obtain funds for their military operations. In the lawlessness of today's Iraq, the line between the political and criminal is often blurred.

## ***Arguments of Insurgent Groups***

The insurgent groups in Iraq that target civilians use two broad arguments to justify their acts. First, they contend that persons in any way supporting the Multi-National Force in Iraq—which they believe remains a foreign occupation—are not civilians entitled to protection because of their collaboration with the United States and its coalition. This includes Iraqis employed as translators, drivers and construction contractors for foreign governments and Shi`a Muslims, Kurds and Christians, because these groups have in general supported the military invasion that overthrew the Saddam Hussein government.

Because many insurgent groups believe the current Iraqi government is serving the foreign occupation, politicians, government officials and bureaucrats are also targeted. Westerners by definition are considered part of the foreign presence, thus various insurgent groups target foreign officials, including diplomats, western journalists and aid workers.

Second, insurgent groups contend that the nature of the armed conflict in Iraq, rather than the identity of the victims, permits attacks on civilians. The arguments of insurgent groups include:

- in a war to drive foreign occupiers out of Iraq, the ends justify the means;
- in a war against the military superpower of the world, an insurgency with small arms and explosives is obliged to go after non-military, or so-called “soft” targets;
- insurgent groups are bound only by Islamic law, and not international humanitarian law;
- Islamic law allows the killing of civilians in a war of self-defense;
- the illegality of the U.S.-led attack on Iraq, as well as violations of the laws of war by the Multi-National Force, remove any obligation on insurgent groups to abide by the laws of war.

None of these justifications are defensible under international law. The armed conflict in Iraq is regulated by the 1949 Geneva Conventions and customary international humanitarian law. This law applies to both government armed forces and opposition armed groups, regardless of whether the forces to the conflict recognize the law. The laws of war are applicable whether the war is lawful or not, and regardless of violations by the other side. Reprisals are banned.

As described in the chapter on legal standards, international humanitarian law prohibits direct attacks against civilians at any time and for whatever reason. It also bans attacks that do not discriminate between civilians and combatants and attacks that cause disproportionate harm to civilians in light of the expected military gain. So long as a civilian is not taking a “direct part in hostilities,” a concept discussed in the report, he or she is immune from attack. Although there are gray areas regarding whether certain conduct constitutes direct participation in hostilities, the conduct of the victims whose cases are documented in this report were unambiguously civilian in nature.

Serious violations of international humanitarian law are war crimes. All those taking part in unlawful attacks or are liable as a matter of command responsibility are subject to prosecution. Crimes committed as part of a widespread or systematic attack against a civilian population are considered crimes against humanity under international law, and those responsible are subject to prosecution anywhere in the world.

### ***Violations by U.S. and Iraqi Government Forces***

Responsibility for the abuses documented in this report rests with the perpetrators. However, the U.S. and Iraqi governments have committed violations of the laws of war that raise serious doubts about their stated commitment to promoting the rule of law in Iraq. The torture and humiliation of detainees by U.S. forces at Abu Ghraib and other detention centers, the unjustified killing of civilians at U.S. military checkpoints and during U.S. military operations, and the long-term detention without charge of persons apprehended, contribute to widespread disdain for the foreign military presence among ordinary Iraqis, whatever their views about an invasion that left tens of thousands of Iraqis dead but toppled the abusive government of Saddam Hussein.

The U.S.-backed Iraqi government has committed arbitrary arrests and systematic torture against persons in detention, while militias linked to political parties in the government have been implicated in abductions, torture and assassinations. The fact that the Iraqi police and armed forces are under regular attack from insurgent groups does not absolve the government of its obligation to respect international law in its law enforcement and counter-insurgency operations.

Such abuses contribute to the general lawlessness in Iraq and provide a handy if illegitimate rationale for the insurgents to commit abuses of their own. If the U.S. and Iraqi governments are sincere about establishing the rule of law in Iraq, ensuring respect for that law among their own forces is an important place to start.

## **Methodology**

This report is based on research in January-February 2005 in Kurdish-controlled northern Iraq, where Human Rights Watch researchers interviewed twenty-nine victims and witnesses of insurgent attacks. The researchers interviewed three more victims and international humanitarian organizations during a subsequent week in Amman, Jordan. Security conditions prohibited travel to Iraq's center or south and, as such, the report's victim testimony is weighted towards people in the north, although some of those interviewed had fled from Baghdad. The full names of some interviewees are not used for their protection. Reports from established Iraqi and international media are frequently used, but only when two or more sources exist.

## **II. Recommendations**

All armed forces in Iraq—insurgent groups, Iraqi forces and the U.S.-led Multi-National Force—are bound to respect international humanitarian law, or the laws of war. The law imposes on these warring parties legal obligations to reduce unnecessary suffering and to protect civilians and other non-combatants.

Previous Human Rights Watch reports have documented abuses by the U.S. and Iraqi governments, and made recommendations to address those abuses.<sup>2</sup>

*In this report, Human Rights Watch calls on insurgent groups active in Iraq to:*

- Cease all attacks against civilians, the civilian population and civilian objects, both Iraqi and non-Iraqi. Civil servants, politicians, religious leaders, humanitarian aid workers, journalists and civilian employees of foreign governments are immune from attack;
- Cease all attacks that do not discriminate between combatants and civilians, and attacks that cause harm to civilians or civilian objects that is excessive in relation to the anticipated military advantage;

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<sup>2</sup> Other relevant Human Rights Watch reports on Iraq are: *Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division*, September 2005; *Getting Away with Torture: Command Responsibility for the U.S. Abuse of Detainees*, April 2005; *The New Iraq: Torture and Ill-treatment of Detainees in Iraqi Custody*, January 2005; *Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq*, August 2004; *The Road To Abu Ghraib*, June 2004; *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, December 2003; *Hearts and Minds: Post-war Civilian Casualties in Baghdad by U.S. Forces*, October 2003; *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003; *Violent Response: the U.S. Army in al-Falluja*, June 2003; and *Basra: Crime and Insecurity Under British Occupation*, June 2003.

- Take all feasible precautionary measures during military operations to verify that objectives to be attacked are not civilian but military, and take all feasible precautions in the choice of means and methods of attack to avoid or minimize harm to civilians and civilian objects;
- Take all necessary steps to ensure that insurgent group members understand and respect the obligation to protect civilians and captured combatants;
- Refrain from an attack when it becomes apparent the objective or target is not a military one or where civilian loss would be disproportionate;
- Give special attention to the potential of civilian harm when operating in residential areas;
- Cease any and all abductions and hostage taking of civilians. All civilians currently in detention should be released;
- Treat all detainees from the multinational and Iraqi forces humanely. Prohibit and prevent the execution, torture and other ill-treatment of detainees; and
- Discipline or expel fighters or commanders who unlawfully detain or mistreat any person in custody, or who target civilians or use indiscriminate or disproportionate force that unnecessarily harms civilians.

***Human Rights Watch calls on political, cultural and religious leaders in Iraq and other countries who have expressed support for the insurgency to:***

- Publicly condemn the abduction and hostage-taking of Iraqi and non-Iraqi civilians by any insurgent group;
- Publicly condemn any insurgent group for targeted attacks against civilians and civilian objects;
- Publicly condemn any insurgent group for indiscriminate attacks or attacks causing disproportionate civilian casualties; and
- Publicly condemn any insurgent group for the mistreatment of those in its custody.

### III. Insurgent Groups in Iraq

The word “insurgency” is used to describe the many groups that have taken up arms against foreign forces in Iraq and the new Iraqi security forces since April 2003. But these groups—it is unclear how many exist—are varied and diverse, with shifting allegiances, configurations, funding sources, strategies and aims. They share a common goal of ending the foreign military presence in Iraq. Many would like to replace the current Iraqi government, considered illegitimate because it is backed by the United States or because it is dominated by Shi`a Muslims and Kurds. Most importantly for this report, the insurgent groups appear to have different views on the conduct of hostilities and the legitimate targets of military attack.

Certain insurgent groups have repeatedly admitted, even boasted, about their role in abductions, summary executions, attacks on religious or ethnic groups, and suicide bombings in populated areas. Videos they produce of beheadings leave no doubt as to their responsibility for the most serious crimes of war. Other groups have concentrated their attacks more on military targets, though they still may be responsible for unlawful attacks against civilians. Some insurgent groups have at times condemned attacks on civilians, both Iraqi and foreign. This is not to suggest that insurgent groups can be divided neatly according to their respect for international humanitarian law. The fluid alliances, apparent sub-contracting and generally clandestine nature of the insurgency make these distinctions difficult, if not impossible, to make.

The insurgent groups covered in this report are comprised predominantly of Sunni Arabs, who make up approximately 20 percent of Iraq’s population, and their activities are focused in the country’s center, northwest and west. Different members of the community, of course, have different views of the insurgency. Some oppose the insurgency generally, or the way it is being conducted, while others have not joined the insurgency but support its aims. Sunni who criticize the insurgency or are seen as allied with the new government risk themselves becoming a target of insurgent groups.<sup>3</sup>

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<sup>3</sup> On July 19, 2005, for example, unknown gunmen in Baghdad killed Mijbil Shaikh al-`Issa, a Sunni representative on the Constitution Drafting Committee of the Transitional National Assembly, Dahmen al-Jabouri, an adviser to the Committee, and their driver. (Alissa J. Rubin, “Sunni Arabs Halt Work on Constitution After Killings,” *Los Angeles Times*, July 21, 2005.) On August 19, 2005, insurgents in Mosul abducted and executed three members of the largest Sunni Arab political party, the Iraqi Islamic Party, as they were putting up posters that urged Sunnis to vote in a referendum for a new constitution planned for October 2005. (“Iraqi Sunni Party Workers Killed”, *BBC*, August 19, 2005, available at [http://news.bbc.co.uk/2/hi/middle\\_east/4167304.stm](http://news.bbc.co.uk/2/hi/middle_east/4167304.stm), as of August 19, 2005.)

Those who join insurgent groups apparently do so for a variety of reasons: a desire to expel foreign forces from Iraq, fear of marginalization by a Shi`a-dominated government after decades of Sunni control and a struggle over strategic areas like Kirkuk. Some view the insurgency as part of a global Islamic fight against the United States. The members include former officials of the government and security forces who lost their jobs after the Saddam Hussein government fell in 2003, as well as Ba`th Party members. Others joined out of anger over war crimes committed by U.S. forces or the Multi-National Force's perceived disrespect for Iraqi culture and institutions. And some appear to have joined or participated in specific attacks as a way to earn money.<sup>4</sup> As head of Iraqi intelligence Maj. Gen. Muhammad `Abdullah al-Shahwani said in January 2005, "people are fed up with no security, no electricity, people feel they have to do something."<sup>5</sup>

In general, the insurgent groups operating in Iraq can be divided into three basic categories, although these categories overlap. First are the groups dedicated to a pure Islamist philosophy. The three major groups in this category are a Kurdish group Ansar al-Islam (Supporters of Islam), Ansar al-Sunna (Supporters of the Sunna) and al-Qaeda in Iraq, apparently led by the Jordanian Abu Mus`ab al-Zarqawi, and also known as Jama`at al-Tawhid wal-Jihad (Monotheism and Holy War) or al-Qaeda fi Bilad al-Rafidain (al-Qaeda in Mesopotamia). Ansar al-Islam existed before the war<sup>6</sup> and has apparently merged with Ansar al-Sunna which, like the other extreme Islamist groups, was formed after the U.S.-led invasion of Iraq.<sup>7</sup> The groups' immediate goal is to end the foreign military presence in Iraq and to topple the U.S.-backed Iraqi government. Driven by a puritanical interpretation of Islam, they wish to establish an Islamic state governed by a literal interpretation of *shari`a* (Islamic law).<sup>8</sup> They see the armed conflict in Iraq as part of a global war against imperialism and military aggression by the United States and corrupt, un-Islamic dictatorships in the Arab world. An undetermined number of foreign fighters from countries like Saudi Arabia, Kuwait, Syria, Jordan and Yemen have

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<sup>4</sup> See James Glanz, "Rings That Kidnap Iraqis Thrive on Big Threats and Bigger Profits," *New York Times*, March 28, 2005, Monte Morin, "Crime as Lethal as Warfare in Iraq," *Los Angeles Times*, March 20, 2005, Ali Rifaat and Hala Jaber, "Kidnap Gangs Force Doctors to Flee Iraq," *The Times*, June 5, 2005, and Hisham Mohammed, "Insurgency Provides Financial Lure," *IWPR*, June 21, 2005.

<sup>5</sup> "Iraq Battling More Than 200,000 Insurgents: Intelligence Chief," *Agence France-Presse*, January 3, 2005.

<sup>6</sup> Ansar al-Islam began fighting the two principal secular Kurdish parties in 2001. U.S. forces destroyed the group's bases during the 2003 air war on Iraq, killing some members and forcing others to disperse. For background on the group, see Human Rights Watch Backgrounder, *Ansar al-Islam in Iraqi Kurdistan*, available at [www.hrw.org/backgrounder/mena/ansarbk020503.htm](http://www.hrw.org/backgrounder/mena/ansarbk020503.htm).

<sup>7</sup> According to one press account, Ansar al-Sunna was established five months after the U.S. entered Iraq. In its first statement to the press on September 20, 2003, the group said, "It is known that jihad in Iraq has become an individual duty of every Muslim after the atheist enemy assailed the territory of Islam." (Dr. Hani al-Siba'i, "Ansar al-Islam, Ansar al-Sunnah Army, Abu Mus`ab al-Zarqawi, and Abu-Hafs Brigades," posted March 14, 2004, on al-Basra Net, translated by *FBIS* Report in Arabic, March 14, 2004.

<sup>8</sup> See the website of Jama`at al-Tawhid wal-Jihad, in Arabic, available at <http://www.tawhed.ws/>, as of September 26, 2005.



entered Iraq to join the fight, and some sources say these foreign fighters are responsible for the most deadly suicide bomb attacks.<sup>9</sup>

These groups are responsible for many of the war crimes and crimes against humanity documented in this report. All three groups mentioned above have repeatedly claimed responsibility for targeted attacks on civilians and the executions of civilians and captured security force personnel. They have broadcast videos of kidnap victims and executions. In one example from August 2004, photos and a video appeared on a website associated with Ansar al-Sunna that showed the execution of twelve Nepalese cleaners and cooks, including one beheading. The group, which had previously claimed responsibility for the abduction, executed the workers because they “came from their country to fight the Muslims and to serve the Jews and the Christians,” a statement said.<sup>10</sup> Al-Qaeda in Iraq has also broadcast the beheadings of captured Iraqi soldiers and police, as well as foreigners.

The second general category comprises insurgent groups connected in some way to the former government under Saddam Hussein or his Ba`th Party. According to Iraqi and foreign analysts, the leaders are mostly former members of the Iraqi security or intelligence structures who have organizational and military skills, and some of them may have prepared for the insurgency before the 2003 invasion began.<sup>11</sup> Despite coming from a secular party, some groups apparently cooperate with Islamist groups, either by providing funding or participating in joint operations.<sup>12</sup> Some of these groups have an apparent allegiance to Saddam Hussein, like al-`Awda (The Return), Wahaj al-`Iraq (Flame of Iraq), Jaysh Mujahidi al-`Iraq (Mujahidin of Iraq Army) and Saddam’s Fedayin

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<sup>9</sup> See Ahmed Hashim, “Foreign Involvement in the Iraqi Insurgency,” *Jamestown Foundation*, Terrorism Monitor, Volume 2, Issue 16, August 12, 2004, available at [http://www.jamestown.org/publications\\_details.php?search=1&volume\\_id=400&issue\\_id=3047&article\\_id=2368398](http://www.jamestown.org/publications_details.php?search=1&volume_id=400&issue_id=3047&article_id=2368398), as of September 23, 2005, and Patrick Quinn and Katherine Shrader, “Foreigners Blamed for Iraq Suicide Attacks,” *Associated Press*, July 1, 2005.

<sup>10</sup> “Nepalese Hostages Killed in Iraq,” *BBC*, August 31, 2004, available at [http://news.bbc.co.uk/2/hi/south\\_asia/3614866.stm](http://news.bbc.co.uk/2/hi/south_asia/3614866.stm), as of June 22, 2004, and “Militants Kill 12 Nepal Hostages,” *CNN*, August 31, 2004, available at <http://edition.cnn.com/2004/WORLD/meast/08/31/iraq.main/>, as of June 22, 2005, and Stephen Farrell and Charles Bremner, “Hostage Fears After Mass Killing,” *The Times*, September 1, 2004, available at <http://www.timesonline.co.uk/article/0,,7374-1240841,00.html>, as of June 22, 2005.

<sup>11</sup> See Samir Haddad and Mazin Ghazi, “Who Kills Hostages in Iraq,” *al-Zawra*, September 19, 2004, and “What is Driving the Iraqi Insurgency,” Council on Foreign Relations, May 20, 2005, available at <http://www.cfr.org/publication.php?id=8117>, as of June 19, 2005. In one example, a January 2005 statement announcing the existence of the Mujahidin of Iraq Army said the group had veteran officers and soldiers. (“Saddam Hussain Loyalists Said to Have Formed ‘Mujahidin of Iraq Army,’” *BBC Monitoring Middle East*, excerpt from report by `Usamah Mahdi, “International Information Centre to Guide Iraqi Voters Abroad. Saddam Loyalists Establish ‘Mujahidin of Iraq Army,’” published by *Elaph* website on January 7, 2005.)

<sup>12</sup> See, Rod Nordland, Tom Masland and Christopher Dickey, “Unmasking the Insurgents,” *Newsweek*, February 7, 2005, available at <http://www.msnbc.msn.com/id/6885867/site/newsweek/>, as of August 19, 2005.

(Saddam's Martyrs), but others seem to have distanced themselves from their former leader.<sup>13</sup> Some of these groups have targeted civilians for abductions and executions.

The third category is what some analysts call nationalist, or Sunni nationalist, comprised mostly of Sunni Arabs who for a variety of reasons are fighting to expel foreign forces from Iraq, but are not as driven by religious doctrine or former government ties. The insurgents in this category are often local, regional or tribally based, who have taken up arms in a specific area to, in their view, defend the population from aggression by foreign troops. Others conduct actions in larger areas across Iraq's center and north in order to end the presence of foreign military troops in Iraq. These include members of the former government and military who were dismissed after the fall of the government in 2003 or people who fear a Shi'a and Kurdish dominated government in Iraq. Others joined out of anger at violations by the U.S. and other coalition forces that resulted in Iraqi civilian deaths and property destruction. Some of these groups say they want an Iraq guided by Islamic principles, but they do not share the vision of the Islamist groups. Compared to the extreme Islamist groups, these groups generally appear to limit their attacks to military targets, and some have condemned attacks on civilians.

These three categories are not strictly defined, as religious and nationalist goals blend, and some groups are not easily categorized. The al-Jaysh al-Islami fi al-Iraq (Islamic Army in Iraq), for instance, is a predominantly Sunni nationalist group with a strong Islamic bent, but not along extreme puritanical lines.<sup>14</sup> It has apparently avoided direct attacks on civilians with car bombs and suicide bombs, but it has repeatedly claimed responsibility for abducting and executing civilians.<sup>15</sup> Groups like Jaysh Muhammad (Muhammad's Army) and al-Rayat al-Bayda (White Flags) apparently want an Iraq guided by Islamic law, but claim they are less willing to target Iraqi civilians to achieve that goal.<sup>16</sup> Some Ba`th-affiliated groups, although stemming from a secular party, have cooperated with some of the extreme Islamist groups.

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<sup>13</sup> One Iraqi newspaper report said Saddam's Fedayin might have abandoned its support of the former leader. (Samir Haddad and Mazin Ghazi, "Who Kills Hostages in Iraq," *al-Zawra*, September 19, 2004.)

<sup>14</sup> See "Hostage Takers Widen Demands Beyond Iraqi Affairs," *Agence France-Presse*, August 29, 2004, and Mahan Abedin, "Post-Election Terrorist Trends in Iraq," *Jamestown Foundation*, Terrorism Monitor, Volume 3, Issue 5, March 11, 2005.

<sup>15</sup> A video broadcast by the Islamic Army in Iraq in April 2005 showed the execution of a Bulgarian pilot from a civilian helicopter the group had shot down. ("US Military Probes Iraq Chopper Crash," *Agence France-Presse*, April 22, 2005, and Richard A. Opiel Jr. and Robert F. Worth, "A Private Copter Crashes in Iraq," *New York Times*, April 22, 2005.)

<sup>16</sup> For an interview with a Muhammad's Army spokesman, see Ali Kais al-Rubai, "Islamists Pledge Continued War on Coalition," *IWPR*, May 14, 2004, available at [http://www.iwpr.net/index.pl?archive/irq/irq\\_63\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_63_1_eng.txt), as of June 22, 2005.

As noted, most insurgent groups are comprised of Sunni Arabs, who held most of the important political, economic and social positions in Iraq during and before the Saddam Hussein government. But some Shi`a Muslims have also joined these groups. Shi`a militias exist as well, most notably the al-Mahdi Army run by the cleric Muqtada al-Sadr, which fought U.S. forces in Najaf in August 2004, and the Badr Organization of the SCIRI political party. Both groups have been implicated in threats and violence against civilians, particularly revenge attacks against officials from the previous Iraqi government or Ba`th Party. Because they are not currently engaged in hostilities against multinational or Iraqi forces, and are therefore not insurgent groups, they are not covered in this report.<sup>17</sup>

Accurate information on the three general insurgent categories outlined above is difficult to obtain. New insurgent groups claim responsibility for armed attacks on a regular basis, and it is impossible to verify if they are coordinated organizations or groups of neighborhood friends. Some statements turn out to be false.<sup>18</sup>

According to senior Kurdish intelligence and security officials interviewed by Human Rights Watch, the groups are often organized in small cells with one leader, known as the *emir* (prince), who orders operations. The groups' over-all leaders sometimes learn only later about an attack after the fact. New groups form and dissolve with regularity, establishing new structures and alliances. And some groups change their name to give the impression that more groups exist.<sup>19</sup> One English-language article on the insurgency and mass media concluded that the confusing names "may reveal a tactic designed to give the impression that the Islamist elements are more numerous than the other factions."<sup>20</sup>

Similarly, it is not possible to determine accurately the number of insurgents in Iraq. On November 13, 2003, head of U.S. Central Command Gen. John Abizaid said the number

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<sup>17</sup> For a detailed description of abuses by Iraqi government-affiliated militias, see Anthony Shadid and Steve Fainaru, "Militias on the Rise Across Iraq," *Washington Post*, August 21, 2005.

<sup>18</sup> In the August 2003 bombing of the United Nations headquarters, for example, three groups claimed responsibility for the attack (see chapter VIII of this report, "Attacks on Humanitarian Organizations and the U.N."). In the case of the two Italian humanitarian aid workers, Simona Pari and Simona Toretta, abducted in Baghdad on September 7, 2004, a group calling itself the Islamic Jihad Organization in Iraq said on September 22 that it had killed the two women. The next day, another group, the Supporters of al-Zawahri, said it had beheaded the Italians. The women's captors eventually released them both unharmed. (See Nadia Abou el-Magd, "Militants Claim to Have Killed Italians," *Associated Press*, September 23, 2004.)

<sup>19</sup> Human Rights Watch interviews with Kurdish intelligence and security officials in Arbil and Sulaimaniyya, January 2005.

<sup>20</sup> See Ibrahim al-Marashi, "Iraq's Hostage Crisis: Kidnappings, Mass Media and the Iraqi Insurgency," *Middle East Review of International Affairs*, Vol. 8, No. 4, December 2004.

of “actively armed” people operating against U.S. and coalition forces did not exceed 5,000 people.<sup>21</sup> Eleven months later, American officials said the “hard-core resistance” numbered between 8,000 and 12,000 people, and this number grew to more than 20,000 with active sympathizers and covert accomplices.<sup>22</sup> In January 2005, head of Iraqi intelligence Major General Muhammad `Abdullah al-Shahwani claimed “the resistance is bigger than the U.S. military in Iraq.” He put the number at 200,000, but that included sympathizers as well as active fighters.<sup>23</sup>

The number of foreign insurgents in Iraq is also impossible to obtain, with men coming and going on a regular basis through Iraq’s porous border, mostly with Syria.<sup>24</sup> According to a May 2005 estimate by the Brookings Institution in Washington D.C., Iraq had 1,000 foreign fighters (as part of an insurgency with 16,000 members).<sup>25</sup> In spring 2005, a coalition official in Baghdad told the press that fewer than 5 percent of the killed or captured insurgents have been non-Iraqi.<sup>26</sup> More recently, Gen. Abizaid said the number of foreign fighters was going up: “I believe there are more foreign fighters coming into Iraq than there were six months ago,” he told the U.S. Congress on June 23, although the overall strength of the insurgency was “about the same.”<sup>27</sup>

Lastly, criminal elements play an important role. The absence of law and order, particularly in Baghdad and other cities, has created a fertile environment for criminal gangs, some of which use Islamist or political cover to mask their illegal intent. A large percentage of abductions, for example, appear to be committed by criminal gangs looking for ransom cash.<sup>28</sup> Their targets are sometimes foreigners, but the majority of victims are wealthy Iraqis or those who work with foreign organizations or companies. According to a study by the Iraqi Ministry of Health concluded in April 2005, criminal gangs have abducted between 160 and 300 Iraqi doctors since April 2003, and killed

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<sup>21</sup> Will Dunham, “U.S. Estimates Iraqi Resistance Forces at 5,000,” *Reuters*, November 13, 2003.

<sup>22</sup> Eric Schmitt and Thom Shanker, “Estimates by U.S. See More Rebels With More Funds,” *New York Times*, October 22, 2004.

<sup>23</sup> “Iraq Battling More Than 200,000 Insurgents: Intelligence Chief,” *Agence France-Presse*, January 3, 2005.

<sup>24</sup> For a detailed account of fighter smuggling from Syria, see Ghaith Abdul-Ahad, “Outside Iraq but Deep in the Fight; A Smuggler of Insurgents Reveals Syria’s Influential, Changing Role,” *Washington Post*, June 8, 2005.

<sup>25</sup> Michael E. O’Hanlon and Adriana Lins de Albuquerque, “The State of Iraq: an Update,” *New York Times*, June 3, 2005. The International Institute for Strategic Studies in the United Kingdom made a similar estimate in October 2004, but with a total insurgency figure of 18,000. (The Military Balance 2004/05, International Institute for Strategic Studies, October 19, 2004.)

<sup>26</sup> Carol J. Williams, “Suicide Attacks Emerge as Weapon of Choice,” *Los Angeles Times*, June 1, 2005.

<sup>27</sup> Liz Sidoti, “Top Commander Says Insurgency Still Strong,” *Associated Press*, June 23, 2005.

<sup>28</sup> See James Glanz, “Rings That Kidnap Iraqis Thrive on Big Threats and Bigger Profits,” *New York Times*, March 28, 2005, Monte Morin, “Crime as Lethal as Warfare in Iraq,” *Los Angeles Times*, March 20, 2005, and “Filipino Returns Home After Hostage Ordeal in Iraq,” *Reuters*, June 23, 2005.

more than twenty-five. Nearly 1,000 doctors have fled the country, with an average of thirty more following each month.<sup>29</sup>

According to some reports, insurgent groups exploit Iraq's poverty and high unemployment rates by paying Iraqis to stage attacks.<sup>30</sup> Detonating an improvised explosive device pays up to \$200, one U.S. security expert said, and killing an American pays up to \$1,000.<sup>31</sup> In some cases, criminal groups have reportedly sold kidnap victims to insurgent groups.

### **Attacks on Civilians**

The number of civilians killed in Iraq is unknown. The chaos of the conflict, the partial functioning of Iraqi institutions and the unwillingness of the Multi-National Force to keep statistics on civilians casualties make accurate numbers very difficult to obtain.<sup>32</sup> In addition, not all civilian deaths resulted from a violation of international humanitarian law.

According to the U.K.-based Iraq Body Count, the media reported 24,865 civilian deaths attributed to the fighting between March 2003 and March 2005.<sup>33</sup> In November 2004, a group of public health experts reported in the British medical journal *The Lancet* that the mortality rate in Iraq after the U.S.-led invasion was 1.5 times higher than the rate prior to the invasion (and 2.5 times higher when they included statistics from al-Falluja, which incurred heavy fighting in April and November 2004). Based on a door-to-door survey of 988 Iraqi households, the report estimated there were 98,000 "excess deaths" after the

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<sup>29</sup> Ali Rifaat and Hala Jaber, "Kidnap Gangs Force Doctors to Flee Iraq," *The Times*, June 5, 2005.

<sup>30</sup> Hisham Mohammed, "Insurgency Provides Financial Lure," *IWPR*, June 21, 2005, available at [http://www.iwpr.net/index.pl?archive/irq/irq\\_129\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_129_1_eng.txt), as of June 22, 2005.

<sup>31</sup> "What is Driving the Iraqi Insurgency," Council on Foreign Relations, May 20, 2005, available <http://www.cfr.org/publication.php?id=8117>, as of June 19, 2005.

<sup>32</sup> In response to a Human Rights Watch request in 2003 for information about civilian casualties, the Multi-National Force's press office replied:

It is tragic that civilians have died as a result of our operations and we are fully aware that every time a civilian is caught in the line of coalition fire, we potentially lose allies among the Iraqi population. In terms of statistics, we have no definitive estimates of civilian casualties for the overall campaign. It would be irresponsible to give firm estimates given the wide range of variables. For example, we have had cases where during a conflict, we believed civilians had been wounded and perhaps killed, but by the time our forces have a chance to fully assess the outcomes of the contact, the wounded or dead civilians have been removed from the scene. Factors such as this make it impossible for us to maintain an accurate account.

(E-mail sent to Human Rights Watch from Multi-National Force press office on September 29, 2003.)

<sup>33</sup> Iraq Body Count, *A Dossier of Civilian Casualties 2003-2005*, July 19, 2005. See [www.iraqbodycount.net](http://www.iraqbodycount.net). The list of media sources is on the report's methodology page.

war began (again without counting al-Falluja). From those “excess deaths,” 24 percent resulted from violence (51 percent including al-Falluja). The survey did not distinguish between military and civilian deaths, and it did not address whether the deaths resulted from violations of international humanitarian law.<sup>34</sup>

The Iraqi government has made a number of pronouncements on civilian casualties attributed to insurgent attacks, but the accuracy of their claims is impossible to confirm. In April 2005, Iraq’s Minister of Human Rights said insurgents had killed 6,000 civilians and wounded 16,000 over the previous two years.<sup>35</sup> Two months later, Iraq’s Interior Minister said insurgents had killed 12,000 civilians in 2004 and the first half of 2005, although government officials later said this figure was an estimate.<sup>36</sup> The Iraqi Interior Ministry later gave more precise figures, claiming that insurgents had killed 8,175 Iraqi civilians and police officers between August 2004 and May 2005. The ministry did not provide a breakdown of civilians versus police.<sup>37</sup>

The Iraqi government released updated figures in July 2005, based on information from the ministries of health, interior and defense. In the first six months of 2005, the government said, civilian deaths from bombings, assassinations and armed clashes with insurgents totaled 1,594. During this time insurgents killed 895 members of the Iraqi security forces (275 soldiers and 620 police).<sup>38</sup> Again, not all civilian deaths reflect violations of the laws of war.

### **Purpose of Attacks on Civilians**

Insurgent groups in Iraq claim they attack civilians to achieve various aims, including pressuring foreign governments, discouraging Iraqis from supporting the current government and avenging perceived wrongs. Based on statements attributed to the

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<sup>34</sup> Les Roberts, Riyadh Lafta, Richard Garfield, Jamal Khudhairi and Gilbert Burnham, “Mortality Before and After the 2003 Invasion of Iraq: Cluster Sample Survey,” *The Lancet*, Volume 364, Number 9448, November 20, 2004.

<sup>35</sup> Luke Baker, “Iraq Insurgency Has Killed 6,000 Civilians—Govt,” *Reuters*, April 5, 2005.

<sup>36</sup> Hamza Hendawi, “Iraqi Interior Minister Jabr Interviewed,” Associated Press, June 2, 2005, Ellen Knickmeyer, “Iraq Puts Civilian Toll at 12,000,” *Washington Post*, June 3, 2005, and Bassem Mroue, “Civilian Deaths in Iraq Exceed Military,” *Associated Press*, July 14, 2005.

<sup>37</sup> Sabrina Tavernise, “Data Shows Rising Toll of Iraqis from Insurgency,” *New York Times*, July 14, 2005. For other Iraqi government figures, see Bushra Juhi, “Casualties From Iraq Insurgency Up in May,” *Associated Press*, June 1, 2005. According to a cited health ministry official, insurgents killed 434 civilians and wounded 775 in May 2005, up from 299 and 598, respectively, the previous month.

<sup>38</sup> “Civilian Deaths in Iraq Violence Far Exceed Those of Military and Police, Government Says,” *Associated Press*, July 14, 2005. The number of insurgents killed during the first six months of 2005 was 781, the Iraqi government said.

groups, as well as media reports and the views of insurgency experts in Iraq and abroad, their attacks seem intended to accomplish the following goals:<sup>39</sup>

- ***Punish individuals for collaboration.*** Attacks on Iraqi translators, drivers, contractors and others who work with foreign governments often are aimed at punishing them for their collaboration and warning others to avoid such work. Some insurgent groups have broadcast videos of executions, sometimes by beheading, on the Internet or on CDs that are sold in markets, preceded by a “confession” and statement from the person in custody. “I am telling anybody who wants to work with Americans to not work with them,” said Saif `Adnan Kan`an, who worked as a vehicle mechanic for the U.S. military in Mosul, before being beheaded by militants from Ansar al-Sunna.<sup>40</sup>
- ***Punish groups for collaboration or claims to political power.*** Attacks on Iraq’s religious and ethnic communities—Shi`a Muslims, Kurds and Christians—are collective punishment for perceived cooperation with foreign forces and, in the case of Shi`a Muslims and Kurds, their assertions of national power. On September 19, 2004, Ansar al-Sunna announced that it had captured and killed three members of the Kurdistan Democratic Party, and a video on the group’s website showed three men getting beheaded. “The puppet Kurdish groups... have pledged allegiance to the crusaders and continue to fight Islam and its people,” a statement said.<sup>41</sup>
- ***Pressure foreign governments to leave Iraq.*** The abductions and killings of foreign civilians often are accompanied by a demand for the removal of a specific country’s military from Iraq. In July 2004, for example, the Islamic Army in Iraq abducted the Filipino truck driver Angelo de la Cruz, and then distributed a video of him kneeling in front of three militants, who threatened to kill him if the Philippine military did not withdraw from Iraq. The Philippine government consented on July 12, and the insurgents released de la Cruz.<sup>42</sup>
- ***Undermine the Iraqi government.*** Attacks on Iraqi politicians and government officials send the message that Iraqis who participate in the new government risk death and the lives of their families. Before the January 30,

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<sup>39</sup> See, for example, Anthony H. Cordesman, Center for Strategic and International Studies, *Iraq’s Evolving Insurgency*, Updated as of May 19, 2005, Jeffrey White, “Assessing the Iraqi Insurgency (Parts I and II),” Washington Institute for Near East Policy, Policy Watch #978, March 24, 2005, and *Iraq: Insurgency Goals*, Council on Foreign Relations, May 20, 2005.

<sup>40</sup> “Iraqi Militants Behead Man Who Worked With U.S. Forces in Mosul,” *Associated Press*, October 23, 2004.

<sup>41</sup> “Iraqi Groups Shows Tape of Beheading of Three Kurds,” *Reuters*, September 19, 2004.

<sup>42</sup> Alistair Lyon, “Philippines Announces Pullout to Save Iraq Hostage,” *Reuters*, July 12, 2004, and “Hostage Takers Widen Demands Beyond Iraqi Affairs,” *Agence France-Presse*, August 29, 2004. The government claimed that it was already planning to withdraw its fifty-one-person contingent at the end of the month.

2005, elections, various groups warned Iraqis not to vote. Ansar al-Sunna, the Islamic Army in Iraq and al-Qaeda in Iraq warned Iraqis not to participate in the January 30, 2005, Iraqi elections. “Voters should know that even if they do not take part in the poll (but attend the voting stations) they will not escape the hands of the mujahedeen, including after the elections,” an Ansar al-Sunna statement said.<sup>43</sup>

- ***Instill fear in the civilian population.*** Attacks also may aim to induce Iraqis who support the new government to lose faith in the ability of the government and the Multi-National Force to provide security.
- ***Divert resources from military tasks.*** Attacks on civilians and civilian objects force the Iraqi government and Multi-National Force to divert resources to protect reconstruction projects, infrastructure facilities, humanitarian organizations and other so-called “soft targets.”
- ***Impede reconstruction.*** Attacks on Iraqi and foreign reconstruction contractors, as well as on oil pipelines, electrical grids and water stations, impede the country’s reconstruction and send a message that the new Iraqi authorities cannot provide for the public’s needs. According to the U.S military, up to 25 percent of the \$18.4 billion it allocated for reconstruction projects has gone to security.<sup>44</sup>
- ***Provoke a heavy-handed response.*** Attacks on civilians and civilian objects may goad multinational and Iraqi forces into a heavy-handed response in which civilians are killed or civilian infrastructure is destroyed. Such attacks might alienate the population and help win insurgent groups sympathizers and recruits.
- ***Gain the release of detainees.*** Insurgent groups have used abducted civilians to demand the release of persons from detention facilities in Iraq. On September 16, 2004, al-Tawhid wal-Jihad abducted three civil engineers in Baghdad, Eugene Armstrong and Jack Hensley from the U.S. and Kenneth Bigley from the U.K. Videos and statements on the Internet threatened them with execution unless the U.S. government released the Iraqi women it held in detention. Subsequent deadlines passed and the group beheaded all three men. A video posted to a website before the final execution showed Bigley pleading to British Prime Minister Tony Blair to: “Please, please release the female prisoners that are held in Iraqi prisons.”<sup>45</sup>

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<sup>43</sup> “Islamist Group Threatens Attacks After Iraqi Vote: Website,” *Agence France-Presse*, January 27, 2005.

<sup>44</sup> Andrew Hammond, “Insurgency Soaks Up Money Set for Reconstruction,” *Reuters*, August 10, 2005.

<sup>45</sup> “British Hostage Pleads For His Life Amid Claim Italians Killed in Iraq,” *Agence France-Presse*, September 23, 2004.



## ***Justifications for Attacks on Civilians***

Insurgent groups in Iraq that target civilians seek to justify their attacks by various arguments. Most of the arguments fall into one of two categories: First, arguments that the victims in some way were supporting the foreign military presence, and as such, were part of that military force. Second, arguments that specific aspects of the armed conflict in Iraq justified an attack on civilians.

As discussed, international humanitarian law prohibits at all times attacks directed against civilians. The applicability of international humanitarian law is unrelated to the nature of the armed conflict; that is, whether the war is just or unjust, lawful or unlawful, international humanitarian law still applies.<sup>46</sup>

Among the justifications insurgent groups and their supporters use to explain attacks on civilians are:

- ***Employees of foreign governments or the Multi-National Force have effectively joined the enemy.*** Any Iraqi or foreigner who works with the U. S. or the Multi-National Force, whether as a contractor, translator, driver, or cleaner, is considered a collaborator because of the assistance he or she provides the foreign forces, and therefore loses immunity as a civilian. According to a former Iraqi general who joined the insurgency: “Every Iraqi or foreigner who works with the coalition is a target. Ministries, mercenaries, translators, businessmen, cooks or maids, it doesn’t matter the degree of collaboration. To sign a contract with the occupier is to sign your death certificate.”<sup>47</sup>
- ***Officials of the Iraqi government serve as agents of the foreign occupation.*** The various post-Saddam Hussein governments—Iraq’s Interim Governing Council, the Iraqi Interim Government and the Iraqi Transitional

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<sup>46</sup> Some Iraqis and insurgent groups in Iraq claim that attacks on civilians are the work of foreign forces, particularly from Israel and the U.S., in an attempt to cause chaos and to rally the Shi’a and Kurdish populations around the new government. In March 2005, for example, the influential Sunni group, the Association of Muslim Scholars, condemned an attack on a Shi’a mosque and said that foreign elements must have been involved. “The Iraqis are not programmed to kill. Even the extremist Islamists, we know them and we know how they think,” an association spokesman said. “They have no such ideology which makes them sanction the killing of innocent people without any religious or moral scruples.” (*BBC Monitoring Middle East*, “Iraqi Sunni Clerics Spokesman Rejects Iraqi Involvement in Shi’i Mosque Blast,” *al-Jazeera Television*, March 10, 2005.) Another example was an article in Quds Press that argued, citing “special sources,” that the U.S. had sent a special unit to commit assassination, sabotage and random bombings attributed to the insurgency in order to “smear its reputation.” (“U.S. ‘Special Unit’ Said in Iraq for ‘Dirty Operations,’” *Quds Press*, August 3, 2005.)

<sup>47</sup> Alix de la Grange, “The Liberation of Baghdad is not Far Away,” *Asia Times Online*, June 25, 2004, available at [http://www.atimes.com/atimes/Middle\\_East/FF25Ak07.html](http://www.atimes.com/atimes/Middle_East/FF25Ak07.html), as of August 19, 2005.

Government—are considered subservient to the U.S.-led coalition. Viewed as agents of the foreign forces, they are deemed to have lost their immunity as civilians. When asked about his organization’s view of the Iraqi Governing Council, for example, the Jaysh Muhammad spokesman said: “Our position is clear—they are all spies, traitors, and agents for the Americans.”<sup>48</sup> To the head of the pro-Saddam Hussein group Wahaj al-`Iraq, the Iraqi parliament and government are “the institutions of the aggressor.”<sup>49</sup>

- ***By supporting the foreign forces occupying Iraq, Shi`a Muslims, Kurds and Christians are traitors and spies.*** Insurgent groups that attack Shi`a, Kurdish or Christian civilians say these groups are legitimate targets because they collaborated with the United States to overthrow Saddam Hussein and to occupy Iraq. “The American forces and their intelligence systems have found a safe haven and refuge amongst their brethren the grandchildren of monkeys and swine in Iraq,” one group said when claiming responsibility for the August 2003 attacks on five churches in Mosul and Baghdad.<sup>50</sup> Because the Kurdish peshmerga fought alongside U.S. forces in 2003 and some Shi`a militias, like the Iran-trained Badr Brigade (now Badr Organization), are powerful in the current Iraqi security force, all Kurds and Shi`a are considered fair targets. According to groups like Ansar al-Sunna and al-Qaeda in Iraq, Kurds and the Shi`a are “helping the Crusaders and Jews.”<sup>51</sup>
- ***All westerners in Iraq are part of the foreign occupation.*** Regardless of their role in Iraq, be it as construction contractors, journalists or humanitarian aid workers, all foreigners are considered elements or potential elements of a foreign occupation. According to a statement by a group called the Assadullah Brigades (Lion of God Brigades), for example, “the *mujahid* [holy fighter] is entitled to capture any infidel that enters Iraq, whether he works for a construction company or in any other job, because he could be a warrior, and the *mujahid* has

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<sup>48</sup> Ali Kais al-Rubai, “Islamists Pledge Continued War on Coalition,” Institute for War and Peace Reporting, *Iraqi Crisis Report* 63, May 14, 2004, available at [http://www.iwpr.net/index.pl?archive/irq/irq\\_63\\_1\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_63_1_eng.txt), as of March 31, 2005.

<sup>49</sup> “Head of Pro-Saddam Militants in Iraq Sets Peace Terms, Doesn’t Know al-Zarqawi,” *BBC Monitoring Middle East*, published in *La Repubblica*, June 3, 2005.

<sup>50</sup> Translation from the website [www.assyrianchristians.com](http://www.assyrianchristians.com) (accessed February 22, 2005). See also, Salah Nasrawi, “Unknown Group Claims Responsibility for Assaults on Iraqi Churches,” *Associated Press*, August 2, 2004.

<sup>51</sup> “Al-Qaeda Linked Group Claims Attack Targeting Kurdish Official,” *Agence France-Presse*, May 24, 2005.

the right to kill him or take him as a prisoner.”<sup>52</sup> According to the group, “any foreigner working here should be killed or abducted.”<sup>53</sup>

- ***The ends justify the means.*** Attacks against all targets, military and civilian, are necessary and permitted to achieve the ultimate end: driving foreign occupiers from Iraq. “The killing of infidels by any method including martyrdom [suicide] operations has been sanctified by many scholars even if it means killing innocent Muslims. This legality has been agreed upon ... so as not to disrupt jihad,” Abu Mus`ab al-Zarqawi purportedly said on an audio tape posted to the Internet. He continued: “The shedding of Muslim blood ... is allowed in order to avoid the greater evil of disrupting jihad.”<sup>54</sup>



A sign in al-Falluja from May 2003 reveals anger at the United States.  
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- ***A more powerful enemy.*** The United States and its coalition partners are better financed and equipped than insurgent groups, with overpowering technology and firepower. Against such an adversary, all means of attack are necessary, including attacks on civilians and other “soft targets.”
- ***Double standards on the applicability of international law.*** Some insurgents argue that armed opposition groups should not be expected to respect legal standards when the other side brazenly disregards the law. They assert that the U.S.-led invasion of Iraq was a violation of international law, and that excessive

<sup>52</sup> Samir Haddad and Mazin Ghazi, “Who Kills Hostages in Iraq,” *al-Zawra*, September 19, 2004.

<sup>53</sup> Samir Haddad and Mazin Ghazi, “Who Resists and Who Kidnaps,” *IslamOnline.net*, September 14, 2004.

<sup>54</sup> “Iraq Qaeda Leader Defends Slaying of Muslims-Web,” *Reuters*, May 18, 2005.

and indiscriminate force during and after the invasion has killed tens of thousands of Iraqi civilians.

- ***Reprisals.*** Some attacks against civilians are justified as reprisals for alleged abuses or unlawful attacks by Iraqi or multinational forces. This was a justification given for the May 2004 beheading of American businessman Nicholas Berg, as recorded in a video entitled “Abu Mus`ab al-Zarqawi Shown Slaughtering an American.” “For the mothers and wives of American soldiers, we tell you that we offered the U.S. administration to exchange this hostage with some of the detainees in Abu Ghraib and they refused,” one of five men wearing headscarves and black masks read from a statement. “So we tell you that the dignity of the Muslim men and women in Abu Ghraib and others is not redeemed except by blood and souls.”<sup>55</sup>
- ***International humanitarian law does not apply to insurgent groups in Iraq.*** Some who defend the conduct of insurgent groups in Iraq claim the groups are not bound by the laws of war because they did not sign the Geneva Conventions or otherwise make legal commitments to abide by international law. They say that insurgent groups cannot be bound by international norms they did not help shape or pledge to respect.
- ***Insurgents only recognize Islamic law, which permits all attacks against an occupying force.*** Some groups cite the Qu`ran or Islamic scholars to justify the killing of Muslim and non-Muslim civilians in a war against occupying militaries. “Killing Muslims who are serving as human shields [for U.S. forces] is allowed by the sharia,” Abu Mus`ab al-Zarqawi said in a tape posted to the Internet on May 18, 2005, backing the argument with statements from several Muslim clergymen. He also said that “it is legitimate to shoot all infidels with all kinds of arms that we have.”<sup>56</sup>
- ***Executions are carried out according to law.*** At least one insurgent group has justified an execution because it was carried out after a legal review. On July 21, 2005, al-Qaeda in Iraq abducted two Algerian diplomats, `Ali Belaroussi and Azzedine Belkadi, and executed them six days later. “The judicial court of the

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<sup>55</sup> Niko Price, “Video on Islamic Militant Web Site Shows Beheading of American,” *Associated Press*, May 11, 2004.

<sup>56</sup> “Zarqawi Tries to Justify Killings of Civilians in Iraq: Tape,” *Agence France-Presse*, May 18, 2005.

Organization of al-Qaeda in Iraq has sentenced to death the diplomatic envoys of the apostate Algerian government,” a statement posted to the Internet said.<sup>57</sup>

None of the justifications given above is defensible under international law. The justifications for attacking specific groups of people misread or misapply the definition of a civilian as it applies under the laws of war. The arguments that international law does not apply are contrary to long-accepted understandings of the applicability of the laws of war.

International humanitarian law provides that in all armed conflicts, whether during armed conflicts between states, occupations or civil wars, the parties must at all times distinguish between civilians and combatants. According to the principle of civilian immunity, attacks may only be directed against combatants, and never civilians.<sup>58</sup>

Civilians are defined as persons who are not members of the armed forces.<sup>59</sup> A civilian is protected against attack unless and for such time as he or she takes a direct part in hostilities.<sup>60</sup> In practice a civilian would temporarily lose immunity by, for instance, picking up a weapon and engaging in fighting, loading ammunition during a battle or spotting targets for artillery. Civilians involved in the planning of military operations or who are giving orders to military forces likewise may be subject to attack. As described in the ICRC Commentary to Protocol I, direct participation in hostilities “implies a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place.”<sup>61</sup> Thus, while a worker in a munitions factory may be assisting the war effort, the absence of *direct* participation in hostilities means the person cannot be subject to attack (the munitions factory is a legitimate target, however, and the worker bears the risks of being present there).

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<sup>57</sup> “Iraq’s al Qaeda Says Will Kill Algerian Envoys—Web,” *Reuters*, July 26, 2005.

<sup>58</sup> International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, (Cambridge: Cambridge Univ. Press 2005) (Henckaerts & Doswald-Beck, eds.), volume 1, rule 1, citing Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977, articles 48, 51(2); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977, article 13(2).

<sup>59</sup> ICRC, *Customary International Humanitarian Law*, rule 5, citing Protocol I, article 50, citing Protocol I, article 50.

<sup>60</sup> ICRC, *Customary International Humanitarian Law*, rule 6, citing Protocol I, article 51(3), citing Protocol I, article 51(3).

<sup>61</sup> See ICRC, Commentary on the Additional Protocols, p. 516. The Commentary also explains that under Protocol II “direct part in hostilities” implies “that there is a sufficient causal relationship between the act of participation and its immediate consequences.” *Ibid.* p. 1453.

Although there are gray areas regarding whether certain conduct constitutes “direct participation in hostilities,” the immunity of the civilians whose cases are documented in this report is clear. Ordinary civilians regardless of ethnic group or sect, government officials not directly involved in the war effort, Iraqi and foreign staff performing non-combat jobs for foreign governments, humanitarian aid workers and journalists are all protected from direct attack by the laws of war.

The prohibition on intentional attacks against civilians is absolute. Where there is doubt as to whether a person is a civilian or a member of the military, that person must be considered a civilian.<sup>62</sup> Reprisal attacks against civilians and captured combatants are prohibited.<sup>63</sup> It is also unlawful to carry out sentences, including executions, of any person except by a regularly constituted court meeting international fair trial standards.<sup>64</sup>

It is no justification to claim that the attacked civilian was part of a larger group that has members involved in the hostilities. Thus Kurdish civilians are not lawful targets because the peshmerga is made up of Kurdish fighters. Likewise, foreign civilians do not become lawful targets because of the presence of foreign soldiers in Iraq.

The broader justifications for attacks on civilians based on the perceived irrelevance or unfairness of international humanitarian law are a blanket disavowal of international law. Under international humanitarian law, the fighting that has persisted in Iraq since the U.S.-led invasion in March 2003 meets the requirements for an armed conflict. The classification of that armed conflict, whether as an international armed conflict or as a non-international (internal) armed conflict, is of limited importance for issues pertaining to direct attacks on civilians: such attacks are illegal during an international armed conflict or occupation as per the 1949 Geneva Conventions, or during an internal conflict as a matter of article 3 common to the four Geneva Conventions of 1949 and customary international humanitarian law.

While armed opposition groups such as insurgents in Iraq are not parties to the Geneva Conventions, it has long been recognized that such groups are bound by common article

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<sup>62</sup> See Protocol I, art. 50(1); ICRC, *Customary International Humanitarian Law*, rule 16 (“Each party to the conflict must do everything feasible to verify that targets are military objectives”), citing Protocol I, article 57(2)(a); 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property, article 7.

<sup>63</sup> ICRC, *Customary International Humanitarian Law*, rule 146, citing, e.g. First Geneva Convention, art. 46; Fourth Geneva Convention, art. 33.

<sup>64</sup> Common article 3 to the 1949 Geneva Conventions.

3 and customary international humanitarian law.<sup>65</sup> Recourse to competing principles such as “the ends justifies the means” or other bodies of law, such as interpretations of Islamic law, have no legal bearing on whether or not international humanitarian law has been violated. As the preamble to Protocol I states, the provisions of the Geneva Conventions “must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflicts.”<sup>66</sup> Moreover, a failure by one party to a conflict to respect the laws of war does not relieve the other of its obligation to respect those laws. That obligation is absolute, not premised on reciprocity.<sup>67</sup>

The rejection of international humanitarian law has moral, political and legal consequences. Most importantly, the unwillingness to adequately distinguish between civilians and combatants is having a devastating impact on the civilians of Iraq. Serious violations of the laws of war are considered war crimes; under international law, persons who commit, order, or condone war crimes or crimes against humanity are criminally responsible individually for their actions. In certain circumstances, international humanitarian law also holds commanders criminally liable for war crimes committed by their subordinates. There are two forms of command responsibility: direct responsibility for orders that are unlawful, such as when a military commander authorizes or orders intentional attacks on civilians; and imputed responsibility, when a superior failed to prevent or punish crimes committed by a subordinate acting on his own initiative when the superior knew or should have known of the subordinate’s plans.

War crimes that are grave breaches of the Geneva Conventions and crimes against humanity are crimes of universal jurisdiction, meaning that they can be prosecuted anywhere in the world. Moreover, international crimes committed since July 2002 may be prosecuted by the International Criminal Court in The Hague if the state involved is unwilling or unable to prosecute the offense. Because there is no statute of limitation for war crimes, those responsible may be arrested and tried at any time and in any place.<sup>68</sup>

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<sup>65</sup> See generally the discussion of the applicability of international humanitarian law to non-state armed groups in ICRC, *Customary International Humanitarian Law*, pp. 497-98.

<sup>66</sup> Protocol I, preamble.

<sup>67</sup> The issue of reciprocity is addressed in the ICRC’s Commentary to Protocol I, para. 51: “The prohibition against invoking reciprocity in order to shirk the obligations of humanitarian law is absolute. This applies irrespective of the violation allegedly committed by the adversary. It does not allow the suspension of the application of the law either in part or as a whole, even if this is aimed at obtaining reparations from the adversary or a return to a respect for the law from him.”

<sup>68</sup> Neither Iraq nor the United States are party to the Rome Statute of the International Criminal Court.

## **Statements by Insurgent Groups**

Various armed groups, notably Ansar al-Sunna, al-Qaeda in Iraq and the Islamic Army in Iraq, have repeatedly claimed credit in videos and written statement for assassinations, executions and bomb attacks that unlawfully killed civilians.<sup>69</sup> Only on rare occasions has an armed group condemned such attacks. When such condemnations occur, they are likely to express disapproval with attacks on “innocent Muslims” or Iraqi citizens, including soldiers and police, rather than a condemnation based on the legal obligation to distinguish between civilians and combatants. The implied message often is to redirect attacks from Iraqis to foreigners, whether soldiers or civilians, rather than a desire to protect all civilians from attack.

A statement from Jaysh Muhammad, for example, a Sunni group with a strong Islamist bent, was as much an affirmation of certain unlawful attacks as it was a condemnation of others. “A Muslim must not kill a Muslim, no matter what,” a spokesman said in an interview, as he denounced the bombings at Shi`a shrines and attacks on police. At the same time, he accepted kidnapping those who “cooperate with the occupation.” “Kidnapping is an obligation,” he said. “It is not prohibited by religion, if it is done to foreigners who cooperate with the occupation.”<sup>70</sup>

In a statement by the Abu-Hafs al-Masri Brigades, one of three groups that claimed responsibility for the U.N. bombing of August 19, 2003, the group said it was against “any action that harms the interest of the Iraqi people, such as targeting the Abu Ghraib Prison and blowing up the principal water main in Baghdad because it is not allowable to harm Muslims.”<sup>71</sup> The statement did not mention that eight of the twenty-two people who died in the U.N. bombing were Iraqis (see chapter VIII of this report, “Attacks on Humanitarian Organizations and the U.N.”).

In one of the very few cases that al-Qaeda in Iraq condemned an attack on civilians, it commented only on the need to protect innocent Muslims. “We changed the plans for a number of decisive operations against the enemy because of the presence of a Muslim

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<sup>69</sup> Such statements could help demonstrate that particular criminal acts were knowingly part of an attack on a population, as necessary for showing a crime against humanity. See e.g. Kayishema and Ruzindana, International Criminal Court for Rwanda, Trial Chamber, May 21, 1999, para. 133-34.

<sup>70</sup> Ali Kais al-Rubai, “Islamists Pledge Continued War on Coalition,” *IWPR*, May 14, 2004.

<sup>71</sup> “Statement Said From al-Qa’idah Claims Responsibility for UN HQ Attack in Iraq,” *BBC Monitoring Middle East*, Muhammad Salah, “Al-Qi’diah Claims Responsibility for Blowing Up UN Headquarters in Baghdad,” *al-Yat*, August 25, 2003.



who would have been killed by the explosions, and we canceled martyrdom [suicide] operations out of concern for the blood of Muslim passers-by,” it said.<sup>72</sup>

On January 27, 2005, three days before Iraq’s elections, an apparent umbrella organization of Sunni nationalist groups called the Political Bureau of the Islamic Front of the Iraqi Resistance,<sup>73</sup> announced that it condemned the elections but had ordered its fighters not to attack polling stations or Iraqi citizens. “It is not our policy to provoke sedition that will allow the blood of our citizens to be shed by attacking the polling stations and shedding the blood of innocent Iraqis, especially as many of our compatriots have failed to understand the reality of this issue,” the statement reportedly said. “Our wish to spare the lives of our Iraqi people extends to all our citizens of all religious persuasions and ethnic affiliations.”<sup>74</sup>

A month later the Islamic Front of the Iraqi Resistance issued another statement that extended its condemnation to attacks on all civilians. “We prohibit targeting civilians, slaying hostages and spilling the blood of Iraqis whether civilians or members of police and national guard forces, under any pretext,” the statement said, adding that its fighters should not undertake actions in cities, where civilians could be hurt. Regarding non-Iraqis, the Front said its members were not allowed to target civilian foreigners, such as reporters, drivers and relief workers, or Iraqi infrastructure facilities, like oil pipelines and electrical grids. It called on its members not to cooperate with any insurgent group that attacked Iraqis or civilians in general.<sup>75</sup>

Likewise, in a statement posted on its website in June 2005, the Iraqi Patriotic Alliance, an alliance of Iraqi political parties and groups based abroad, denounced the targeting of civilian objects and foreign civilians:

Schools, churches, mosques and other civilian places have never been the target of the Iraqi resistance. Besides, we have to be very critical and careful about any kidnapping or killing process of a foreigner [sic] worker in Iraq. The resistance has no benefit in attacking people like

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<sup>72</sup> Nadia Abou el-Magd, “Iraq Insurgents Call for Hassan’s Release,” *Associated Press*, November 5, 2004.

<sup>73</sup> According to one Iraqi press report, the Islamic Front of the Iraqi Resistance is a Sunni group that announced its existence on May 30, 2004. It concentrates in Ninewa and Diyala provinces and has at least two military wings: Salah al-Din al-Ayubi Brigades and Sayf-Allah al-Maslul Brigades. (Samir Haddad and Mazin Ghazi, “Who Kills Hostages in Iraq,” *al-Zawra*, September 19, 2004.)

<sup>74</sup> “Iraq’s ‘Islamic Resistance Front’ Says Elections ‘US Conspiracy,’” *BBC Monitoring Middle East*, Statement by the Islamic Front of the Iraqi Resistance, carried by Quds Press web news agency, January 30, 2005.

<sup>75</sup> Samir Haddad, “Iraqi Resistance Distances Itself From Civilian Blood,” *IslamOnline.net*, March 7, 2005, available at <http://www.islamonline.org/English/News/2005-03/07/article05.shtml>, as of August 15, 2005.

Margaret Hassan,<sup>76</sup> two Simonas<sup>77</sup> or others. These actions are meant to discredit the legal resistance of our people.<sup>78</sup>

In an interview published in June 2005, the head of a pro-Saddam group claimed his force did not target civilians, and he did not distinguish between Iraqis and foreigners. “We strike only at military targets,” said Shaikh Majid al-Qa’ud, secretary general of Wahaj al-`Iraq. “It is others who slaughter women, old people and children.”<sup>79</sup>

### **Statements by Sunni Religious Groups**

Most Sunni institutions and religious bodies view the U.S.-led coalition in Iraq as an occupation, and they support the insurgents’ military actions as a legitimate response. Some have condemned attacks on civilians, particularly the large-scale attacks on Shi`a shrines and Christian churches, but their condemnations are sometimes limited and suggest that attacks on civilians are warranted in certain circumstances.

The most influential Sunni religious authority in Iraq is the Hayat `Ulama al-Muslimin (Association of Muslim Scholars), which was created in April 2003, after the fall of the Saddam Hussein government. Directed by Shaikh Harith al-Dhari, the Association undertakes religious, political, social and economic activities, from organizing the protection of mosques and the work of imams to caring for the families of Iraqis killed by U.S. forces. It has been an outspoken critic of the U.S.-led military presence and called on the Sunni to boycott the January 30, 2005, elections.

At the same time, the Association has condemned the Jordanian Abu Mus`ab al-Zarqawi and some of the attacks for which he claimed responsibility. “We have nothing to do with the terrorist al-Zarqawi,” an Association spokesman said in February 2005. “He is a foreigner and an enemy of Iraq. Our liberation struggle against the occupation is a completely different matter from his barbarous terrorism.”<sup>80</sup>

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<sup>76</sup> Margaret Hassan, the head of CARE in Iraq, was abducted in October 2004 and killed the next month. See Chapter VIII of this report, “Attacks on Humanitarian Organizations and the U.N.”

<sup>77</sup> The “two Simonas” are the Italians Simona Pari and Simona Torretta from the organization Un Ponte per Baghdad (“Bridge to Baghdad”), who were kidnapped in September 2004 with two Iraqi staff and released after three weeks.

<sup>78</sup> “Letter From Iraqi Patriotic Alliance Addressed to Our Brothers All Around the World,” Iraqi Patriotic Alliance website, <http://www.iraq-ipa.com/>, as of June 6, 2005.

<sup>79</sup> “Head of Pro-Saddam Militants in Iraq Sets Peace Terms, Doesn’t Know al-Zarqawi,” *BBC Monitoring Middle East*, published in *La Repubblica*, June 3, 2005.

<sup>80</sup> “Iraqi Sunni Body Reiterates Refusal to Join Government Before US Withdrawal,” *BBC Monitoring Middle East*, February 4, 2005, translation of interview with Association of Muslim Scholars spokesman Bashar al-Faydi, published in *Corriere della Sera* on February 3, 2005.

The Association has condemned some hostage-taking and attacks on civilians, but it has been accepting of other practices that violate the laws of war. For example, at least one spokesman said it was acceptable to kidnap—but not kill—“collaborators.” “Iraq is an occupied country and Iraqis are entitled to resist this ugly occupation no matter what the means...It makes sense then to target collaborators,” Association spokesman Muthana Harith al-Dhari said in September 2004. He added, “Kidnapping the collaborators is lawful when it comes to warfare. They are deemed as troops fighting alongside the occupation forces.”

As an example, al-Dhari mentioned the case of twelve Nepalese workers, abducted and executed by Ansar al-Sunna in August 2004. “There was nothing wrong in kidnapping the twelve Nepalese as they used to work for the occupation forces as bodyguards or supply drivers in return for mind-boggling salaries,” he said. “But we are totally against killing them. They are prisoners of war and shouldn’t be killed.”<sup>81</sup>

The Association had condemned the killing when it took place. “We are against killing hostages, particularly if it has been a group execution,” Shaikh al-Dhari said. “Those twelve Nepalese hostages are simple people. They might have been deceived to serve the occupation forces.”<sup>82</sup> That same month, when insurgents bombed five Christian churches in Baghdad and Mosul, the Association said the attacks were “totally remote from any religious or humanitarian norms.”<sup>83</sup>

On September 12, 2004, the Association called for the release of two Italian humanitarian workers, Simona Pari and Simona Torretta, who had been abducted one week before. “The two Italians were doing a humanitarian job and don’t have any links to the occupation,” a spokesman said.<sup>84</sup> The two women were eventually released.

In January 2005, the Association called upon all armed groups to release any hostages they held on the Eid al-Adha feast (Feast of Sacrifice)—a major Islamic holiday. “On the occasion of `Eid al-Adha, the Association of Muslim Scholars appeals on parties who

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<sup>81</sup> “Targeting ‘Collaborators’ Lawful: Iraqi Scholar,” Islamonline.net, September 27, 2004, <http://www.islamonline.net/English/news/2004-09/27/article01.shtml>, accessed August 15, 2005.

<sup>82</sup> “AMS Slams Nepalese Captives’ Execution,” al-Jazeera.net, August 31, 2004, available at <http://english.aljazeera.net/NR/exeres/67833A12-87BE-467D-8E7E-9D173D9A9915.htm>, as of June 23, 2005.

<sup>83</sup> Alissa J. Rubin, “Muslims and Their Leaders Denounce Church Attacks,” *Los Angeles Times*, August 3, 2004.

<sup>84</sup> “Muslim Scholars Call for Release of Italian Hostages,” *Associated Press*, September 13, 2004.

hold hostages to free them as an expression of goodwill,” a spokesman said. “Our religion does not accept such acts that lead to killings and humiliation.”<sup>85</sup>

In February 2005, the Association called for the release of the abducted Italian journalist Giuliana Sgrena, saying “she was doing a humanitarian job in Iraq and has nothing to do with the occupation forces.”<sup>86</sup> A group called the Islamic Jihad Organization responded that it would kill the woman if Italian forces did not leave Iraq. “We call upon our brothers in the Association of Muslim Scholars to be careful in their call to release the Italian POW,” a statement posted on the Internet said. “We are still investigating the POW and the judicial committee in the organization will take its decision on that soon.”<sup>87</sup> Sgrena’s captors released her on March 4 (see chapter IX of this report, “Attacks on Media”).

In contrast to these statements, another large Sunni group has condoned certain attacks. Fakhri al-Qaisi, a prominent Sunni cleric who heads a Salafi group in Iraq<sup>88</sup> and is part of the Higher Council for al-Da`wa, Guidance and Fatwa, told a French journalist that the killing of CARE director Margaret Hassan in November 2004 (see chapter VIII of this report, “Attacks on Humanitarian Organizations and the U.N.”) was justified because a U.S. Marine had recently killed a wounded and unarmed insurgent in an al-Falluja mosque.<sup>89</sup> “As the Americans wage a war of extermination against us, the resistance also will kill everyone, women, old men and infants,” he reportedly said. “The Americans left us no other choice but violence.”<sup>90</sup>

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<sup>85</sup> “Influential Sunni Muslim Group in Iraq Appeals to Insurgents to Release Hostages During Holiday,” *Associated Press*, January 19, 2005.

<sup>86</sup> “Purported Kidnappers of Italian Journalist Issue Final Warning to Rome to Withdraw Troops From Iraq,” *Associated Press*, February 6, 2005.

<sup>87</sup> *Ibid.*

<sup>88</sup> Al-Salafiyya (derived from the word al-Salaf, denoting the companions of the Prophet Muhammad) as a doctrine or philosophy emerged during the latter half of the 19th Century. Salafism urged believers to return to the pure form of Islam as practiced by Muhammad and it rejected any practice not directly supported by the Qur’an. At the same time, Salafism encouraged Muslims to interpret religious texts for themselves through the practice of *ijtihad* (independent reasoning), rather than blindly accept the interpretations by theologians of religious texts. (See Denoëux, G., “The Forgotten Swamp: Navigating Political Islam,” *Middle East Policy*, Vol. IX (2), June 2002.) Denoëux also discusses a “second generation” of Islamist movements witnessed during the 1980s and 1990s, termed “Jihadist Salafi.” These movements “embrace a strict, literal interpretation of Islam, but combine it with an emphasis on jihad, understood here as holy war. To them, jihad becomes the prime instrument through which the “Salafi” desire to “return” to the original message of Islam will be turned into reality.... Some concentrate their attacks on the “infidel regimes” at the helm of the country in which they operate. Such regimes are denounced as Muslim in name only and for having become completely subservient to the West.” *Ibid.*

<sup>89</sup> See Andrew Marshall, “Reporter Recounts Killing of Wounded Iraqi by Marine,” *Reuters*, November 22, 2004.

<sup>90</sup> Jean-Pierre Perrin, “La résistance va tuer tout le monde,” *Libération*, November 18, 2004.

A leading Sunni cleric in al-Falluja has sought to differentiate between “honest” and “dishonest” insurgents. “Honest resistance is a legitimate right against the occupation all over the world. It is not governed by the ideas of small groups of people,” Shaikh `Abdullah al-Janabi explained. “If they think beheading civilians is a means of pressure over the occupation, then they don’t understand the concept of honest and true resistance, which targets the American and British occupation.” He added, “If there is someone called Zarqawi, I am not grateful for his attack on our policemen.”<sup>91</sup>

#### **IV. Attacks on Ethnic and Religious Groups**

A primary target of some insurgent groups has been the Shi`a Muslim, Kurdish and Christian communities in Iraq. They have attacked civilians from these communities with suicide bombs, car bombs and roadside bombs and have committed murders and summary executions. Massive bombs have killed hundreds of civilians in mosques and churches, at funerals and in markets.

Some armed groups have justified their attacks with the argument that these communities collaborated with the U.S.-led coalition to overthrow the Saddam Hussein government, to occupy Iraq and to dominate the new Iraqi government. The Kurdish force in particular, the peshmerga, fought alongside U.S. forces in Iraq’s north in 2003, and has remained a close ally of the United States. Shi`a are dominating the current Iraqi government—a position of power previously held by the minority Sunni population during and before Saddam Hussein—and the militia of a principal Shi`a political party, the Iran-trained Badr Organization, is powerful in Iraq’s new police force.

Christians have repeatedly come under attack because they are viewed as supportive of the U.S. invasion, and many have taken jobs with the occupation authorities and various U.S. government entities. Insurgents may also have attacked Iraqi Christians as surrogates for the Christian West.

The attacks may also be motivated by the historical animosities between these ethnic and religious groups, and their struggle for power in post-Saddam Iraq.

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<sup>91</sup> “We Pray the Insurgents Will Achieve Victory,” *Newsweek*, August 7, 2004, available at <http://www.msnbc.msn.com/id/5634250/site/newsweek/>, as of August 15, 2005.

## **Attacks on Shi`a Muslims**

In terms of casualties, the religious or ethnic group most targeted by insurgents in Iraq is Shi`a Muslims, who comprise roughly 60 percent of Iraq's population. Since 2003, some insurgent groups have repeatedly targeted Shi`a religious sites packed with civilians, senior clerics and political leaders, as well as neighborhoods where Shi`a Muslims live.

As stated above, the attacks are primarily motivated by a belief that Shi`a political and religious groups welcomed and cooperated with the U.S. invasion to overthrow the Iraqi government, long dominated by Sunni Arabs. In addition, the Shi`a are dominating the current Iraqi government and security forces, provoking concerns that Sunnis will be marginalized in the new Iraq. To the extreme Islamist groups like al-Qaeda in Iraq, which has claimed responsibility for some of the most deadly attacks, Shi`a Muslims are apostates and heretics who have betrayed Islam.

On September 14, 2005, for example, al-Qaeda in Iraq claimed responsibility for a string of car bombs and suicide bomb attacks across Shi`a areas of Baghdad that killed nearly 150 people. In one case, a bomber lured men around his car with promises of work before blowing himself up and killing at least 112.<sup>92</sup>

In an audiotape posted to the Internet that day, a voice believed to belong to Abu Mus`ab al-Zarqawi declared "all-out war" on Iraq's Shi`a population. "The al-Qaeda Organization in the Land of Two Rivers is declaring all-out war on the Rafidha [a pejorative term for Shi`a], wherever they are in Iraq," the voice said. He continued: "Any religious group that wants to be safe from the blows of the mujahedeen must (disavow) the government of Ja`fari and its crimes. Otherwise it will suffer the same fate as that of the crusaders."<sup>93</sup>

Iraqi and U.S. officials have blamed many other attacks on al-Qaeda in Iraq. By attacking Shi`a leaders and religious sites, these officials and many analysts believe, al-Zarqawi hopes to spark a civil war between Shi`a and Sunni Muslims.<sup>94</sup>

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<sup>92</sup> Robert F. Worth and Richard A. Opiel Jr., "Multiple Attacks Kill Nearly 150 in Iraqi Capital," *New York Times*, September 15, 2005.

<sup>93</sup> "Zarqawi Declares War on Iraq Shiites, Threatens Other Groups," *Agence France-Presse*, September 14, 2004.

<sup>94</sup> In February 2004, the U.S. government released a letter it claims to have intercepted from Abu Mus`ab al-Zarqawi to Osama bin Laden, in which al-Zarqawi talks of provoking Shi`a Muslims into attacking Sunnis, and thereby starting a civil war. Shi`a Muslims are "the lurking snake, the crafty and malicious scorpion, the spying enemy and the penetrating venom," al-Zarqawi wrote, according to the U.S. translation. He added, "If we succeed in dragging them into the arena of sectarian war, it will become possible to awaken the inattentive Sunnis as they feel imminent danger and annihilating death at the hands of these Sabeans." See February

The first major attack on a Shi`a site occurred on August 29, 2003, when two massive car bombs exploded outside the Shrine of Imam `Ali Mosque in al-Najaf, the most holy Shi`a Muslim site. More than eighty-five people died, including the influential Ayatollah Muhammad Baqir al-Hakim, head of SCIRI, who was being driven from the mosque after Friday prayers. "There was a huge blast, and I was flung to the ground," one witness said. "I saw parts of bodies all around me. There was dust everywhere."<sup>95</sup>

According to the Iraqi police, the attackers planted 1,550 pounds of explosives in two cars.<sup>96</sup> The police arrested four men, two Iraqis and two Saudis, all four with connections to Osama bin Laden and al-Qaeda, an Iraqi police official said.<sup>97</sup>

It remains unclear who staged the attack. Sayyid `Abd al-`Aziz al-Hakim, the brother of Ayatollah Baqir al-Hakim and his successor as head of SCIRI, blamed elements loyal to Saddam Hussein.<sup>98</sup> The CPA and U.S. military said it had intelligence and other evidence linking al-Zarqawi to the bombing, but they did not provide details.<sup>99</sup> On January 15, 2005, Iraqi authorities arrested Sami Muhammad `Ali Sa`id al-Jaaf, also known as Abu `Umar al-Kurdi, who they claimed was a top lieutenant in al-Qaeda. According to an Iraqi government statement, al-Jaaf confessed to preparing thirty-two car bombs, including the bomb in al-Najaf that killed Ayatollah al-Hakim.<sup>100</sup>

For the past two years, deadly attacks have marred the Shi`a holy day of `Ashura`, which marks the seventh century death in battle of the Prophet Muhammad's grandson Hussain. On March 2, 2004, bombs at Shi`a shrines in Karbala and Baghdad killed more

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2004 Coalition Provisional Authority English translation of Abu Mus`ab al-Zarqawi letter obtained by United States Government in Iraq, available at [www.state.gov/p/nea/rls/31694.htm](http://www.state.gov/p/nea/rls/31694.htm), as of June 12, 2005. According to Anthony H. Cordesman, an insurgency expert at the Center for Strategic and International Studies in Washington D.C., car bombings and suicide bombings by radical Islamist groups are "deliberately designed to provoke something approaching civil war." See "Cordesman: Crucial to Bring Sunnis Into Government and Give Iraqis More Control Over Aid Money," Interview with Council on Foreign Relations, June 30, 2005, available at [www.cfr.org/publication.php?id=8233](http://www.cfr.org/publication.php?id=8233), as of July 20, 2005.

<sup>95</sup> Vivienne Walt and Thanassis Cambanis, "Car Bomb Kills 85 at Shrine in Iraq Top Shi'ite Cleric Dies; No Claim of Responsibility," *Boston Globe*, August 30, 2003.

<sup>96</sup> Tarek al-Issawi, "Iraqi Police Make Arrests in Najaf Bombing, Claim Two are Saudis, Four Have al-Qaeda Ties," *Associated Press*, August 30, 2003.

<sup>97</sup> Tarek al-Issawi, "Police Investigator Says Four Arrested in Najaf Bombing, All Have Ties to al-Qaeda," *Associated Press*, August 30, 2003.

<sup>98</sup> *BBC Monitoring Middle East*, "Iraqi Shi'a Leader Al-Hakim Says Iraqis Responsible for Iraq's Security," *al-Zaman*, September 23, 2003.

<sup>99</sup> Coalition Provisional Authority Briefing With Daniel Senor and Brigadier General Mark Kimmitt, Baghdad, Iraq, February 12, 2004.

<sup>100</sup> Bassem Mroue, "Iraq Forces Arrest Top al-Qaida Lieutenant," *Associated Press*, January 24, 2005.

than 181 people and wounded 573. On February 18 and 19, 2005, despite heightened security, attacks during the holy day in Baghdad killed more than seventy people.

In the 2004 attacks, coordinated blasts with suicide bombers and planted explosives hit shrines in Karbala and Baghdad as pilgrims from Iraq and abroad converged for the holy day. In Karbala, five bombs detonated after 10 a.m. near two important shrines. “We were standing there when we heard an explosion,” one witness said. “We saw flesh, arms, legs, more flesh. Then the ambulance came.”<sup>101</sup> Around the same time, three suicide bombers detonated their explosives in and around the al-Kadhimiyya shrine in Baghdad killing fifty-eight. A fourth bomber was captured after his explosives failed to detonate.<sup>102</sup>

No one claimed responsibility for these attacks. U.S. officials and Iraqi leaders blamed al-Zarqawi, but they did not provide evidence to support the claim.<sup>103</sup>

One year later, in Baghdad, a suicide bomber detonated explosives inside the al-Kadhimiyya shrine as worshippers knelt in prayer, killing seventeen people. Shortly thereafter, two suicide bombers exploded at the ‘Ali al-Bayya’ Mosque in western Baghdad as people were leaving the Friday prayers. In a third incident, a suicide bomber killed at least two more Shi’a Muslims.<sup>104</sup>

Some Sunni Arab leaders condemned the attacks, including the Sunni Association of Muslim Scholars. “The shedding of the blood of any Iraqi citizen during this delicate stage will contribute to achieving the occupation’s goals,” an Association spokesman said at a press conference called to condemn the attacks. “Namely, igniting sectarian sedition among the components of the Iraqi people to facilitate or guarantee their stay in Iraq.”<sup>105</sup>

Three weeks later, on March 10, 2005, an explosion ripped through the funeral of a respected Shi’a professor in Mosul, killing more than forty-seven people, some of them Kurds and Turkomans. According to witnesses, a suicide bomber detonated himself in a hall next to the al-Sadrin Mosque in the al-Ta’mim neighborhood where the funeral

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<sup>101</sup> Tarek al-Issawi, “Explosions Rock Shrines in Iraqi Cities,” *Associated Press*, March 2, 2004.

<sup>102</sup> Hamza Hendawi, “Suicide Bombers Kill at Least 143 People in Attacks on Shiite Shrines in Iraq; U.S. Blames Militant Seeking to Spark Civil War,” *Associated Press*, March 2, 2004.

<sup>103</sup> “US Says Jordanian Militant Prime Suspect In Iraqi Blasts,” *Associated Press*, March 2, 2004.

<sup>104</sup> “Blasts Outside Baghdad Mosques Kill at Least 27,” *Associated Press*, February 18, 2005, and “Forty Dead in Iraq Violence,” *Agence France-Presse*, February 18, 2005.

<sup>105</sup> *Al-Sharqiyah Television*, February 20, 2005.



service was being held. "As we were inside the mosque, we saw a ball of fire and heard a huge explosion," one witness said. "After that blood and pieces of flesh were scattered around the place."<sup>106</sup>

Insurgent groups also have targeted individuals active in Shi`a parties and organizations. On February 9, 2005, gunmen shot and killed `Abd al-Hussain Khaz`al, aged forty, who was an official of the al-Da`wa political party, a spokesman of the Basra city council, director of a local newspaper and a journalist for the U.S.-funded al-Hurra Television. Witnesses told the press that gunmen converged on Khaz`al as he sat in his pickup with his three-year-old son Muhammad outside their Basra home, shooting at them at least thirteen times.<sup>107</sup> Al-Hurra ("The Free") began operations in early 2004 with U.S. government funds in an attempt to counter the Arabic-language television stations al-Jazeera and al-Arabiya.

According to Agence France-Presse, a group called the Imam al-Hassan al-Basri Brigades<sup>108</sup> claimed responsibility for the killing in a statement on an Islamic website. The previously unknown group said it had "liquidated the apostate agent." They accused Khaz`al of being a member of the "criminal traitor Badr Brigade," the militia of SCIRI. "The slain agent will not be the last, but this is one of the filthy heads of agents to be cut by the *mujahedeen*," the statement reportedly said.<sup>109</sup>

In May 2005, unknown armed men shot and killed at least three Shi`a clerics in and around Baghdad. On May 15, gunmen killed Qassim al-Gharawi, an aide to Grand Ayatollah `Ali al-Sistani, and his nephew in a drive-by shooting in Baghdad. Two days later, gunmen killed the cleric Muwaffaq al-Hussaini. On May 18, gunmen killed the cleric Muhammad Tahir al-`Allaq while he drove to the city of Kut.<sup>110</sup>

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<sup>106</sup> "Many Killed in Mosul Funeral Blast," al-Jazeera.net, March 11, 2005, <http://english.aljazeera.net/NR/exeres/40D1CE62-54B3-4846-A2E2-4BAA17A61478.htm>, accessed March 28, 2005, and Robert F. Worth and Edward Wong, "Bombing at Shiite Mosque in Mosul Leaves 40 Dead," *New York Times*, March 11, 2005.

<sup>107</sup> Steve Fainaru, "Reporter, Son Among 6 Iraqis Slain; 4 U.S. Soldiers Killed," *Washington Post*, February 10, 2005, and Rory McCarthy, "Iraqi Journalist and Son, 3, Shot Dead in Basra," *The Guardian*, February 10, 2005, and Alhurra press release, "Alhurra Establishes Memorial Fund for Slain Correspondent," February 11, 2005.

<sup>108</sup> Imam al-Hassan al-Basri is known from the early days of Islam for his strict observance of the Prophet Mohammad's teachings.

<sup>109</sup> "Militant Group Claims Killing of Iraq Journalist," *Agence France-Presse*, February 9, 2005.

<sup>110</sup> "Killings of Iraqi Officials Since Elected Government Was Announced April 28," *Associated Press*, May 23, 2005 and Alexandra Zavis, "Iraqi Police Find 38 Bodies Dumped in Three Parts of Iraq in Less Than 24 Hours," *Associated Press*, May 15, 2005.

Attacks on Shi`a neighborhoods have continued unabated since the current Iraqi government was named on April 28, 2005. On May 23, for example, unknown insurgents carried out three major car bomb attacks in Shi`a areas, killing at least thirty-three people and wounding 120. According to press reports, the deadliest attack came from a pair of suicide car bombers who tried to kill a local Shi`a leader in the northern city of Tal Afar, fifty miles west of Mosul, but instead killed at least fifteen people and wounded twenty. Other bombs exploded that day at a popular Baghdad restaurant near the predominantly Shi`a Sadr City in Baghdad and outside a Shi`a mosque in Mahmudiyya.<sup>111</sup>

On the evening of June 10, a car bomb exploded near the Nur marketplace in the al-Shula district of Baghdad, a predominantly Shi`a area, killing ten people and wounding twenty-eight. Seven men, three women and a child reportedly died in the blast. No one claimed responsibility for the attack.<sup>112</sup>

### **Attacks on Kurds**

Since April 2003, various insurgent groups have attacked Kurdish civilians and civilian sites in the north, and sometimes in Baghdad. Some insurgent groups have used improvised explosive devices (roadside bombs), car bombs and gunmen to kill Kurdish politicians and journalists. On February 1, 2004, twin suicide bombs exploded at the Arbil offices of the two main Kurdish political parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), killing ninety-nine people who had gathered to mark the first day of Eid al-Adha.

Iraqi governments in Baghdad have long persecuted the Kurds with discriminatory laws, forced displacement and the genocidal Anfal campaign in 1988, which resulted in an estimated 100,000 Kurdish deaths.<sup>113</sup> Comprising 15-20 percent of the population, Iraqi Kurds are mostly pushing for an autonomous federal state in the three northern provinces they control, if not independence outright. The main political forces welcomed the U.S.-led invasion, and have cooperated closely with the U.S. government in the hope they will achieve their goals.

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<sup>111</sup> Richard A. Oppel Jr. and Sabrina Tavernise, "Car Bombing in Iraq Kill 33, With Shiites as Targets," *New York Times*, May 24, 2005, and Patrick Quinn, "Car Bombings Across Iraq Kill Dozens," *Associated Press*, May 23, 2005.

<sup>112</sup> "10 Killed, 28 Wounded in Baghdad Bombing," *Agence France-Presse*, June 10, 2005, and "Eighteen Killed in Baghdad Attacks," *Sunday Telegraph*, June 12, 2005.

<sup>113</sup> See Human Rights Watch reports: *Genocide in Iraq: The Anfal Campaign Against the Kurds*, July 1993; *Iraq's Crime of Genocide: The Anfal Campaign Against the Kurds*, May 1994; *Iraq: Forcible Expulsions of Ethnic Minorities*, March 2003; and *Claims in Conflict: Reversing Ethnic Cleansing in Iraq*, August 2004.

Various armed groups make no secret of their desire to attack Kurds, whom they consider collaborators with the United States and the “allies of Jews and Christians.”<sup>114</sup> Most prominent among them is Ansar al-Islam fi Kurdistan (Supporters of Islam in Kurdistan), a Sunni Kurdish group espousing an ultra-orthodox Islamic ideology that began fighting the two principal secular Kurdish parties in 2001.<sup>115</sup> U.S. forces destroyed the group’s bases in the villages of Biyara and Tawila near the Iranian border during the 2003 air war on Iraq, killing some members and forcing others to disperse. But senior Kurdish police and intelligence officials told Human Rights Watch that Ansar al-Islam subsequently either merged, or is cooperating closely, with Ansar al-Sunna, which has also claimed responsibility for many attacks on Kurdish civilians, as well as the executions of captured security forces. Most attacks on Kurds in the past two years have been attributed to Ansar al-Sunna rather than Ansar al-Islam.

In the eyes of these groups, the secular Kurdish parties are allies of the enemy forces that occupied Iraq, and they are now trying to secede from Iraq. The Kurdish peshmerga fought alongside the U.S. from northern positions in 2003, and the two main Kurdish political parties are close allies of the United States. While peshmerga fighters are part of an armed force and are therefore legitimate military targets, attacks against Kurdish civilians, including politicians, are illegal under international humanitarian law. Civilians may not be attacked because their ethnic group or leadership is considered allied with the enemy force.

The most deadly attack came on February 1, 2004, when two suicide bombers detonated their explosives almost simultaneously at the Arbil offices of the two main Kurdish political parties—the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP). Although both of the parties have security forces, neither of the offices targeted served a military function. In addition, the attacks were timed to inflict the most possible damage on civilians.

The bombs exploded during celebrations of the Muslim festival Eid al-Adha, when local politicians and party members traditionally receive the citizens of Arbil to wish each other “Eid Mubarak”—Happy Eid. A video of the PUK event viewed by Human Rights Watch showed civilian party officials shaking hands with local citizens in a crowded auditorium until a bomb exploded and chaos ensued. In total, the two bombs killed ninety-nine people and wounded 246.

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<sup>114</sup> Jennie Matthew, “Arbil Bombings Claimed by Group Linked to Al-Qaeda,” *Agence France-Presse*, February 5, 2004.

<sup>115</sup> See Human Rights Watch Backgrounder, *Ansar al-Islam in Iraqi Kurdistan*, available at [www.hrw.org/backgrounder/mena/ansarbk020503.htm](http://www.hrw.org/backgrounder/mena/ansarbk020503.htm).

One of the wounded was Zanyar Muhammad Qadir, a KDP member and civilian employee in the party's Organizations Unit, whose left leg was broken (see photos). He told Human Rights Watch what happened that day:

So many people came because the party members cannot go to see all the people, so they come here. Politicians and party members were also in the hall. They were standing to receive people. They made a plan to see people, for example, the lawyers at 10:00 a.m., the engineers at 10:30, and so on. This was a little different from the other Eids. Everyone was happy that day. It wasn't like previous Eids. We received many people. At the last moment, a friend asked me what time it was. I said 10:30 a.m. Harry Schute, the former head of U.S. forces in the north, came. He was standing near Sami Abdul Rahman, the deputy prime minister, who was killed with his son. I gave Schute my place. When he left, Sami Abdul Rahman was still standing. I was talking to him. At that moment, a sergeant in the security called to me. I heard a very loud sound, and I saw a huge fire around the hall. I fell to the ground. I felt something hit my shoulder, and when I looked I saw Sami Abdul Rahman. He was alive but breathing his last breaths. The ceiling collapsed on our heads. I saw three bodies in front of me burning. Sami Abdul Rahman's bodyguards carried him out. I tried to stand but I couldn't. I tried to walk but I saw pieces of flesh on the floor. I saw that and cried, but I couldn't hear my voice. I couldn't hear anything for four or five minutes. The bodies were still burning. I looked at the people. One of them was Shawkat Shaikh Yazdin, a minister for cabinet affairs. Next to him was the chief Mamosta Sa`ad `Abdullah, who had been minister of agriculture, but at the time was head of the KDP's Second Branch in Arbil. On the other side was Akram Mantiq, who was the governor of Arbil. One of their heads was blown apart. I looked around and I saw all of my friends who



An employee of the Kurdistan Democratic Party, Zanyar Muhammad Qadir, broke his leg when a suicide bomb exploded in the party offices in Arbil on February 1, 2004, killing fifty-one. A second bomb at the same time at the offices of the Patriotic Union of Kurdistan killed forty-eight.  
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had died, and I couldn't believe it—as if it was play. I cried and cried, but after a while a friend came and carried me out.<sup>116</sup>

Qadir was taken to the hospital, which was filling with the wounded and dead. Fifty-one people died in the KDP attack, the party said, and 121 were wounded. The doctors were overwhelmed. He was forced to bandage his leg by himself, using a rifle piece as a splint. Doctors eventually found two pieces of shrapnel in his leg and eight more in other parts of his body. After five operations, the leg is slowly healing, although he is awaiting a bone graft.

The PUK office suffered similar devastation and death, with forty-eight people killed and 125 wounded. `Adnan Mufti, a Politburo member of the PUK and the party's head in Arbil, suffered a broken leg and took shrapnel to the face and neck. He told Human Rights Watch how the bomb exploded, killing four of his bodyguards, twelve members of the PUK leadership in Arbil and dozens of civilians:

Nobody thought something like that could happen. We feared only a car bomb outside, and we took precautions for that. But the technical skill of those terrorists was high. It was the first time, I think, that there was a suicide bombing in Iraq...Just before 11:00 a.m., I heard a huge explosion and I saw fire. It was like thunder. I lost my mind for a few seconds and then I found myself on the ground. I couldn't turn back to look. My leg was broken. I tried to straighten my leg but I didn't know what had happened to my head. I saw bodies on the ground, but I didn't know if they were dead or alive. Friends took me to the hospital. I was bleeding from the mouth. I thought I had internal bleeding, but I found out later that it was from shrapnel in my mouth and neck. One piece near my mouth went through and broke two teeth. One tooth broke and the piece embedded itself in my tongue. The shrapnel in my neck, one millimeter from my vocal cords, went in one side and out the other. For about two months, I could barely speak. In my right leg were five or six pieces of shrapnel. Three of them are still there. I've had two operations on my leg. I also lost my hearing in the right ear but I'm okay now after an operation.<sup>117</sup>

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<sup>116</sup> Human Rights Watch interview with Zanyar Muhammad Qadir, Arbil, Iraq, January 26, 2005.

<sup>117</sup> Human Rights Watch interview with `Adnan Mufti, Arbil, Iraq, January 26, 2005.

In a statement posted to a website on February 4, Ansar al-Sunna claimed responsibility for the twin attacks. “Two of our martyrs, may God accept them, raided two dens of the devils in the city of Arbil in north Iraq,” the statement said. “And with this, our happiness over Eid al-Adha merged with our happiness in striking the allies of Jews and Christians.”<sup>118</sup>

Ansar al-Sunna claimed responsibility for other attacks in Arbil in 2004 and 2005, usually against Kurdish political figures and police. On June 26, 2004, a car bomb targeted the Kurdish Minister of Culture, Mahmud Muhammad, lightly wounding the minister, killing the owner of a garage across the street, and wounding seventeen others.<sup>119</sup> In an interview with Kurdistan TV that same day, Muhammad said the bomb exploded as he was outside his home on the way to work. “Regrettably some of the bodyguards were injured,” he said. “I am fine.”<sup>120</sup>

Human Rights Watch interviewed two witnesses to the attack. According to Sulaiman Siddiq, who owns a metal shop next to the garage across the street, the bomb detonated around 8:10 a.m. “It was a very big explosion,” he said. “All the glass in my shop broke. I saw a fire and an old man, a mechanic, near my shop was killed.”<sup>121</sup>

The victim was Sayyid `Ali Nuri, aged fifty and a father of five, who owned the small garage across from the college, approximately sixty meters from where the bomb went off (see photo). According to the metal shop owner Siddiq, Nuri was taken to the hospital but he died on the way.



Sayyid `Ali Nuri, a father of five, was killed when a car bomb intended for a Kurdish official exploded across the street from his garage in Arbil on June 26, 2004.  
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Another witness, Muhammad Wirya Baha' al-Din, was meeting the director of Ishlik College when the bomb exploded. He took two men to the hospital with head wounds, he said:

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<sup>118</sup> “Police Say No Yememi Arrested in Iraqi Bomb Probe,” *Reuters*, February 5, 2004, and Jennie Matthew, “Arbil Bombings Claimed by Group Linked to Al-Qaeda,” *Agence France-Presse*, February 5, 2004.

<sup>119</sup> “Car Bomb Kills One, Wounds 18 in Iraqi Kurdistan,” *Agence France-Presse*, June 26, 2004, and Andrew Marshall, “Militants Threaten to Kill 3 Turkish Hostages in Iraq,” *Reuters*, June 26, 2004.

<sup>120</sup> “Iraq: Injured Kurdish minister says attacks make Kurds more determined,” *BBC Monitoring Middle East*, Iraqi Kurdistan Democratic Party Satellite TV, June 26, 2004.

<sup>121</sup> Human Rights Watch interview with Sulaiman Siddiq, Arbil, Iraq, February 7, 2005.

My back was to the windows, and the explosion blew open the windows and shattered the glass on my back. The force threw me across the room. I took two people to the hospital, two workers. Both of them were outside and had head injuries.<sup>122</sup>

Ansar al-Sunna did not claim responsibility for the attack, but Kurdish security officials told Human Rights Watch that they had arrested a twenty-two-year-old Kurdish man from the group for taking part in the attack.<sup>123</sup>

On September 19, 2004, Ansar al-Sunna announced that it had captured and killed three members of the Kurdistan Democratic Party, and a video on the group's website showed three men getting beheaded. "The puppet Kurdish groups... have pledged allegiance to the crusaders and continue to fight Islam and its people," a statement with the video said.<sup>124</sup> The group also said the killings were "for us to revenge our women, children and elderly who die daily from American raids."<sup>125</sup>

On December 12, 2004, a car bomb exploded at 1:00 p.m. near the al-Khadija Mosque in Arbil as KDP official Amin Najjar was driving by. Najjar was unhurt but the bomb wounded two others.<sup>126</sup> "The mujahideen managed to blow up a rigged car in Arbil against one of the officials of the Kurdistan Democratic Party (KDP) led by Masud Barzani, but the man was not killed," a statement posted on the Ansar al-Sunna website said.<sup>127</sup> Kurdish officials arrested a twenty-one-year-old Kurdish man who they claimed had driven the explosives-laden car.<sup>128</sup>

On April 28, 2005, unknown gunmen in Mosul shot and killed Sayyid Talib Sayyid Wahhab, a KDP official. Three days later, a bomb-laden car rammed into his funeral in

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<sup>122</sup> Human Rights Watch interview with Muhammad Wirya Baha' al-Din, Arbil, Iraq, February 7, 2005.

<sup>123</sup> Human Rights Watch interview with Kurdish security official, Arbil, February 7, 2005.

<sup>124</sup> "Iraqi Groups Shows Tape of Beheading of Three Kurds," *Reuters*, September 19, 2004.

<sup>125</sup> "Video Shows Beheading of Three Iraq Hostages," *Associated Press*, September 19, 2004.

<sup>126</sup> "Iraqi 'Ansar al-Sunna' Group Claims Arbil Attack," *Reuters*, December 13, 2004, "Iraq Car Bomb Wounds Two in Kurdish City," *Agence France-Presse*, December 12, 2004, and "Iraq: Car Bomb in Arbil Results in No Casualties," *BBC Monitoring Middle East*, "Failed Terrorist Attempt in the Regional Capital," *Khabat*, December 13, 2004.

<sup>127</sup> "Iraqi 'Ansar al-Sunna' Group Claims Arbil Attack," *Reuters*, December 13, 2004.

<sup>128</sup> Human Rights Watch interview with Kurdish security official, Arbil, February 7, 2005.

Tal Afar, killing at least twenty-five people and wounding more than fifty.<sup>129</sup> It is not known who staged the attack.

On May 4, a suicide bomber slipped into a line of young men waiting to sign up for the police in Arbil and detonated his explosives, killing forty-six people and wounding an estimated 150.<sup>130</sup> “The scene was like a slaughterhouse, with body parts everywhere, heads, hands, eyes. It was terrible,” one survivor told the press.<sup>131</sup> Ansar al-Sunna soon posted a statement on the Internet. “This operation is in response to our brothers who are being tortured in your prisons... and in response to the infidel peshmerga forces which surrendered themselves to the Crusaders and became a thorn in the side of Muslims,” it said.<sup>132</sup>

### **Attacks on Christians**

Iraq’s ancient Christian community, comprised of Chaldean Catholics, Assyrians, Roman and Syriac Catholics, Greek, Syriac and Armenian Orthodox, Anglicans and others, comprises roughly 3 percent of the country’s population, or about 800,000 people. Mostly concentrated in and around Baghdad, Mosul, Kirkuk and Arbil, Christians are generally in the professional class and are considered wealthier than the average Iraqi. In the eyes of some insurgent groups, Christians supported the U.S.-led invasion, and many members of the community subsequently took jobs with the CPA or U.S. government.

Especially in 2004, violence against Christians by insurgent groups was consistent and intense. As of March 2005, tens of thousands of Iraqi Christians had fled the country, mostly for Syria and Jordan. And thousands left their homes for the relative safety of the Kurdish-controlled north. Human Rights Watch interviewed eight of these families in January and February 2005, most of them from Mosul and Baghdad. They had left their homes, they said, after threats, abductions and attacks. In some cases, family members had been killed. In addition, religious extremists have threatened and attacked Christians for not living by strict Islamic codes. Armed groups have threatened Christian women who did not cover their heads and killed Christian vendors who sell alcohol.<sup>133</sup>

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<sup>129</sup> “Car Bomb Targets Funeral in Iraq, Killing Many Mourners,” *Associated Press*, May 1, 2005, Lutfi Abu Oun, “Bomb Kills 20 at Iraq Funeral—Australian Abducted,” *Reuters*, May 1, 2005, and Ashraf Khalil, “Bomb Attacks Persist in Iraq,” *Los Angeles Times*, May 2, 2005.

<sup>130</sup> “Suicide Bomber Killers 45 in Northern Iraq City,” *Agence France-Presse*, May 4, 2005.

<sup>131</sup> Rory Carroll and Michael Howard, “They Were Lining Up To Join Iraq’s Police—But in the Queue Was a Suicide Bomber,” *The Guardian*, May 5, 2005.

<sup>132</sup> “Iraq’s Ansar al-Sunna Claims Arbil Bombing—Web,” *Reuters*, May 4, 2005.

<sup>133</sup> According to one Assyrian Christian group, some Christian families got letters from the Islamic Troops of Badr in Najaf that threatened kidnappings and death if female family members did not wear veils. For English and Arabic versions of the letter, see [www.assyrianchristians.com/news.htm](http://www.assyrianchristians.com/news.htm), accessed June 7, 2005.



One of the first reported attacks against Christians occurred in Baghdad in March 2004, when gunmen shot and killed `Aziz and Ranin Ra`d Azzu, aged five and fourteen respectively, apparently because their father sold alcohol. The family reportedly had received a death threat before the murders. “We are warning you, the enemies of God and Islam, from selling alcohol again, and unless you stop we will kill you and send you to hell where a worse fate awaits you,” the warning reportedly said, signed by Harakat Ansar al-Islam (Supporters of Islam Movement.)<sup>134</sup>

The most public and coordinated attacks took place on Sunday, August 1, 2004, when insurgents detonated car bombs at five churches, four in Baghdad and one in Mosul, killing eleven people and wounding more than forty. The attacks sparked an exodus of Christians to Syria, Jordan and the Kurdish-controlled north.



A Christian woman from Baghdad living near Arbil displays her crucifix tattoo. Like hundreds of Christians from the capital, she and her family fled to northern Iraq for safety from threats and attacks.  
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The first bomb exploded around 6:00 p.m. as mass was starting at an Armenian Orthodox church Our Lady of the Flowers in Baghdad’s al-Karrada neighborhood. Less than half an hour later, a second bomb exploded at the nearby Assyrian church Our Lady of Salvation, followed by blasts at a church in the al-Dora neighborhood and another in Baghdad al-Jadida.

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<sup>134</sup> Annia Ciezadlo, “Iraq’s Christians Consider Fleeing as Attacks on Them Rise,” *Christian Science Monitor*, July 13, 2004. See also Yochi J. Dreazen, “Iraq Sees Christian Exodus,” *Wall Street Journal*, September 27, 2004.

A woman named Payman was leaving the church in al-Dura, Church of the Two Messengers, when a bomb exploded. In Kurdish-controlled Iraq, where she had fled with her family after the attack, she told Human Rights Watch that the church was crowded, with between 100 and 200 worshippers, when the bomb went off:

The church itself was not damaged because the explosion was from the parking lot in the back. Only some windows broke. There was one of the poor people who gets donations. He died. We had given him money and we later saw him lying on the ground. An engaged couple was there giving out their wedding invitations in the church, and both of them died.<sup>135</sup>

Human Rights Watch spoke separately with another woman who was present at the church during the attack. She said:

I was just leaving the church going outside when I heard a big explosion. I didn't know what happened; I just saw a lot of smoke... There was a lot of confusion and chaos and people didn't know what had happened. But people were running around and some of them were wounded. The people in the back died. And then the ambulances arrived.<sup>136</sup>

The day after the attacks, a previously unknown group calling itself the "Committee of Planning and Follow-up in Iraq" reportedly claimed responsibility on a website, saying "you wanted a crusade, and these are its results." Human Rights Watch did not see the original statement in Arabic but, based on a translation into English by an Assyrian Christian group, the statement read:

A Declaration from the Committee of Planning and Follow-Up in Iraq

In the name of God the most merciful,

Thanks be to God the supporter of his faithful, prayers and peace be upon him, who was sent with the sword at these times as a mercy for human beings. He who believes in him and upholds his methods will

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<sup>135</sup> Human Rights Watch interview with Payman, 'Ain Kawa, Iraq, January 29, 2005. The interviewee did not wish to provide her family name.

<sup>136</sup> Human Rights Watch interview with anonymous witness, 'Ain Kawa, January 29, 2005.

gain paradise and he who denies him and sways away from his methods will be lost forever.

O! Muslims wherever you live...

The war today in Iraq and Afghanistan is undoubtedly something that two Muslims wouldn't argue about, that it's a hateful Crusades war targeting Islam and Muslims and that the United States and its allies<sup>137</sup> didn't ever delay or spare an effort to fight God's religion with all the power that they have and with the blessing of the (Pope) before whom the leaders of America stand like slaves.

O! Believers in one God...

America didn't only occupy and invade militarily the Islamic lands but they also founded hundreds of Christianizing establishments, printing false deviated books and distributing them amongst the Muslims in an effort to strip them away of their religion and Christianize them. The Crusaders are one nation even if they differed in their ideas.

The American forces and their intelligence systems have found a safe haven and refuge amongst their brethren the grandchildren of monkeys and swine in Iraq.

The graceful God has enabled us on Sunday, August 1, 2004, to aim several painful blows at their dens, the dens of wickedness, corruption and Christianizing. Your striving brethren were able to blow up four cars aimed at the churches in Karrada, Baghdad Jadida and Dora while another group of mujahedeen hit the churches in Mosul.

As we announce our responsibility for the bombings we tell you, the people of the crosses: return to your senses and be aware that God's soldiers are ready for you. You wanted a Crusade and these are its results. God is great and glory be to God and his messenger. He who has warned is excused.

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<sup>137</sup> According to the translators, the Arabic version has the word "tails" instead of "allies," which connotes subservience and humiliation.

Prayers and peace be upon our prophet Muhammad, his kin and companions.

The Committee of Planning and Follow-Up in Iraq

14/Jamadi I/1425—August 1, 2004

International Islamic Information Center<sup>138</sup>

Three days later, another group used the Internet to deny that Islamic militants had committed the attacks. A statement signed by the “Media Center for Mujahedeen” said that “if the mujahedeen had wanted to target those churches, they would have made them disappear from the face of earth and nobody would have come out alive.” Christians in Iraq would not be harmed, the statement said, so long as they respected three rules: do not “collaborate with the occupation,” do not “betray Muslims,” and do not attack Islam or try to convert Muslims. At the top of the statement were the names of three previously unknown groups, identified in English as: the Jihad Battalions, the Islamic Army Brigades and the Shura Council of Jihad. The statement did not present a definition of collaboration or betrayal.<sup>139</sup>

Muslim political and religious leaders, as well as the Iraqi Interim Government, roundly condemned the attacks. Iraq’s most senior Shi`a Muslim cleric, Grand Ayatollah `Ali al-Hussaini al-Sistani, called the attacks “criminal acts” that targeted Iraq’s “unity, stability and independence.”<sup>140</sup> The Association of Muslim Scholars said the bombings were “totally remote from any religious or humanitarian norms.”<sup>141</sup>

Insurgent groups bombed two more churches on November 9, 2004, the day U.S. Marines began their second major offensive on the city of al-Falluja. Around 6:30 p.m., a car bomb exploded near St. George’s Church in southern Baghdad, causing no casualties. About five minutes later, another car bomb detonated less than one mile away at St. Matthew’s Church, killing three people and wounding more than twenty-five. A

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<sup>138</sup> Translation from the website [www.assyrianchristians.com](http://www.assyrianchristians.com) (accessed February 22, 2005). See also, Salah Nasrawi, “Unknown Group Claims Responsibility for Assaults on Iraqi Churches,” *Associated Press*, August 2, 2004.

<sup>139</sup> “Islamists Deny Responsibility for Iraqi Church Bombings in Internet Message,” *Associated Press*, August 5, 2004.

<sup>140</sup> Statement by Grand Ayatollah `Ali al-Hussaini al-Sistani, August 2, 2004. (See <http://www.sistani.org/messages/eng/bay9.htm>, accessed February 24, 2005.)

<sup>141</sup> Alissa J. Rubin, “Muslims and Their Leaders Denounce Church Attacks,” *Los Angeles Times*, August 3, 2004.

Christian man who lived near the two churches explained to Human Rights Watch how he was wounded in the second attack:

We were home, and I heard an explosion from a distance. We went up to the roof to see what it was when something exploded nearby. The explosion came, and rubble fell on our heads. Something cut my left arm, and I started bleeding. All our windows broke, and the front door too... My neighbor cut his head, and another person got glass in his neck.<sup>142</sup>

Four or five days later, the man said, he and his wife blocked their front door with stones—because the explosions had destroyed the metal door—and set out for the Kurdish-controlled north. “We came out of fear,” he said. “I don’t want to give any personal details because one day I will hopefully go back. I don’t want any problems.”

This man joined a growing Christian community in the Kurdish zone. Although total numbers are not known, hundreds of Christians have settled temporarily in and around Arbil, Sulaimaniya and Dohuk. According to the *mukhtar* (local community representative) of `Ain Kawa, a largely Christian village near Arbil, approximately one hundred Christian families have come to `Ain Kawa in the past year, mostly from Mosul.<sup>143</sup> A priest in Sulaimaniyya who did not wish to be named said thirty-one families had come to Sulaimaniyya, Koisanjaq and a nearby Christian village called Armouta.<sup>144</sup> He showed Human Rights Watch a pile of requests from other Christian families in places like Baghdad, Basra and al-Falluja, asking the church for help to relocate in the Kurdish region (see photo).<sup>145</sup>

“I came because of fear for my daughter, who got sick from being scared,” said Payman, a mother of three who was in the Church of the Two Messengers when the bomb exploded. “She was afraid to sleep alone at night. Then she got herpes.” She continued: “My two nieces worked as cleaners at the Convention Center [in Baghdad]. They were threatened and quit. Three other girls, also Christians, worked there too. They were killed and my nieces saw it. They came home hysterical.”<sup>146</sup>

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<sup>142</sup> Human Rights Watch interview, `Ain Kawa, Iraq, January 29, 2005.

<sup>143</sup> Human Rights Watch interview with Salim Mansur, `Ain Kawa, Iraq, January 29, 2005.

<sup>144</sup> Human Rights Watch interview with priest in Sulaimaniyya, Iraq, January 30, 2005.

<sup>145</sup> The Kurdish administrations in Arbil and Sulaimaniyya are providing basic aid to some Christian families who fled to these governorates.

<sup>146</sup> Human Rights Watch interview with Payman, `Ain Kawa, Iraq, January 29, 2005.



A priest in Sulaimaniya reviews letters from Christians all over Iraq seeking help in relocating to the Kurdish-controlled north to escape threats and attacks.

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Human Rights Watch interviewed three other Christian families who had lost a family member to violence by an insurgent group. One victim was Ra`d Nisam, a twenty-three-year-old father of three, who was killed by unknown gunmen on September 26, 2004, near his home in the al-Dora neighborhood of Baghdad, although it is not certain that he was attacked because of his religion. According to a family member, Nisam worked at the Hunting Club in Baghdad, where he had been a manual laborer for more than six years. He and his co-workers, all of them Christians, were driving home from work just after midnight when gunmen sprayed their car with bullets, wounding two and killing three, including the Muslim driver. The family member told Human Rights Watch:

I ran towards the car and I saw them there. The driver was a Muslim and he was also killed... After I saw the scene before me I don't remember anything else. You can imagine the state I was in. All I learned afterwards is that the shooters wore masks but it was dark and we don't know who is responsible.<sup>147</sup>

## **V. Attacks on Civilians Working for Foreign Governments**

While most insurgent attacks in 2003 targeted Iraqi or multinational forces, by early 2004 insurgents began to attack so-called "soft targets" affiliated with the foreign forces in

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<sup>147</sup> Human Rights Watch interview with family member, Zakho, Iraq, February 7, 2005.

Iraq; namely, Iraqi and foreign civilians working for, or suspected of working for, the Multi-National Force or foreign governments. By far the largest number of victims has been Iraqis who worked as translators, cleaners, drivers and barbers for the CPA, the U.S. government or other governments in the coalition, as well as those suspected of giving information to foreign governments. The total number of victims is unknown, but press reports and anecdotal evidence reveal a pattern of threats and attacks, including the murder of civilians who work with foreign governments in any capacity.

According to those claiming responsibility for attacks on these civilians, the victims were valid targets because they were collaborating with the foreign powers in Iraq. Even though they were not directly engaged in hostilities, they were viewed as aiding and abetting foreign forces by providing services to a government or military. As a matter of international humanitarian law, any attack against civilians who are not directly participating in hostilities is prohibited.

The attacks are intended as punishment for perceived collaboration and as a warning to others who might consider such work. On October 23, 2004, for example, Ansar al-Sunna posted a video on its website that showed the “confession” and execution of Saif `Adnan Kan`an, who said he was a vehicle mechanic at the U.S. base in Mosul. “I am telling anybody who wants to work with Americans to not work with them,” he said. “I found out that the mujahadeen have very accurate information [and] strong intelligence about everything. They are stronger than I thought.” He was then beheaded.<sup>148</sup>

A well documented target among this category of victims is Iraqi and foreign civilians working on U.S.-government-funded reconstruction contracts. According to a report by the U.S. government’s Special Inspector General for Iraq Reconstruction, insurgent groups killed 276 civilians working on such contracts up to March 31, 2005.<sup>149</sup> Approximately 100 of these civilians were U.S. citizens. The attacks have continued apace since the report, with armed groups killing seven contractors, injuring eleven and kidnapping up to sixteen in August, according to the U.S. Project and Contracting Office in Baghdad. Of the thirty-four contractors who were killed, wounded or went missing that month, thirty-two of them were Iraqi and none was American.<sup>150</sup>

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<sup>148</sup> “Iraqi Militants Behead Man Who Worked With U.S. Forces in Mosul,” *Associated Press*, October 23, 2004, and “Al-Qaeda-linked Group Beheads Alleged ‘Spy’ in Iraq: Website,” *Agence France-Presse*, October 23, 2004.

<sup>149</sup> Special Inspector General for Iraq Reconstruction, *Report to Congress*, April 30, 2005.

<sup>150</sup> Rick Jervis, “Intimidation, Attacks Take Toll on Contractors in Iraq,” *USA Today*, September 7, 2005.

Another targeted group is translators who worked for the U.S. government, the military or the CPA. According to one press report, insurgent groups killed fifty-two translators in Baghdad, al-Falluja and al-Ramadi between January and September 2004, although the report did not specify how they were killed. Forty-five of the deaths were in Baghdad.<sup>151</sup>

In one case documented by Human Rights Watch, armed men gunned down four young women, all of them Christians, as they drove home from work as cleaners on the U.S. military base at Mosul airport. According to family members of the victims, the three women in the back seat were killed, while the driver and woman in the front survived.

Tara Majid Boutros, aged nineteen, was one of those killed (see photo). A literature student at the university in Mosul, she was working at the base for the summer to earn extra money for the family. Her father suffered from kidney stones and was unable to work. According to family members, the four women commuted every day from their homes in Bartala, just outside Mosul, to the airport base. One of them told Human Rights Watch what happened on August 31, 2004:

Usually she [Tara] came home at 4:45 p.m. and we would wait for her because the situation in Mosul was bad. On that day she didn't come at 4:45 or 5:00. By 5:10, I was waiting in the street, and I thought to call the family of the driver. When I called, I heard crying, and someone said they had been attacked. You can imagine how I felt. I dropped the phone. I was in bare feet but I ran to the family of the driver, which was one kilometer away.<sup>152</sup>

At that point, another family member went to Mosul with a friend to look for Tara and the other girls. They found her in al-Razi Hospital, badly wounded from bullet wounds to the lower back, hip and buttock and in need of blood. She died just after they arrived.<sup>153</sup> The death certificate stated the cause of death as “rupture of the heart and two lungs as a result of gunfire.”<sup>154</sup>

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<sup>151</sup> Sabrina Tavernise, “Iraqis Working for Americans Are in Insurgents’ Cross Hairs,” *New York Times*, September 18, 2004. For another article about attacks on translators, see “Iraqi Translator Defiant in Face of Death Threats Longs for Peace,” *Agence France-Presse*, June 25, 2004.

<sup>152</sup> Human Rights Watch interview with family member A, Bartala, Iraq, January 31, 2005.

<sup>153</sup> Human Rights Watch interview with family member B, Bartala, Iraq, January 31, 2005.

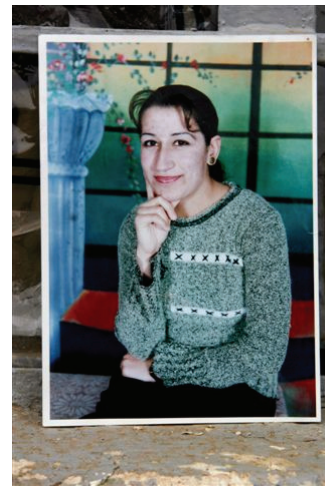
<sup>154</sup> Death Certificate, Iraqi Ministry of Health, #669266, August 31, 2004.



The two other victims were the sisters Taghrid and Hala `Ishaq. According to the woman in the front seat, who received a minor shrapnel wound in the back:

We were driving along, and we had just passed the light near the al-Karama police station when a car came from behind and hit us on the driver's side. I don't remember the kind of car, but it was milk colored. I think they were three, a driver and two men in the back. Our driver stopped to see who had crashed into us. Then he saw they had weapons so, although he had slowed down, he said "Put your heads down!" and he sped up. He sped up and the other car followed us but they had a better car and they caught up to us and cornered us on the side of the street. They were shooting the whole time.

I ducked and stayed down until the shooting stopped. I got a piece of metal from the car in my back. When I lifted my head, I saw the driver move, and he was asking the girls if they were hit. He was holding his side because he was hit. I didn't feel the fragment yet, but we turned around and I saw the three girls were covered in blood. Only Tara said "Oh!" from the pain. We got out of the car and opened the back door to see if we could help them. Tara was right behind me so I asked where she was hurt. She only said, "Get me to the hospital." We tried to stop some cars to help us and finally a car stopped... Before they drove away, when they pulled Tara from the car, Hala slumped over. Half of her was in the car and half outside. It was clear she was dead because she was hit in the head and half her brain was out. So passersby lay her on the street and covered her with a scarf. I called Taghrid and she moved her hand so people said she was still alive.<sup>155</sup>



Armed men gunned down four young women as they drove home from work as cleaners on the U.S. military base at Mosul airport on August 31, 2004. Three of them died, including Tara Majid Boutros, aged nineteen, a literature student at the university in Mosul.  
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The woman and driver helped get Taghrid and Tara to the hospital. Taghrid was dead on arrival but Tara was still alive, the woman explained:

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<sup>155</sup> Human Rights Watch interview with victim, Bartala, Iraq, January 31, 2005.

While there, they brought Tara for x-rays. Two of the nurses were called away, there was only one left, so he asked me to help him put Tara in the right position for x-rays. At that point, Tara was still able to speak. She said, "Help me." I said, "Hold on, the doctors are coming." But then, all of a sudden, she stopped speaking... They had been giving her blood. After the fourth pint, the x-rays returned. There was a bullet in her urinary tract. There was internal bleeding. They said, "We can't help her."

Tara's family tried to speak with the police in Mosul but they were repeatedly rebuffed, they said. "When I tried to speak to the police, I said 'they [the attackers] are terrorists,' but they told me, 'no, they are mujahadin,'" one of the family members said.<sup>156</sup> The family filed a complaint with the police ten days after the attack. The police took witness testimonies, and then one of the officers asked the family bluntly: "What got [her] into this mess? You know the mujahadin don't accept [working for the U.S.]." The U.S. military called the family to the airport base, where they were asked if the family suspected anyone in the girls' death, and whether the family had any enemies. The family said no. An officer said they would contact the family again in fifteen days, but the family has not heard from them since.

In a case involving Christians, gunmen shot and killed a man named Isho Nissan Markus, aged twenty-three, and his niece Ramziyya, aged twenty-one, while they went to work at the laundry in the Presidential Palace in Baghdad, which was occupied by U.S. forces. According to a family member who wanted to remain anonymous, his two relatives, together with three others named Ramiz, Rami and Duraid, traveled every day by taxi to work in Baghdad's Green Zone. On June 7, 2004, unknown assailants attacked them on the way to the family home. The family member said:

We were at home at the time and we heard the commotion outside, because the killing took place near our house, just at the end of the road. When I got there I saw Ramziyya. We took her to the Al-Yarmuk Hospital. She had seven bullets in her back, her waist and her left hand. Isho had received three bullets to the head and he died instantly. There were also two other bullet wounds to his chest. Ramziyya was still alive when I found her but she died around 12:30 p.m. after we had arrived at the hospital.<sup>157</sup>

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<sup>156</sup> Human Rights Watch interview with family member A, Bartala, Iraq, January 31, 2005.

<sup>157</sup> Human Rights Watch interview with family member, Zakho, Iraq, February 7, 2005.

According to the family member, the other passenger Duraid also died, while Ramiz and Rami were wounded. According to the Assyrian Democratic Movement, Iraq's largest Christian political organization, three men died in the attack: Isho Nissan Markus, Duraid Sabri Hanna and Hisham `Umar.<sup>158</sup> It is possible that Hisham `Umar was killed on the street as a bystander rather than in the car.

In a separate incident on the same day, the Assyrian Democratic Movement said gunmen shot and killed a driver and three Assyrian Christian women returning from work at the CPA, Alice Aramays, Ayda Petros Bakus and Muna Jalal Karim, but Human Rights Watch did not confirm this report.<sup>159</sup>

In a third case involving Christians, insurgents killed two brothers whom they suspected of working for the United States military, Khalid and Hani Boulos Tu'ma Sliwa, aged thirty and thirty-three, respectively. Gunmen shot and killed both men in their car in Mosul on September 2, 2004 (see photos).

According to family members, the problems began in mid-2004 when insurgents captured a Christian from Mosul, who they believed was giving information to the U.S. military about insurgent activity. An armed group called Salah al-Din al-Ayyubi soon distributed a video around Mosul called "The Spies," in which the captured man "confessed" to being an informer for the United States. In the video, viewed by Human Rights Watch, the man names others as informers, including the five brothers of the Sliwa family, before being beheaded with a large knife.

On June 1, 2004, one of the Sliwa brothers who wished not to be named was walking home from a café with four friends, two Christians and two Muslims, when masked men opened fire on them with pistols. The brother said he was hit in the left arm and stomach.<sup>160</sup> Human Rights Watch saw scars in both places as well as medical records from the al-Zahrawi Teaching Hospital in Mosul attesting to the injuries.

The injured brother said that acquaintances from his al-Sa`a neighborhood in Mosul, where the family had lived for five generations, had threatened him before, wrongly asserting that he was working for the U.S. military, but this was the first physical attack. Graffiti in the neighborhood called for Christians to be killed, he said, and the beheading

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<sup>158</sup> "Terrorist Attacks on Assyrians Intensify," [www.assyrianchristians.com/news\\_terroristattacks\\_june\\_24\\_04.htm](http://www.assyrianchristians.com/news_terroristattacks_june_24_04.htm) (accessed February 23, 2005).

<sup>159</sup> *Ibid.*

<sup>160</sup> Human Rights Watch interview with a Sliwa brother, 'Ain Kawa, Iraq, January 25, 2005.

video by Salah al-Din al-Ayyubi, mentioned above, was widely available in Mosul markets. According to the brother, neither he nor anyone in his family worked for the U.S. government, but Human Rights Watch did not confirm this claim.

Six weeks after the first shooting, gunmen again shot and wounded the brother. Unknown men had entered his neighborhood, he said, and when he went out to look, they opened fire with Kalashnikov assault rifles, hitting him in the right thigh and left shin. Three other men nearby were also hit.



Unknown gunmen in Mosul shot and killed these two brothers, Khalid and Hani Boulos Tu'ma Sliwa, aged thirty and thirty-three, respectively, on September 2, 2004, apparently because they were thought to be giving information to the U.S. military about insurgent activity.  
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The injured brother interviewed by Human Rights Watch left Mosul, but the other Sliwa brothers stayed behind. On September 2, relatives said, Khalid and Hani were pulling their red BMW out of a garage when approximately fifteen armed men blocked their

path and opened fire with automatic rifles, killing them both. The family went to the police station in Mosul's Khazraj district and gave the names of the people who had threatened them in the past, but said the police told them to go home. As of February 2005, the family had no information on whether the attackers had been arrested. "We went to the police but it was no use," the brother said.

The entire family moved to `Ain Kawa after the murders, where they lived in small rented house. "We are threatened. We cannot go back," one of the family members said. "I would never allow my [family] to go back. We had to leave."<sup>161</sup>

In a case with a Kurdish victim, unknown insurgents abducted and beheaded Khalid Anwar Ibrahim Mustafa Khoshnaw, a father of five, in Mosul on September 9, 2004.



A son of Khalid Khoshnaw sits by his father's grave outside Arbil. Unknown insurgents abducted and beheaded Khalid, a Kurdish father of five, in Mosul on September 9, 2004.

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Although he was not formally working for the U.S. government or military, he did occasionally visit the U.S. base at the Mosul airport, his family said, and he had previously worked with the CPA in Arbil.<sup>162</sup> His precise relationship to the U.S. government remains unclear but, by all accounts, he was not engaged in hostilities and was a civilian under the law.

<sup>161</sup> Human Rights Watch interview with Sliwa family member, 'Ain Kaws, Iraq, January 25, 2005.

<sup>162</sup> Human Rights Watch interview with family member, Arbil, Iraq, January 26, 2005

Armed men previously had threatened Khoshnaw, a taxi driver in Mosul who was married to an Arab woman for thirteen years, two family members said. About one month before his murder, an unknown group had abducted him for ten days, but they released him unharmed.

On September 9, Khoshnaw went out to buy breakfast with his young son in the al-Karama neighborhood. Some minutes later, the son returned alone. Two days later, Khoshnaw's decapitated body appeared on a street with the left hand also severed. A relative explained the circumstances of the murder:

He went out to get breakfast. A bit later, about fifteen minutes, his son came home and said, "my father has been killed." I went to the place where the car was and I saw it burning. It was near our house. The car was on fire but the fire engine was there and the police too, trying to put out the fire. I asked the police, and they told me Khalid had been taken away.

They told me nothing else. I went home, but the next day people told me his head had been found near where the car was. I didn't go myself but neighbors went to the hospital to identify the head. The next day, his father went to the hospital and identified his son. The body was found two days later. I learned from the hospital that they had discovered the body. We have a relative who works there. Khalid's father identified the body because of the tattoos with his children's names [on the severed hand].<sup>163</sup>

Three-and-a-half months after his murder, Khoshnaw's wife gave birth to a baby boy, Ghaffur.

One case reported in the press happened on January 21, 2004, when gunmen attacked a minibus carrying workers from Baghdad to the U.S. military base in al-Habbaniyya near al-Falluja. Five Christian women were killed.<sup>164</sup> U.S. Brigadier General Mark Kimmitt believed the purpose of the attack was "to send a message of terror to those people that if you work for the coalition... we can reach out and touch you."<sup>165</sup>

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<sup>163</sup> Human Rights Watch interview with family member, Arbil, Iraq, January 27, 2005.

<sup>164</sup> Cecile Feuillatre, "Families Mourn Iraqi Women Slain for Doing Washing of US Troops," *Agence France-Presse*, January 23, 2004.

<sup>165</sup> Alissa J. Rubin, "Four Iraqi Women Slain on Way to Work at Base," *Los Angeles Times*, January 23, 2004.

Some employees of foreign governments received threats that caused them to leave their jobs, and subsequently moved to the relative safety of the Kurdish-controlled north or fled Iraq. One such man who spoke with Human Rights Watch in northern Iraq was a car mechanic in Mosul. In the summer of 2004, he said, U.S. soldiers asked if he would work on their vehicles. He repaired two Humvee military vehicles and, one week later, was visited by Iraqi men he did not know. He explained:

One week later, two men came in *dishdasha* [white robes] and red scarves. I don't know if they were armed. "Why are you working for the Americans?" they said. "If you don't stop that, we will kill you." I said "I'm just earning a living." They said, "If you don't stop, we'll kill you." Out of fear, I never went back to my work again. And one week later we left.<sup>166</sup>

## VI. Attacks on Government Officials and Politicians

Since mid-2003, insurgent groups have repeatedly attacked Iraqi government officials and politicians. Various armed groups have killed dozens, if not hundreds, of local and national government officials and political party officials, as well as judges, by means of assassination squads, roadside bombs and suicide attacks. A total figure is not known due to the magnitude of the attacks and the absence of a comprehensive reporting scheme. Political figures have also been the target of criminally motivated attacks.

Insurgent groups like the Islamic Army in Iraq, Ansar al-Sunna and al-Tawhid wal-Jihad have repeatedly claimed responsibility for attacks on government officials. In the run-up to the January 30, 2005, elections for the Transitional National Assembly, various groups warned Iraqis not to take part, with leaflets in neighborhoods addressed, for example, to "everyone who wants to stand in the queues of elections, the queues of doom and death."<sup>167</sup> Some insurgent groups viewed Iraq's Interim Governing Council as a body that served the interests of the United States. "Our position is clear—they are all spies, traitors, and agents for the Americans," said a spokesman for Jaysh Muhammad, one of the larger Sunni groups.<sup>168</sup>

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<sup>166</sup> Human Rights Watch with victim, 'Ain Kawa, January 29, 2005.

<sup>167</sup> "Election Eve Lock-Downs Begin in Iraq," CNN.com, January 28, 2005. (See <http://www.cnn.com/2005/WORLD/meast/01/28/iraq.main/>, accessed March 12, 2005.)

<sup>168</sup> Ali Kais al-Rubai, "Islamists Pledge Continued War on Coalition," IWPR, May 14, 2004.



One of the most prominent political killings was on August 29, 2003, when a car bomb outside the Imam Ali Mosque in al-Nafaj, killed Ayatollah Muhammad Baqir al-Hakim, head of SCIRI, and more than eighty-two other people (see chapter IV of this report, “Attacks on Ethnic and Religious Groups”).

Shi`a politicians have since been a regular target of insurgent attacks. On September 20, 2003, unknown gunmen in west Baghdad shot `Aqila al-Hashimi, one of three female members of the U.S.-appointed Interim Governing Council, and she died five days later. A Shi`a Muslim and former diplomat, `Aqila al-Hashimi was preparing to leave for New York as part of the Iraqi delegation to the United Nations General Assembly. One eyewitness told the press: “I saw a pick-up truck and a Mercedes pull up just as she was leaving in her Land Cruiser with her bodyguards following in a second car.” He continued:

There were men hiding in the back of the pick-up with guns who jumped up and started firing. As her car tried to escape, someone threw a grenade. I saw her brother, who was one of her bodyguards, come running with blood on his face, shouting ‘My sister, my sister!’<sup>169</sup>

According to members of al-Hashimi’s security detail, the assailants first fired a rocket-propelled grenade, missing her car, and then opened fire with Kalashnikov assault rifles.<sup>170</sup> `Aqila al-Hashimi arrived at the al-Yarmuk hospital around 10:30 a.m. with serious abdominal wounds, and was taken to a U.S. military hospital.<sup>171</sup> She underwent two surgeries and died on September 25.<sup>172</sup>

`Aqila al-Hashimi’s replacement on the governing council was another Shi`a woman, a dentistry professor named Salama al-Khafaji, who was active in the dentists’ union after the fall of Saddam Hussein’s government (see photo in Chapter XI of this report, “Attacks on Women”). On January 16, 2004, gunmen in Iraqi police uniforms attacked Salama al-Khafaji’s convoy in Baghdad, but her bodyguards returned fire, and no one was hurt. Four months later, on May 27, unidentified assailants ambushed her convoy again, this time near al-Yusufiyya, south of Baghdad, killing her bodyguard and her eldest son Ahmad.

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<sup>169</sup> Peter Beaumont, “Senior Iraqi Official Gunned Down—Assassination Attempt Leaves Council Member Fighting for Her Life,” *The Observer*, September 21, 2003.

<sup>170</sup> “Shot Iraqi Council Member Reportedly Stable,” *Associated Press*, September 20, 2003.

<sup>171</sup> “Iraq Council Member Shot, Critically Wounded,” *Associated Press*, September 20, 2003.

<sup>172</sup> Rory McCarthy, “US Appointee Dies From Bullet Wounds,” *The Guardian*, September 26, 2003.

Salama al-Khafaji was driving from al-Najaf to Baghdad in the early evening when four men in a red Opel overtook her three-car convoy. The Opel turned around and sped back in the opposite direction, al-Khafaji told a journalist who profiled her life. “They looked at us and knew who we were. They went away to get their weapons and came back,” she explained. “I saw Ahmad’s car veering off the road into a canal, but there was so much dust that I couldn’t really see what happened.” To save her life, al-Khafaji’s driver sped away.

That night al-Khafaji learned that her bodyguard had been killed, and her son’s body was found the following day. “When I was in Najaf, I met many women who had lost their sons, husbands, brothers and I was very moved by their desire for peace,” she said in the profile. “It’s the women who have suffered the most under this occupation. And that’s why it’s women who want peace the most.”<sup>173</sup>

Insurgent groups have targeted individual Kurdish politicians as well. On March 28, 2004, armed men in the al-Karama neighborhood of Mosul tried to assassinate Nasrine Berwari, Minister of Municipalities and Public Works, and one of five Kurdish ministers and the only woman in the U.S.-appointed Iraqi Interim Government. She escaped, but a driver and bodyguard were killed.<sup>174</sup> Human Rights Watch interviewed one Kurdish politician, Sadi Ahmad Pire, a PUK political representative in Mosul, who said he had survived three assassination attempts. In March 2004, insurgents attacked his Mosul office with mortars, killing two guards and wounding eight, he said. In July 2004, insurgents attacked his convoy in Mosul with a roadside bomb. And in August 2004, insurgents attacked his convoy with an explosives-laden car. “I had switched cars, and they attacked the old car with a suicide bomb,” he said.<sup>175</sup> According to a press report, the attack killed two bystanders and a bodyguard.<sup>176</sup>

The February 1, 2004, suicide bomber attacks at the Arbil offices of the main Kurdish political parties killed ninety-nine people and wounded 246 (see chapter IV of this report, “Attacks on Ethnic and Religious Groups”). While most of the casualties were Kurdish civilians who were visiting the party offices on the holiday of Eid al-Adha, many party officials were also killed, including Sami Abdul-Rahman, deputy prime minister of

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<sup>173</sup> Mohamad Bazzi, “Female Iraqi Poised to Take Power,” *Newsday*, January 24, 2005. See also Michael Georgy, “Iraqi Politician Tells Harrowing Ambush Tale,” *Reuters*, May 28, 2004.

<sup>174</sup> Colin McMahon, “Iraqi Ministry Chief OK After Gunmen Attack Convoy,” *Chicago Tribune*, March 29, 2004, and Christopher Torchia, “Iraqi Minister Escapes Assassination,” *Associated Press*, March 28, 2004.

<sup>175</sup> Human Rights Watch interview with Sadi Pire, Arbil, Iraq, January 29, 2005.

<sup>176</sup> “Iraqi Kurdish Leader Survives Car Bomb,” *Reuters*, August 26, 2004.

the KDP government, Akram Mantiq, governor of Arbil province, Mantiq's deputy Mahdi Khoshnaw and twelve members of the PUK leadership in Arbil.

Below is a list of the leading Iraqi political figures attacked between March 2003 and July 2005, each based on two or more media sources.<sup>177</sup>

- January 28, 2004—A car bomb exploded outside the Baghdad hotel inhabited by Minister of Labor **Sami Azara al-Majun**. He was not hurt, but three people were killed.
- May 17, 2004—A car bomb in Baghdad killed acting president of the Interim Governing Council, **'Abd al-Zahra 'Usman Muhammad**, known as 'Izzedin Salim. Al-Tawhid wal-Jihad later claimed credit for the attack.
- May 22, 2004—A car bomb at the house of **'Abd al-Jabbar Yusuf**, Deputy Interior Minister, kills Yusuf and five others. Thirteen people were wounded.
- July 14, 2004—A group reportedly run by al-Zarqawi claimed responsibility for murdering the governor of Nineveh province, **'Usama Kachmula**, and two of his bodyguards in Mosul.
- July 17, 2004—Justice Minister **Malik Duhan al-Hassan** escaped a suicide car bomb attack in Baghdad, but five others were killed.
- August 24, 2004—A suicide bomber attacks Environment Minister **Miskat Mu'min** and Education Minister **Sami al-Muzaffar**. They both survived, but five other people were killed.
- September 1, 2004—The Islamic Army in Iraq claimed responsibility for an attack on the convoy of **Ahmad Chalabi**, head of the Iraqi National Congress, in al-Latifyya, south of Baghdad. Chalabi survived but two of his bodyguards were killed.
- September 7, 2004—Baghdad governor **'Ali Radi al-Haidari** escaped an assassination attempt, but two civilians were killed.
- November 1, 2004—Ansar al-Sunna claimed responsibility for killing the deputy governor of Baghdad, **Hassan Kamil 'Abd al-Fattah**, in the city's al-Dora district.

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<sup>177</sup> The two primary sources are "Attacks Against Leading Iraqi Figures Since May 2003," *Agence France-Presse*, January 4, 2005, and "Killings of Iraqi Officials Since Elected Government Was Announced April 28," *Associated Press*, May 23, 2005.

- January 4, 2005—Baghdad Governor **‘Ali Radi al-Haidari** and one of his bodyguards were killed by unidentified assailants in a roadside ambush in the capital.
- April 27, 2005—Gunmen shot and killed a Shi`a member of parliament, **Lamia ‘Abid Khaduri al-Sagri**, as she opened the door of her Baghdad home. Al-Sagri, who had reportedly escaped two previous assassination attempts, had recently been elected to the Iraqi parliament on then-Prime Minister Ayad ‘Allawi’s Iraqi List.
- May 8, 2005—Unknown gunmen shoot and kill **Zoba Yass**, a senior official in the Transportation Ministry, along with his driver in Baghdad.
- May 14, 2005—Unknown gunmen shoot and kill **Jassim Muhammad Ghani**, director-general of the Foreign Ministry, outside his home in Baghdad.
- May 18, 2005—Unknown gunmen in Baghdad shoot and kill **Salah Niyazi**, an official from the Youth and Sport Ministry.
- June 28, 2005—A suicide car bomber killed the influential Shi`a member of parliament **Dhari ‘Ali al-Fayadh**, his son and two bodyguards as they drove to Baghdad. Al-Fayadh was parliament’s eldest member and was serving as interim speaker. Al-Qaeda in Iraq claimed responsibility for the attack.
- July 19, 2005—Unknown gunmen in Baghdad killed **Mijbil Shaikh al-‘Issa**, a Sunni representative on the Constitution Drafting Committee of the Transitional National Assembly, **Dahman al-Jaburi**, an adviser to the Committee, and their driver.

Judges are not included in the above list but they have also been the target of attack. On January 25, 2005, for example, armed men in a car shot and killed Qais Hashim al-Shamari, the secretary of Iraq’s Council of Judges, together with his son. Ansar al-Sunna claimed responsibility for the attack, saying, “the heroes laid a carefully planned trap to one of the symbols of infidelity and apostasy in the new Iraqi government, the administrator of Iraq’s judges.”<sup>178</sup> On March 1, 2005, unknown gunmen shot and killed Judge Barawiz Mahmud, who worked for the Iraqi Special Tribunal, and his son as they left their home in Baghdad.<sup>179</sup>

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<sup>178</sup> Dexter Filkins, “Insurgents Vowing to Kill Iraqis Who Brave the Polls on Sunday,” *New York Times*, January 26, 2005.

<sup>179</sup> Patrick Quinn, “Iraqi Judge on Saddam Case Killed,” *Associated Press*, March 1, 2005, and “Gunmen Kill Iraqi Judge and Son Working for Tribunal Trying Saddam,” *Agence France-Presse*, March 2, 2005.

In addition to these documented cases, insurgents have threatened, assaulted, abducted and killed hundreds of local officials, including employees at national ministries, provincial governments and municipalities. Typically the persons responsible are unknown. Human Rights Watch interviewed one man who worked in the al-Falluja municipality and fled Iraq after insurgents detained him for two days. The man, who wished to remain anonymous, had previously received warnings to leave his job and then, on May 7, 2004, unknown men abducted him on his way to work. He explained:

On the first day, they asked me for my name and other personal questions. Then they said, “Didn’t we tell you not to work with the Americans? We are following everything, and we have people in the police and other places.” They took down my name and address and left the room.

The next day a group of them came. One of them was senior. They addressed him as “shaikh.” He also said, “we told you not to work with the Americans.” I said I was working with the [municipality]. He said “the emir has issued a fatwa ordering your killing. You ate, drank and shook the hands of the infidels, so that makes you an infidel. You are a pig and a monkey just like them.” I was too scared to ask who the emir was. I just said I repent. They told me, “after we kill you, if God wants to forgive you he can.” I said I have a family, and they told me to shut up. They left and then came back five minutes later. They said, “the emir wants to execute the sentence of Islam, but we begged him to give you another chance. But you must leave Iraq, not just Falluja. If you stay, the blood of your wife and children will also be spilled.” One of them held his rifle to my head and cocked the trigger.<sup>180</sup>

After his release, insurgents threw hand grenades at his home and burned it down, he said. His wife and children moved out of al-Falluja to live with family elsewhere, and the man fled Iraq, to a country he did not want to identify. Other municipal workers in al-Falluja had been killed, he said. He had found one such person’s body around the town—a first lieutenant who had worked with the Iraqi Civil Defense Corps (which was subsequently incorporated into the Iraqi armed forces).<sup>181</sup>

The period before the January 30, 2005, Iraqi elections was particularly violent, with almost daily attacks against candidates and election commission officials. Due to threats

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<sup>180</sup> Human Rights Watch interview with former al-Falluja municipal employee, location outside Iraq undisclosed, June 6, 2004.

<sup>181</sup> The Iraqi Civil Defense Corps was set up by the Coalition Provisional Authority, and then incorporated into the Iraqi National Guard in June 2004.

and attacks, very few political groups had public meetings or campaigns. Most did not release the names of their candidates until days before the vote.

In a survey of election-related incidents, the U.S.-based International Foundation of Electoral Systems (IFES) documented 141 cases in the forty-five days prior to the elections, ranging from “vandalism of campaign material to intimidation, death threats, kidnapping, assassination, small arms fire, suicide bombings, and executions.”<sup>182</sup> In the seventy cases for which a perpetrator could be determined, “insurgent-initiated violence far outnumbered participant-initiated violence.”<sup>183</sup>

For example, on December 26, 2004, gunmen shot and killed Communist Party leader Sa`di `Abd al-Jabbar al-Bayati south of Baghdad.<sup>184</sup> Ten days later, on January 5, 2005, gunmen killed Hadi Salih, another Communist Party leader.<sup>185</sup> On January 12, gunmen killed two aides to Ayatollah `Ali al-Sistani in Salman Pak and Najaf—Ansar al-Islam claimed responsibility for the killing in Salman Pak.<sup>186</sup> On January 17, gunmen killed Shakir Jabir Sahla, a candidate for the Constitutional Monarchy Movement.<sup>187</sup> The next day, gunmen in Basra shot and killed two candidates from the Iraqi National Accord, Riad Radi and `Ala` Hamid.

Election commission workers were the regular target of threats, harassment and violence by insurgents, which severely impeded their ability to work. In one incident that received Iraqi and international media attention, gunmen pulled five election workers from a car on Baghdad’s Haifa Street on December 19, 2004, and shot three of them to death.<sup>188</sup>

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<sup>182</sup> IFES defined election-related violence as “violence that is aimed at hindering or disrupting any part of the electoral process.”

<sup>183</sup> International Federation of Electoral Systems, “Iraq Election Violence, Education and Resolution Report on the January 30 Elections,” February 23, 2005.

<sup>184</sup> On November 13, 2004, unknown gunmen shot and killed Iraqi Communist Party Politburo member and delegate in the interim National Assembly, Wadhah Hassan Abdul Amir, along with two colleagues, while driving from Baghdad to Kirkuk. (See <http://www.iraqcp.org/members2/0041115icpengl.htm>, accessed January 5, 2005).

<sup>185</sup> “Iraqi Communist Killed in Baghdad,” *Agence France-Presse*, January 5, 2005.

<sup>186</sup> The victim in Salman Pak was Mahmoud Madaeni, who was shot to death with his son and four bodyguards. Khaled Yacoub Oweis, “Iraq Poll Fears Deepen as Sistani Aides Killed,” *Reuters*, January 13, 2005, and Anthony Shadid, “Sunni Group Says It Killed Shiite Cleric,” *Washington Post*, January 15, 2005.

<sup>187</sup> Bassem Mroue, “Gunmen Kill Three Iraq Candidates,” *Associated Press*, January 18, 2005.

<sup>188</sup> John F. Burns, “At Least 64 Dead as Rebels Strike in 3 Iraqi Cities,” *New York Times*, December 20, 2004, “Total of Eight Iraqi Independent Electoral Commission Members Killed,” *Agence France-Presse*, December 20, 2004.

As election day approached, election workers increasingly quit their jobs due to threats. In one reported example that typified the threats, a Baghdad resident was distributing voter registration papers in his al-Bayya` neighborhood until he received a threatening letter in the mail. "The sword has become very near to your neck," the letter said. "Leave any work that relates to the elections and stay safe."<sup>189</sup>

Election day was quieter than many had predicted, largely due to well-coordinated security measures and a country-wide ban on car travel. At least one insurgent group stated that it would not attack voters or polling places. The Islamic Front of the Iraqi Resistance, apparently an umbrella organization of various Sunni armed groups, announced on January 27 that, while it condemned the elections as "a farce" that will "serve U.S. interests," it had ordered its fighters not to attack polling stations or to involve themselves in any way "in shedding one drop of the blood of our honorable Iraqi people."<sup>190</sup>

Insurgent groups have also targeted the family members of politicians. On November 10, 2004, armed men in Baghdad abducted three relatives of then-Iraqi Prime Minister Ayad `Allawi, two of them women. A group called Ansar al-Jihad claimed responsibility and demanded that male and female detainees in Iraq be released and that the U.S. military halt its offensive in al-Falluja. They released the two women four days later and, one week later, they released the man, `Allawi's seventy-five-year-old cousin.<sup>191</sup> After their release, al-Zarqawi's al-Qaeda in Iraq claimed responsibility, and said it had released the three `Allawi relatives because they were not involved in the government.<sup>192</sup>

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<sup>189</sup> "Iraqi Elections Officials Quit After Death Threats," *Sunday Telegraph*, January 2, 2005.

<sup>190</sup> "Iraq's 'Islamic Resistance Front' Says Elections 'US Conspiracy,'" *BBC Monitoring Middle East*, Statement by the Islamic Front of the Iraqi Resistance, carried by Quds Press web news agency, January 30, 2005, and Samir Haddad, "Iraqi Resistance Group Says Not to Target Elections," *IslamOnline.net*, January 27, 2005.

<sup>191</sup> Maggie Michael, "Two of Allawi's Kidnapped Relatives Freed," *Associated Press*, November 15, 2004, and "Iraq PM's Two Female Relatives Released: Party Source," *Agence France-Presse*, November 15, 2004.

<sup>192</sup> Maamoun Youssef, "Zarqawi Group Claims Allawi Kidnappings," *Associated Press*, November 22, 2004.

## VII. Attacks on Civilians Applying for the Iraqi Security Forces

Insurgent groups have frequently targeted groups of men waiting to sign up for the Iraqi police or armed forces, which they consider “collaborating with the infidel crusaders.”<sup>193</sup> Typically, a large car bomb explodes outside a police station or other building where the registration process is taking place.

Iraqi soldiers and policemen engaged in military operations are legitimate targets under international humanitarian law. These attacks, however, are unlawful because the targets were not combatants. The applicants were not yet members of the security forces—they were still civilians not taking a direct part in hostilities. The intention to join a security force does not revoke the immunity a civilian enjoys.

Even if such attacks were targeting a police station used for military purposes or a military recruiting center, the nature of the attacks likely makes them unlawful as indiscriminate or as causing disproportionate civilian harm. In any case, the bombings cases documented in this chapter suggest that the intended target was the applicants outside the building—all of them still civilians—rather than the building, whether or not a military target, they were waiting to enter. Moreover, many of the attackers employed perfidious means, feigning civilian status to get close to their target, which is likewise unlawful under international law.

On February 10, 2004, for example, a suicide bomber detonated a truck bomb outside a police station in al-Iskandariyya, killing some fifty applicants and other civilians and no police. The bomb ripped the front off the police station, blasted a large crater in the concrete and threw body parts across the street.

According to witnesses, the bomb detonated around 8:30 a.m. in an area that held the police station, the local court and the mayor’s office. The compound was crowded with people applying for jobs at the police, some of whom were killed. The local police said a red pick-up truck with 500 pounds of explosives detonated as it drove by the station.

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<sup>193</sup> On April 9, 2005, men passed out leaflets from al-Qaeda in Mesopotamia at mosques in Mosul that threatened Sunnis who joined the Iraqi armed forces. “Sunnis must ban their sons from collaborating with the infidel crusaders,” the leaflet reportedly said. “Allowing Sunnis to join the tyrannical army would make jihad lose its meaning.” (Dexter Filkins, “Demonstrators in Iraq Demand That U.S. Leave,” *New York Times*, April 10, 2005.)



“We found the bodies burnt and broken into pieces. We found pieces of flesh on the roof,” a witness told the press. “We found body parts that we couldn’t tell who they belonged to. There were pieces of women.”<sup>194</sup>

According to one press report, no Iraqi police died.<sup>195</sup> According to the Iraqi Interior Ministry, between forty and fifty people died and up to 100 people were injured, including four members of the police.<sup>196</sup>

The next day, February 11, a suicide bomber in a car detonated his explosives amidst a large group of Iraqis waiting outside an army recruitment center in southeastern Baghdad, killing between thirty-six and forty-seven applicants.<sup>197</sup> “I saw a white Oldsmobile slowly approaching. It ran over some people and exploded,” one injured Iraqi army officer said from his hospital bed. “I was blown up in the air and saw fire and body parts all around me.”<sup>198</sup>

On July 28, 2004, a suicide car bomb exploded outside a police station in Ba`quba and killed sixty-eight people. The target was the hundreds of men waiting to sign up for the police outside the station, but the bomb had a devastating impact on nearby shops, apartments and a minibus. “I saw all those volunteers standing in line and I had a feeling something was about to happen, so I locked my shop and started to walk away,” a grocery store owner next to the station told the press. “That’s when the explosion happened. I saw smoke, people running everywhere, shrapnel falling and pieces of flesh. I don’t know whom to blame, because no Muslim and no Iraqi could do such a thing.”<sup>199</sup>

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<sup>194</sup> Justin Huggler, “Terrorists Spark Fear of Civil War in Iraq as 50 Die in Car Bomb,” *Independent*, February 11, 2004.

<sup>195</sup> Hannah Allam, “Truck Bomb Kills at Least 50 Outside Police Station South of Baghdad, Iraq,” *Knight Ridder*, February 11, 2004.

<sup>196</sup> Mariam Fam, “Truck Bomb Outside Police Station South of Baghdad Kills Dozens; Crowd Blames Americans,” *Associated Press*, February 10, 2004.

<sup>197</sup> “36 Killed in Baghdad Suicide Car Bombing,” Agence France-Presse, February 11, 2004, and Mariam Fam, “Vehicle Bomb at Iraqi Army Recruiting Station Kills Dozens of Iraqis in Second Deadly Attack in Two Days,” *Associated Press*, February 11, 2004.

<sup>198</sup> Mariam Fam, “Vehicle Bomb at Iraqi Army Recruiting Station Kills Dozens of Iraqis in Second Deadly Attack in Two Days,” *Associated Press*, February 11, 2004.

<sup>199</sup> Pamela Constable and Bassam Sebt, “Suicide Bomber Kills 68 In Iraq; Attack in Baqubah Aimed at Line of Police Applicants,” *Washington Post*, July 29, 2004.

According to one press report, “the blast strewn corpses, tangled wreckage and puddles of blood over a busy, sun-baked street of shops and government offices.”<sup>200</sup> One witness said he saw burnt-up bodies inside the bus. “There were several bodies inside the shops and on the rooftops,” he said.<sup>201</sup>

On February 28, 2005, at about 8:30 am in the city of al-Hilla, sixty miles south of Baghdad, a car bomb exploded and killed at least 125 people and wounded about 130. The apparent target was a group of several hundred people who were lined up outside a health center to take medical exams for acceptance into the police and armed forces. Among the dead were people in the market across the street from the health center. In addition to directly targeting civilians, the attack was unlawfully directed at a health center, which is a protected object.<sup>202</sup> “I was standing inside the door when I saw a car coming fast down the road opposite the clinic,” a security guard at the health clinic said. “All of a sudden the glass and shrapnel started coming down all around my head. When I got outside I couldn’t believe it: there were dead bodies everywhere, and blood on the walls and the street.”<sup>203</sup>

The day after the attack, the al-Qaeda Organization for Holy War in Iraq claimed responsibility, according to a statement posted on the Internet. “A lion from our martyrdom brigade plunged into a gathering of apostates in front of a police and National Guard registration center, blowing up his loaded car and killing 125 apostates,” the statement said. “The blood of the apostates was helping the Americans. They had sold their religion and their honor.” Human Rights Watch could not verify the claim, but it appeared on a website most often used by Iraqi insurgents and was in the name of the person who usually disseminates statements by al-Qaeda in Iraq.<sup>204</sup>

In the most recent large-scale attack, on May 4, a suicide bomber detonated his explosives amidst a group of Kurdish men waiting to sign up for the police in Arbil,

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<sup>200</sup> Megan K. Stack, “Vehicle Bombing Kills 68 in Iraq,” *Los Angeles Times*, July 29, 2004.

<sup>201</sup> “Iraqi Police Recruits Caught in Morning Carnage,” *Agence France-Presse*, July 28, 2004.

<sup>202</sup> See, e.g. Protocol I, art. 52(3) on the general protection of civilian objects: “In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.”

<sup>203</sup> Warzer Jaff and Robert F. Worth, “Blast Kills 122 at Iraqi Clinic in Attack on Security Recruits,” *New York Times*, March 2, 2005. See also Haider Abbas and Mussab al-Khairalla, “Suicide Car Bomb Kills 110 in Iraq,” *Reuters*, February 28, 2005.

<sup>204</sup> “Web Site: Al Qaeda in Iraq Claims Hilla Bombing,” *Reuters*, March 1, 2005.

killing forty-six people and wounding an estimated 150.<sup>205</sup> Ansar al-Sunna claimed responsibility for the attack.<sup>206</sup> (See “Attacks on Kurds” in chapter IV of this report, “Attacks on Ethnic and Religious Groups”.)

### **VIII. Attacks on Humanitarian Organizations and the U.N.**

Since the summer of 2003, some insurgent groups in Iraq have targeted foreign and Iraqi staff of humanitarian organizations and U.N. agencies that provide health care, food and other assistance to Iraq. They have used suicide bombers against offices and committed abductions and summary executions.

The insurgent groups responsible consider foreign aid organizations and the U.N. to be part and parcel of the foreign forces in Iraq and therefore legitimate targets for attack. The broad-based and apparently indiscriminate nature of the attacks has resulted in the departure of most foreign humanitarian workers in Iraq.

According to international humanitarian law, aid workers, whether foreign nationals or citizens, are civilians who are protected from attack. Moreover, international law imposes additional obligations on governments and armed groups to facilitate the work of impartial humanitarian organizations that aid the victims of the conflict.<sup>207</sup>

The threats and violence have forced countless Iraqis working for foreign aid organizations to abandon their jobs, and sometimes the country. Especially after the spate of abductions of foreigners in 2004, international humanitarian organizations sharply scaled down operations or stopped their operations in Iraq altogether. Many of these groups were providing desperately needed services and aid to the population in the fields of sanitation, health care and education.

One of the first large-scale attacks was on August 19, 2003, when insurgents detonated a massive truck bomb outside the U.N. headquarters at the Canal Hotel in Baghdad, killing twenty-two people and wounding more than 150. U.N. Special Representative to the Secretary-General Sergio Vieira de Mello was among the dead.

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<sup>205</sup> “Suicide Bomber Killers 45 in Northern Iraq City,” *Agence France-Presse*, May 4, 2005, and Rory Carroll and Michael Howard, “They Were Lining Up To Join Iraq’s Police—But in the Queue Was a Suicide Bomber,” *The Guardian*, May 5, 2005.

<sup>206</sup> “Iraq’s Ansar al-Sunna Claims Arbil Bombing—Web,” *Reuters*, May 4, 2005.

<sup>207</sup> ICRC, *Customary International Humanitarian Law*, vol. I, rules 55 & 56; see also Protocol I, Article 81(4).

While the United Nations is not a humanitarian organization per se, agencies like UNICEF, the High Commissioner for Refugees (UNHCR) and the United Nations Development Program (UNDP) were providing essential services for the population, such as education, health and nutrition, water and environmental sanitation, and child protection.<sup>208</sup>

From June 1 to mid-July 2003, there were fifteen security incidents that affected the United Nations, including rocket-propelled grenade attacks on the World Food Program (WFP) and International Organization for Migration (IOM) offices in Mosul and gunfire at the UNDP office in Baghdad.<sup>209</sup> At 4:30 p.m. on August 19, a suicide bomber driving a flatbed truck drove unhindered up the service road next to U.N. headquarters and detonated an estimated 1,000 kilograms of high explosives under de Mello's office on the third floor.

Rasha al-Kaisy, a personal assistant at the United Nations in Iraq since 1998, was sitting in her office when the bomb went off. She told Human Rights Watch:

I did not hear the sound of the bomb. All of a sudden it happened that all the glass shattered. At first I thought it was something small, but when I came out and saw the destruction, I realized it was big. At first people didn't know what it was. Later we were told it was a car bomb. Of course the building was without security. I saw a lot of injured people, people screaming, people on the ground. You didn't know if they were alive or dead. So many injured people were on the ground.<sup>210</sup>

Another U.N. staff member, Layla al-Mulla, was an administrative assistant to de Mello's chief of staff, Nadia Yunis, who was also killed. Al-Mulla was sitting in her office across the hall from de Mello's office when the bomb exploded:

It was exactly 4:30 because I looked at my computer. I felt nothing at that moment; I just heard something. We were used to heavy bombs and explosions, and this sounded far away—like a thump. I was near the

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<sup>208</sup> The United Nations had been present in Iraq for more than forty years, with an enlarged presence in the mid-1990s to administer the Oil-for-Food Program. In anticipation of hostilities between Iraq and the United States, the United Nations evacuated its 387 international staff members on March 18, 2003. They stayed out of Iraq during the U.S.-led invasion and returned to Baghdad on May 1, 2003.<sup>208</sup> De Mello arrived with his staff and security detail one month and one day after that.

<sup>209</sup> *Ibid.*

<sup>210</sup> Human Rights Watch interview with Rasha al-Kaisy, Amman, Jordan, February 13, 2005.

window, actually the whole wall was window, and I felt something come down on me from behind. I just lowered my head instinctively and everything came crashing down on me. The whole place was upside down. My mind didn't register, so I left my desk and stood next to a column. I looked down and saw a black cloud growing up towards me. I tried to leave the room, but I made it a few steps, and it was completely dark. I waited for it to clear, but it was dusty, and debris was everywhere, filling my lungs. I saw a crack in the concrete ceiling, and the building was tilting. It was clear that the door to Sergio's office was crushed. I tried to get out.

I didn't know what to do. I went down and saw the injured people, the blood, the dust all over the place. People were stuck under rubble. The more I moved out of the building, the more destruction I saw. It was chaos. There were people dead all around, people screaming out in pain.<sup>211</sup>

Twenty-two people died in all. Fifteen of the victims worked for the United Nations—five Iraqis and ten international staff. Of the non-U.N. employees, three were Iraqis and four were foreigners.<sup>212</sup>

Responsibility for the bombing of the U.N. headquarters remains unclear because three armed groups have claimed to have committed the attack; the CPA and Iraqi government alleged a fourth. On August 21, a previously unknown group called the Armed Vanguard of Muhammad's Second Army, al-Ramadi branch, claimed responsibility in a statement sent to the al-`Arabiya television station, where it was viewed by other news agencies.<sup>213</sup> "Where was the United Nations when the United States and Britain waged war on Iraq and killed Iraqi children, elderly men and women?" the statement said. "As to its work in helping Iraq, all it is doing is paying monthly salaries to its employees from our oil." Two days later, Lebanese LBC Television reported that Jaysh Muhammad, which may be the same group, had claimed responsibility. In an audio taped statement the station received, members of the group's

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<sup>211</sup> Human Rights Watch interview with Layla al-Mulla, Amman, Jordan, February 13, 2005.

<sup>212</sup> "Colleagues Killed in Baghdad Example of UN Family 'At Its Most Committed and Most Courageous', Says Secretary-General to Memorial Service," U.N. Press Release, September 19, 2003.

<sup>213</sup> "Shadowy Group Claims Baghdad UN Bombing, Vows More Attacks," *Agence France-Presse*, August 21, 2004, and Dexter Filkins, "Inquiry in U.N. Bombing Focuses On Possible Ties to Iraqi Guards," *New York Times*, August 22, 2004.

`Abdullah Bin-Iyad Brigade said they had bombed the United Nations as well as shelled the Presidential Palace, occupied by the Multi-National Force, numerous times.<sup>214</sup>

In May 2004, a reporter for the Institute for War and Peace Reporting (IWPR) interviewed a man “credibly claiming” to be a spokesman for Jaysh Muhammad. When asked about his position regarding the bombing of the United Nations, the man replied, “There is no real United Nations.... It is an organization completely controlled by the United States and its resolutions always serve U.S. interests.”<sup>215</sup> On August 25, 2004, the London-based *al-Hayat* newspaper reported a statement by the Abu-Hafs al-Masri Brigades, a group affiliated with al-Qaeda that claimed responsibility for the bombing as “a lesson to the United States.” The U.N. headquarters was working “in collaboration with the criminal Saddam Hussein, the main U.N. center for starving the Iraqi people for twelve years,” the statement said.<sup>216</sup>

In February 2004, Coalition Provisional Authority officials and the U.S. military said they had obtained intelligence and evidence that linked al-Qaeda and Abu Mus`ab al-Zarqawi to the U.N. bombing, but they did not provide information to support their claim.<sup>217</sup> The U.S. State Department later accused al-Zarqawi’s Jama`at al-Tawhid wal-Jihad for the attack, again without providing evidence.<sup>218</sup> Finally, on January 15, 2005, the Iraqi authorities arrested Sami Muhammad Ali Said al-Jaaf, also known as Abu Omar al-Kurdi, who they claimed was a top lieutenant in al-Qaeda. According to an Iraqi government statement, al-Jaaf confessed to preparing thirty-two car bombs, including the car used in the U.N. attack.<sup>219</sup>

One month after the U.N. bombing, on September 22, 2003, another bomb exploded in a parking lot approximately fifty meters from the Canal Hotel gate, killing a U.N. security guard and two Iraqi policemen. By November, the U.N.’s international staff had withdrawn from Baghdad.

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<sup>214</sup> “Iraq: ‘Muhammad Army’ Group Says It Bombed UN Headquarters,” *BBC Monitoring Middle East*, Report by Lebanese LBC Sat TV, August 23, 2003.

<sup>215</sup> Ali Kais al-Rubai, “Islamists Pledge Continued War on Coalition,” *IWPR*, May 14, 2004.

<sup>216</sup> “Statement Said From al-Qa’idah Claims Responsibility for UN HQ Attack in Iraq,” *BBC Monitoring Middle East*, Muhammad Salah, “Al-Qi’diah Claims Responsibility for Blowing Up UN Headquarters in Baghdad,” *al-Yat*, August 25, 2003.

<sup>217</sup> Coalition Provisional Authority Briefing With Daniel Senor and Brigadier General Mark Kimmitt, Baghdad, Iraq, February 12, 2004.

<sup>218</sup> Foreign Terrorist Organization: Designation of Jama’at al-Tawhid wa’al-Jihad and Aliases,” U.S. Department of State press statement, October 15, 2004. (See <http://www.state.gov/r/pa/prs/ps/2004/37130.htm>, accessed March 9, 2005.)

<sup>219</sup> Bassem Mroue, “Iraq Forces Arrest Top al-Qaida Lieutenant,” *Associated Press*, January 24, 2005.

The attacks have greatly limited the United Nation's ability to work. The U.N. Assistance Mission for Iraq (UNAMI), established by Security Council Resolution 1500 in August 2003, moved to neighboring Jordan. The international staff that returned to Baghdad was restricted to the U.S.-protected Green Zone. And the Baghdad office was burdened by the exorbitant costs of security and logistics. Of 256 staff in Baghdad in February 2005, more than 200 were security.

Insurgents have also targeted the International Committee of the Red Cross, which has been in Iraq since the start of the Iran-Iraq war in 1980. Around 11:00 a.m. on July 22, 2003, gunmen shot and killed ICRC communications technician Nadisha Yasassri Runmuthu just north of al-Hilla and seriously wounded his Iraqi driver, Mazin Hamid Rashid.<sup>220</sup> On January 13, 2005, an ICRC driver went missing near Abu Ghraib, and his body was found the following day. The unnamed victim was an Iraqi national in his forties who had four children, the ICRC said.<sup>221</sup>

On the morning of October 27, 2003, a vehicle with explosives detonated at the ICRC headquarters in Baghdad, killing twelve, including two local ICRC staff, Zuhair `Abdullah Ahmad al-Shaikhli and Dekran Gregor Dekran Hagopian.<sup>222</sup> An ICRC driver was present at the headquarters during the attack. He told Human Rights Watch what he saw:

We were sitting in the ICRC building and were outside the reception. I saw how the car bomb entered. You know what happens. I was surprised that a big vehicle could get so close. One guy named Omar was at the reception. He shot at the car. Then it exploded. I saw all the body parts on the wall. I was outside the building. Eight guys in the reception were killed... The bodies were all over. It was terrible, very awful. You can imagine if you see a body covered in blood and some parts are stuck on the wall and the ground is covered in blood.<sup>223</sup>

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<sup>220</sup> "Iraq: One ICRC Staff Member Killed and One Wounded," ICRC press release, July 22, 2003, and "Nadisha: "Not a Victim of War—a Victim of Murder," ICRC press release, July 30, 2003.

<sup>221</sup> "Iraq: ICRC Staff Member Killed," ICRC press release, July 15, 2005.

<sup>222</sup> Baltasar Staehelin, "Iraq: Indiscriminate Violence Increases Civilian Distress," ICRC press article, October 27, 2004. (See [www.icrc.org/Web/Eng/siteeng0.nsf/iwpList74/927D51C2698B002AC1256F390047EB87](http://www.icrc.org/Web/Eng/siteeng0.nsf/iwpList74/927D51C2698B002AC1256F390047EB87), accessed June 9, 2005.) The article was first published in *Al-Hayat* newspaper on October 27, 2004.

<sup>223</sup> Human Rights Watch interview with Ahmad, full name withheld, Sulaimaniyya, Iraq, February 3, 2005.

The bombing severely affected the ICRC's work, forcing it to reduce its international staff, which made up about thirty of the organization's 600 employees in Iraq.<sup>224</sup> "In view of the direct attacks on the ICRC in 2003 and of the general security situation in Iraq, the organization was forced to adapt to an exceptional *modus operandi* there," the ICRC said. The organization maintained a presence of only Iraqi staff, supported by a team of foreign staffers operating out of Kurdish-controlled northern Iraq and Jordan.<sup>225</sup>

The attack against an established independent organization like the ICRC, which had provided services in Iraq for the past twenty-three years, forced other humanitarian organizations to question whether they could operate safely in Iraq. Many took the bombing as a message, even though no one claimed responsibility for the attack, that all organizations providing assistance were susceptible to attack.

"This and earlier attacks seriously put in doubt the very possibility of providing independent humanitarian aid in Iraq," said the organization Doctors Without Borders/Médecins Sans Frontières (MSF). The statement continued, "deliberately targeting civilians and independent aid agencies is a war crime. The perpetrators of this attack on the ICRC, an organization with a long history of providing humanitarian assistance to Iraqis, confront us with the question whether all aid organizations could be targets. The attack was an assault on the very heart of humanitarianism."<sup>226</sup>

Since the ICRC attack, insurgent groups have threatened, attacked, abducted and killed staff members of various humanitarian organizations. While the most publicized cases are of foreigners, most notably the CARE country director Margaret Hassan (see below), the vast majority of victims have been Iraqi employees.

Human Rights Watch spoke with three Iraqi staff of international organizations who fled to other countries after receiving threats from armed groups, either in writing or in person. Each of these people knew colleagues and friends who had also fled after receiving a threat. In some cases, the threats were criminal rather than political, because gangs apparently believe that Iraqis working for foreign organizations can afford to pay a

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<sup>224</sup> "Red Cross to Cut Iraq Staff," *BBC News*, October 29, 2003. (See [http://news.bbc.co.uk/1/hi/world/middle\\_east/3224723.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3224723.stm), accessed March 4, 2005.)

<sup>225</sup> Iraq: ICRC Operations in 2004, ICRC operational update, December 31, 2004. Available at <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/693L9H?OpenDocument>, as of June 9, 2005.

<sup>226</sup> "Iraq: Independent Humanitarian Aid Under Attack" Médecins Sans Frontiers statement, November 10, 2003. Available at [http://www.doctorswithoutborders.org/publications/other/iraq\\_11-10-2003.shtml](http://www.doctorswithoutborders.org/publications/other/iraq_11-10-2003.shtml), as of March 4, 2005.



ransom. The family of one United Nations employee, for example, received a note that said, “give us \$5,000 or we will kill all your sons and [your] daughter.”<sup>227</sup>

But in some cases, the threats were clearly political and, when unheeded, resulted in the murder of a humanitarian worker. Muhammad Hushyar Salim Ahmad Dizayi, aged thirty-four and single, for example, was Mosul head of the humanitarian aid organization, World Vision, a U.S.-based Christian relief and development organization that was working on school rehabilitation.

Unknown individuals in the city warned him to quit his job, his family told Human Rights Watch, but Dizayi decided to continue working with the organization. On September 29, 2004, unknown gunmen shot and killed him while he sat in a Mosul café.

According to Dizayi’s father, who was in Arbil at the time of the murder, a witness told him that two cars drove up and shot his only son in a café near the university. He went to the Mosul hospital and police the next day, but found no officials willing to help. “No one was at the hospital. I even went to the police,” he said. “They said we cannot come with you because we are afraid of the terrorists. They said they will attack you again if you come to talk with us about this.” At the hospital there was only one cleaner, who said, “Don’t cry or shout because the terrorists will come again.”<sup>228</sup>



On September 29, 2004, unknown gunmen shot and killed Muhammad Hushyar Dizayi, Mosul head of the aid organization World Vision, while he sat in a Mosul café. © 2005 Human Rights Watch

Another targeted killing occurred on November 3, 2004, when gunmen shot and killed an employee of Caritas Iraq, a Roman Catholic church-based organization that helped underprivileged families with medicine, social counseling and food.<sup>229</sup> The victim was

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<sup>227</sup> Human Rights Watch interview with U.N. employee, Amman, Jordan, February 13, 2005.

<sup>228</sup> Human Rights Watch interview with Hushyar Salim Ahmad Pasha Dizayee, Arbil, Iraq, February 6, 2005.

<sup>229</sup> The killing of ‘Ala’ Andraous was not the first violence Caritas had directly experienced in Iraq. One year before, on November 12, 2003, a suicide bomb struck Italian police headquarters in al-Nasiriyya, killing eighteen Italians and nine Iraqis, and wounding more than 105. The bomb damaged the Caritas Iraq office, which lay a few hundred meters away, and seriously wounded the director of its Well Baby Center. According to Caritas, “the force of the blast blew out windows,” and twelve staff members were injured. “This attack happened in a quiet residential area, and it has caused utter devastation,” the director of Caritas Iraq said. (John F. Burns, “At Least 26 Killed in a Bombing of an Italian Compound in Iraq,” *New York Times*, February 13, 2003, “Death Toll Rises to 27 at Italian Base Bombing in Southern Iraq,” *Agence France-Presse*, November 13,

`Ala' Andraus, director of the organization's Baby Well Center in Baghdad's al-Dora neighborhood. A pupil at the al-Batul secondary school for girls in the Mekanik section of al-Dora, who knew Andraus because he had given food to a poor family in her building, told Human Rights Watch:

We were studying in the courtyard when we heard the screeching of tires, the crashing of the fence and the confusion of shooting. We were about to go inside because we thought the school was under attack—the school had been threatened before. We had received messages that Christian girls must wear veils. One of the cars came into the school yard, knocking down part of the wall. The other car just shot and sped away. The police guarding the school shot back.

The first car had a driver and a guy named `Ala'. His wife and child were in the back. The driver died. `Ala' was injured, and he died that night. From upstairs through the window I saw them taking the bodies out of the car. The driver was dead, and `Ala' had been hit in the jaw, and it was blown apart. His wife had fainted from the shock.<sup>230</sup>

Caritas was forced to close the Baby Well Center in al-Dora, which had treated malnourished children. "There was an immediate impact. There was tension—fear among the staff. They were all shocked," Sebastian Deschamps, the Caritas Desk Officer for the Middle East, told Human Rights Watch. "When one of your colleagues is shot dead, it's traumatic."<sup>231</sup>

By April 2004, insurgents launched a spate of abductions of foreigners working in Iraq, including some humanitarian workers. On September 7, armed men abducted Simona Pari and Simona Torretta from the Italian organization Un Ponte per Baghdad ("Bridge to Baghdad"), as well as two Iraqi staff, Dr. Ra`d al-`Ali and Mahnaz Bassam. They released them unharmed three weeks later in circumstances that remain unclear, and it is possible their abduction was criminally motivated rather than political.<sup>232</sup>

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2003, and "Caritas Iraq Workers Injured in Nasiriya Suicide Bombing, Caritas press release, November 13, 2003.)

<sup>230</sup> Human Rights Watch interview, 'Ain Kawa, Iraq, January 29, 2005.

<sup>231</sup> Human Rights Watch telephone interview with Sebastian Deschamps, February 10, 2005.

<sup>232</sup> Richard Owen, "Once They Knew We Weren't Spies They Treat Us Well, Say Italian Aid Workers," *The Times*, September 30, 2004, and "Italian Hostages Freed in Iraq: Al-Jazeera," *Agence France-Presse*, September 28, 2004.

The case that generated the most international attention was the abduction and killing of CARE country director Margaret Hassan, who had married an Iraqi man, become an Iraqi citizen and lived in Iraq providing humanitarian assistance for twenty-five years. CARE had been active in Iraq for the previous fourteen years, with Hassan as the organization's local director since 1996. She was among the very few expatriate humanitarian workers who stayed in Baghdad throughout the 2003 U.S.-led invasion.

According to CARE, armed men abducted Hassan in Baghdad at 7:30 a.m. on October 19, 2004, as she was being driven to work. A video later broadcast on al-Jazeera showed a terrified Hassan calling for the withdrawal of British troops and the release of female prisoners in Iraq. "Please help me. Please, the British people, ask Tony Blair to take the troops out of Iraq, and not to bring them to Baghdad. That's why people like Mr. Bigley and myself are being caught, and maybe we will die like Mr. Bigley. Please, please, I beg you," she said, referring to Kenneth Bigley, a British engineer who had been beheaded on October 8.<sup>233</sup>

Unknown assailants in Baghdad abducted and killed Margaret Hassan, the Iraq country director for CARE, in October-November 2004. Hassan had lived in Iraq providing humanitarian assistance for twenty-five years and was among the few expatriate humanitarian workers who stayed in Baghdad throughout the 2003 U.S.-led invasion. Photo courtesy of CARE



On November 5, al-Qaeda in Iraq issued a statement calling for Hassan's release, "unless there is proof of her being an agent." If her captors "hand over this hostage to us we would release her immediately unless it is proven that she plotted against Muslims," the statement said.<sup>234</sup>

On November 16, CARE announced that they believed Hassan was dead, although no body had been found. "It is with profound sadness that we have learnt of the existence

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<sup>233</sup> Kim Sengupta, "Harrowing Footage Shows Hassan Pleading for Her Life," *The Independent*, October 23, 2004.

<sup>234</sup> Kim Sengupta, "Al-Zarqawi Groups Calls for Irish Hostage to Be Set Free," *Irish Independent*, November 6, 2004, and Adam Nathan and Tom Coghlan, "Terror Group 'Urges Release' of British Hostage," *Sunday Times*, November 7, 2004.

of a video in which it appears that our colleague Margaret Hassan has been killed,” a short statement said.<sup>235</sup>

In May 2005, Iraqi and U.S. forces said they had arrested eleven men suspected of involvement in Hassan’s death. Five of the men admitted complicity in the murder, the Iraqi police said.<sup>236</sup>

Hassan’s killing sent further shockwaves through the humanitarian community. Despite regular attacks on humanitarian workers since summer 2003, humanitarian organizations active in Iraq had assumed Hassan was safe due to her long-standing family and professional ties to the country. The murder showed that no one, even a woman with deep ties to Iraq, was beyond reach.

CARE announced the closure of its Iraqi operations on October 28, 2003.<sup>237</sup> “It’s sad to close such an operation that had been there for so long and had helped so many people,” said Alia Khalifa, the program support coordinator for CARE Iraq, now based in Amman. “All our activities had to be stopped, and it was going directly to the people.”<sup>238</sup>

Other international humanitarian organizations followed suit. On November 9, the International Rescue Committee (IRC), which had been in Iraq for eighteen months working on water systems, sanitation and health facilities, vaccinations and rebuilding schools, announced it was phasing its Iraq programs out by the end of the year. “Regretfully, we had to recognize the reality that due to security constraints, we are less and less able to address Iraq’s needs,” said IRC’s director for the Middle East and Asia, Mark Bartolini. “The deteriorating security conditions reveal a trend toward attacks against Iraqi civilians who associate themselves with international agencies, as well as against the international staff of those organizations.”<sup>239</sup>

That same month, World Vision, which had lost its director in Mosul six weeks before, announced it too was ending operations in Iraq. In Iraq for eighteen months improving

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<sup>235</sup> “CARE Profoundly Saddened by the Apparent Death of Mrs. Margaret Hassan,” CARE press release, November 16, 2004.

<sup>236</sup> “Iraq Raids Seize Men Linked to British Woman’s Death,” *Reuters*, May 1, 2005, and Anne Penketh, “Five ‘Confess’ to Murder of Aid Worker,” *The Independent*, May 2, 2005.

<sup>237</sup> “CARE Closes Operations in Iraq,” CARE press release, October 28, 2004.

<sup>238</sup> Human Rights Watch interview with Alia Khalifa, Amman, Jordan, February 14, 2005.

<sup>239</sup> “IRC Programs in Iraq to Conclude at Year’s End,” International Rescue Committee press release, November 9, 2004.

schools, hospitals, clinics and water supplies, World Vision said it was too difficult to maintain security. “We have realized that you can’t have twenty-four hour security guards, and even now humanitarian agencies like ours, like CARE—even the Red Cross with its studied neutrality for 150 years—are being targeted,” said Tim Costello, chief executive of World Vision Australia.<sup>240</sup>

## IX. Attacks on Media

Insurgent groups have attacked journalists with bombs, abductions, executions and targeted killings. The vast majority of victims are Iraqis working as local journalists or as reporters, drivers, cameramen and translators for international media. Foreign journalists have also lost their lives. Insurgents have sought to justify some of these attacks on the grounds that the journalists were collaborating with foreign forces as informants or spies, or that all foreigners in Iraq are legitimate targets.

According to the Committee to Protect Journalists, in 2004 and the first five months of 2005, insurgent groups had abducted thirty journalists.<sup>241</sup> As of June 12, 2005, the groups had released twenty-eight of these journalists and killed two (Enzo Baldoni and Ra’ida Wazzan).<sup>242</sup>

According to Reporters Sans Frontières, as of May 2005, twenty-nine journalists and media assistants (twenty-three men and six women) had been kidnapped since the war began, six of them Iraqis. As of August 2005, insurgents had released twenty-five of these people unharmed and executed four others (Enzo Baldoni, Ra’ida Wazzan, Hussam Hilal Sarsam and Ahmad Jabbar Hashim)<sup>243</sup> Insurgent groups killed additional journalists in armed attacks.

The precarious situation faced by journalists kidnapped by insurgents is evident from an incident in al-Falluja on October 24, 2004, when unidentified armed men detained an Iraqi translator and French freelance photographer. According to the translator, who spoke with Human Rights Watch but wished to remain anonymous, five armed men

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<sup>240</sup> “Major Aid Organization Quits Iraq,” *BBC News*, November 19, 2004. ([http://news.bbc.co.uk/1/hi/world/middle\\_east/4025171.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4025171.stm), accessed March 5, 2005.)

<sup>241</sup> “Journalists in Danger: Facts on Iraq,” Committee to Protect Journalists, available at [http://www.cpj.org/Briefings/2003/gulf03/iraq\\_stats.html](http://www.cpj.org/Briefings/2003/gulf03/iraq_stats.html), as of August 17, 2005.

<sup>242</sup> “Abductions of Journalists in Iraq in 2004 and 2005,” Committee to Protect Journalists, available at [http://www.cpj.org/Briefings/2003/gulf03/iraq\\_abducted.html](http://www.cpj.org/Briefings/2003/gulf03/iraq_abducted.html), as of August 17, 2005.

<sup>243</sup> The War in Iraq: The Mostly Deadly One for the Media Since Vietnam, Reporters Sans Frontières, May 3, 2005, available at [www.rsf.org/IMG/pdf/Etude\\_Irak\\_Eng\\_PDF.pdf](http://www.rsf.org/IMG/pdf/Etude_Irak_Eng_PDF.pdf), as of August 17, 2005.

held them for five to six hours at a cement factory in the town's industrial zone. "We don't usually kill people who haven't done anything," he said his captors told him. "We only deal with people who work with the Americans or the Iraqi National Guard." The armed men, who did not identify themselves, said they would hand the two journalists over to the "Consultative Council of the Mujahadin," headed by Abu Ahmad, who also ran Muhammad's Army. Instead they released them unharmed.<sup>244</sup>

Other abducted journalists were not so lucky. On May 29, 2004, gunmen in Baghdad abducted and killed two staff members of the Iraqi daily *al-Sabah al-Jadid* ("The New Morning"). According to the paper's editor, Isma'il Zayir, a group of men arrived at his home in a police car and two civilian cars, asking him to come to the police station for questioning about a crime. He went inside to change his clothes and, when he returned, his driver and bodyguard, Samia `Abd al-Jabbar and Mahmud Da'wud, were gone. Police found the bodies of both men later that day in another part of Baghdad. Zayir had previously been editor of *al-Sabah* ("The Morning"), a newspaper established with U.S. government funds.<sup>245</sup>

On August 20, 2004, the Italian Enzo Baldoni, a freelance writer working for *Diario* news magazine, went missing as he was driving to the southern city of al-Najaf, where U.S. forces were battling Mahdi Army forces. In a video broadcast August 24 on *al-Jazeera*, the Islamic Army in Iraq said they could not guarantee Baldoni's safety if Italy did not withdraw its 3,000 troops from Iraq within forty-eight hours.<sup>246</sup> Two days later, *al-Jazeera* reported that it had received two photographs that showed Baldoni dead, saying it did not air the images out of respect for his family.<sup>247</sup>

On February 20, 2005, masked gunmen in Mosul abducted Ra'ida Muhammad Wazzan, aged thirty-five, a news presenter for the Iraqi state television al-`Iraqiya, together with her ten-year-old son. The abductors released her son on February 23 but, two days after that, Wazzan's body was found on a Mosul street with multiple gunshot wounds to the

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<sup>244</sup> Human Rights Watch interview with anonymous translator, Arbil, Iraq, January 26, 2005.

<sup>245</sup> "Iraqi Editor Says Driver, Guard Killed," *Associated Press*, May 30, 2004, and "Media Workers Killed in 2004," Committee to Protect Journalists ([http://www.cpj.org/killed/killed\\_media\\_wrks\\_04.html](http://www.cpj.org/killed/killed_media_wrks_04.html), accessed March 5, 2005).

<sup>246</sup> "Italian Journalist Seized in Iraq," *al-Jazeera.net*, August 26, 2004, <http://english.aljazeera.net/NR/exeres/ECA5FF8D-E659-4586-9BCD-6C492EECEB23.htm>, accessed March 6, 2005.

<sup>247</sup> "Group Kills Italian Journalist in Iraq," *al-Jazeera.net*, August 28, 2004, <http://english.aljazeera.net/NR/exeres/BEED6CD4-AE97-400F-8B34-40A225A88B81.htm>, accessed March 6, 2005. According to an article in Iraq's al-Zawra newspaper, two brigades are believed responsible for Baldoni's death: Khalid bin al-Walid Brigades and the Iraq's Martyrs Brigade. (See Samir Haddad and Mazin Ghazi, "Who Kills Hostages in Iraq," *al-Zawra*, September 19, 2004.)

head. According to her husband, insurgents had threatened Wazzan with death several times, demanding that she quit her job. The week before her abduction, the al-`Iraqiya station was struck by mortars, wounding three technicians. According to press reports, al-Qaeda in Iraq claimed responsibility for the mortar attack, but it is not clear who killed Wazzan.<sup>248</sup>

In some cases, insurgent groups have killed Iraqi journalists on the street. On October 14, 2004, gunmen in a car shot and killed Dina Muhammad Hassan, aged thirty-eight, a reporter for *al-Hurriya* Television. According to a colleague who was with her at the time, three men in a blue Oldsmobile drove by and opened fire as Hassan and he waited to be picked up for work outside Hassan's Baghdad home. "Collaborator! Collaborator!" they yelled as they shot. *Al-Hurriya* is the station of the Patriotic Union of Kurdistan, one of the two main Kurdish political parties, and the party of Iraq's current president Jalal Talabani. According to colleagues, Hassan had received three letters warning her to quit her job.<sup>249</sup>

The next day, October 15, gunmen in Mosul killed a twenty-two-year-old Iraqi photographer named Karam Hussain, who worked for the European Press Agency and the Italian ANSA. According to Reporters Sans Frontières, four masked gunmen shot him outside his home.<sup>250</sup>

On October 30, 2004, a car bomb exploded at the Baghdad bureau of *al-`Arabiya*, a Dubai-based twenty-four-hour television news channel, killing seven persons, including five staff members: `Ali `Adnan, a security guard, Hassan Alwan, an engineer, Ramziyya Mushi and Alahin Hussain, kitchen staff, and Nabil Hussein, a gardener. According to *al-`Arabiya*, fourteen other employees, including five journalists, were hurt. Two other Saudi-owned news stations also used the office, the satellite channel *al-Akbbariya* and *al-`Arabiya's* sister channel, Middle East Broadcasting (MBC).

In a statement on the Internet, the group Thawrat al-`Ishrin Brigades (1920 Revolution Brigades) at first claimed responsibility. However, in a video later broadcast by *al-*

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<sup>248</sup> Patrick Quinn, "Insurgents Blow Up Oil Pipeline in Iraq," *Associated Press*, February 26, 2005, "Iraqi Female TV Reporter Abducted in Mosul," *Reuters*, February 21, 2005, and "Iraq Journalist Found Dead Five Days After She Was Kidnapped," Reporters Without Borders, February 26, 2004. ([http://www.rsf.org/article.php3?id\\_article=12680](http://www.rsf.org/article.php3?id_article=12680), accessed March 5, 2005).

<sup>249</sup> Normitsu Onishi, "How Many Iraqis Are Dying? By One Count 208 in a Week," *New York Times*, October 19, 2004, and "Gunmen Killed Iraqi Woman Journalist in Baghdad," *Reuters*, October 14, 2004.

<sup>250</sup> "Iraqi Photographer Shot Dead in Iraq," *Agence France-Presse*, October 16, 2004, and "ANSA Photographer Killed in Iraq," ANSA, October 15, 2004, "Two Iraqi Journalists Gunned Down Outside Their Homes in Separate Shootings," *Reporters Without Borders*, October 15, 2004.

*Arabiya*, four masked gunmen from the group denied they were behind the attack.<sup>251</sup> On October 31, a previously unknown group called Sarayya al-Shuhada' al-Jihadiyya fi al-`Iraq (Jihadist Martyrs Brigade in Iraq) said in an Internet statement that it had conducted the attack for the station's "cooperation with the Americans and their allies." The group said it would "punish those who work with these news agencies and channels one after the other or we will kidnap them and slaughter them like sheep if they side with the infidel American occupiers."<sup>252</sup>

Al-`Arabiya's general manager, the prominent Saudi journalist `Abd al-Rahman al-Rashid, has spoken publicly against insurgent attacks on civilians. "We cannot tolerate in our midst those who abduct journalists, murder civilians, explode buses," he wrote in the London-based newspaper *Al-Sharq Al-Awsat*. "We cannot accept them as related to us, whatever the sufferings they claim to justify their criminal deeds. These are the people who have smeared Islam and stained its image."<sup>253</sup>

On June 18, 2005, gunmen shot and seriously wounded *al-`Arabiya's* Baghdad correspondent, Jawad Kazim, aged thirty-seven. Gunmen tried to abduct Kazim as he left a restaurant in Baghdad, his colleagues said.<sup>254</sup> According to the station, a group calling itself Jund al-Sahabah fi al-`Iraq (Prophet's Companions Army in Iraq) claimed responsibility for the attack because of *al-`Arabiya's* editorial policy and Kazim's alleged anti-Sunni bent.<sup>255</sup> According to Reuters, the group that claimed responsibility called itself Jama`at Jund al-Sahaba (Soldiers of the Prophet's Companions). "We claim responsibility for the assassination attempt of the evil Shi'ite Jawad Kadhim," a statement posted on a website often used by militants reportedly said. "*Al-`Arabiya* channel has harmed Sunnis in Iraq and is the tongue of Americans and dirty Shi'ites in [Iraqi Prime Minister Ibrahim] Ja`fari's government."<sup>256</sup>

Many of the Iraqi journalists and support staff who have died in attacks were working for international media as drivers and translators, but also as reporters and fact-finders

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<sup>251</sup> Charles Clover, Steve Negus, and Dhiya Rasan, "Arab Media Under Pressure After Iraq Bomb," *Financial Times*, November 1, 2004, and "Arabiya TV Denies Militant Accusation of U.S. Bias," *Reuters*, October 31, 2004.

<sup>252</sup> Maamoun Youssef, "New Militant Group Claims Responsibility For Deadly Al-Arabiya Car Bombing in Baghdad," *Associated Press*, October 31, 2004.

<sup>253</sup> Abdel Rahman al-Rashed, "A Wake Up Call: Almost All Terrorists are Muslims,"

<sup>254</sup> "Wounded al-Arabiya Reporter Moved From Iraq to Jordan," *Agence France-Presse*, June 21, 2005.

<sup>255</sup> *Al-Arabiya* Television, June 20, 2005, as translated by the United Nations Assistance Mission for Iraq, Arabic and Regional Media Review, June 21, 2005, and *al-Zaman*, June 19, 2005, as translated by the BBC, Iraqi Press Highlights 19 June 2005, June 20, 2005.

<sup>256</sup> "Iraqi Militants Say They Tried to Kill Journalist," *Reuters*, June 20, 2005.



who could more easily navigate Iraq's dangerous terrain. On January 27, 2004, for example, gunmen opened fire on a two-car convoy of CNN, killing an Iraqi driver and a translator/producer. According to CNN, the vehicles were headed north toward Baghdad from al-Hilla when a rust-colored Opel approached from behind. A single gunman opened fire on one of the vehicles from the sunroof with an AK-47 assault rifle. Yassir Khatab, the driver, aged twenty-five, and Duraid `Issa Muhammad, a twenty-seven-year-old father of two, died of multiple gunshot wounds. A bullet grazed the head of CNN cameraman Scott McWhinnie.<sup>257</sup>

On March 24, 2004, gunmen fatally shot an Iraqi translator and fixer working for *Time Magazine*. Omar Hashim Kamal, aged forty-eight, was shot four times as he drove to work, *Time* said. He died two days later, leaving a wife and four-year-old son.<sup>258</sup>

Insurgent groups have also targeted foreign journalists in Iraq, often using them to pressure their government to leave Iraq. The three most recent abduction cases have all ended in the journalists' release after lengthy periods of illegal detention. On March 4, 2005, insurgents freed the Italian journalist Giuliana Sgrena from *Il Manifesto* after one month in captivity. Just after her release, U.S. soldiers near Baghdad Airport opened fire on her car, killing an Italian intelligence agent who had negotiated her release. The U.S. military said the car failed to stop as it approached a checkpoint. Sgrena disputed that account.<sup>259</sup>

A group called the Islamic Jihad Organization said it had kidnapped Sgrena and threatened to kill her if Italian forces did not leave Iraq. "We call upon our brothers in the Association of Muslim Scholars to be careful in their call to release the Italian POW," a statement posted on the Internet said. "We are still investigating the POW and the judicial committee in the organization will take its decision on that soon." The Association of Muslim Scholars had previously called for Sgrena's release, saying, "she was doing a humanitarian job in Iraq and has nothing to do with the occupation

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<sup>257</sup> "2 CNN Employees Killed in Attack," *CNN News*, <http://www.cnn.com/2004/WORLD/meast/01/27/sprj.nirq.cnn.casualties/>, accessed March 5, 2005, and "Journalists Remember Slain CNN Colleagues," *CNN News*, <http://www.cnn.com/2004/WORLD/meast/01/28/cnn.colleagues/>, accessed March 5, 2005.

<sup>258</sup> Romesh Ratnesar, "Omar Hashim Kamal," *Time Magazine*, April 5, 2004, <http://www.time.com/time/archive/preview/0,10987,993770,00.html>, accessed March 5, 2005.

<sup>259</sup> Angela Doland, "Ex-Hostage Disputes U.S. on Iraq Shooting," Associated Press, March 6, 2005, and Gabriele Polo, "La Vita e La Morte," *Il Manifesto*, March 5, 2005. See also Human Rights Watch statement, Iraq: Shooting of Italian Civilians by U.S. Forces, March 6, 2005, available at <http://www.hrw.org/campaigns/iraq/shooting/>.

forces.”<sup>260</sup> Other Iraqi organizations and media also had called on insurgents to release Sgrena, along with the French journalist Florence Aubenas, who was being held at the time (see below). In an appeal on February 7, *al-Jazeera* stated that, “kidnapping journalists while doing their job is considered a blatant violation of human rights.”<sup>261</sup>

On May 22, an armed group released three Romanian journalists and their Iraqi-American guide after nearly two months in captivity—the reporter Marie Jeanne Ion and cameraman Sorin Miscoci for Bucharest-based Prima TV, reporter Ovidiu Ohanesian for the daily *Romania Libera* and their guide Muhammad Monaf.<sup>262</sup> The four had gone missing in Baghdad on March 28. On April 23, a previously unknown group calling itself Mu`adh bin Jabal<sup>263</sup> claimed responsibility for the abduction in a video broadcast on al-Jazeera, in which they demanded that Romania pull its 800 troops out of Iraq.<sup>264</sup> Romania did not agree to withdraw its troops, but the group later said it had freed the hostages after an appeal by Romania’s Muslims and a prominent Saudi preacher. U.S. authorities in Iraq are reportedly holding the guide Monaf under suspicion that he participated in the abduction, and Romanian authorities have arrested an alleged accomplice, `Umar Hayssam.<sup>265</sup>



On June 11, unknown insurgents released the French journalist Florence Aubenas of the newspaper *Libération* and her Iraqi translator and guide Hussain Hanun al-Sa`di after 158 days in captivity.<sup>266</sup> The insurgents had abducted Aubenas, a veteran war reporter, and al-Sa`di, a

Hussain Hanun al-Sa`di, a translator and driver for *Libération*, holds his son during a news conference on July 16, 2005, in Paris. An insurgent group had released him and *Libération* journalist Florence Aubenas six days before, after holding them hostage for five months.

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<sup>260</sup> “Purported Kidnappers of Italian Journalist Issue Final Warning to Rome to Withdraw Troops From Iraq,” *Associated Press*, February 6, 2005.

<sup>261</sup> “Group Vows to Free Italian Journalist,” *al-Jazeera.net*, <http://english.aljazeera.net/NR/exeres/4705B7F9-AB22-448F-95B1-51E2D2E1FF0D.htm>, accessed March 5, 2005. For the full statement, see the II Manifesto website at <http://ilmanifesto.it/pag/sgrena/en/420dc1262b13d.html>, accessed March 5, 2005.

<sup>262</sup> Alison Mutler, “Freed Romanian Journalists Arrive Home,” *Associated Press*, May 23, 2005.

<sup>263</sup> Mu`adh bin Jabal was a friend of the Prophet Muhammad—one of a group of six who collected the Qur’an during the prophet’s lifetime.

<sup>264</sup> Alexandru Alexe, “Romania Hostages Said Victims of Bad Plans,” *Associated Press*, June 6, 2005.

<sup>265</sup> “Romanian Journalist, Held Hostage in Iraq, Plans to Sue Kidnappers,” *Associated Press*, June 11, 2005.

<sup>266</sup> “French, Iraqi hostages freed, 20 bodies found elsewhere,” *Agence France-Presse*, June 12, 2005. For more information and background on Aubenas and al-Sa`di, see the “For Florence and Hussein” website at [www.pourflorenceethussein.org/english/index.shtml](http://www.pourflorenceethussein.org/english/index.shtml), as of June 12, 2005.

colonel in the Iraqi Air Force until 1991, after they left the Melia Mansour Hotel in Baghdad on January 5, 2005. Aubenas was working on a story about Iraqis displaced by the latest U.S. offensive in al-Falluja.<sup>267</sup> On March 1, a released video showed Aubenas pleading for help. “My name is Florence Aubenas. I’m French. I’m a journalist with *Libération*,” she said, looking frail and distraught. “My health is very bad. I am very bad psychologically also.”<sup>268</sup> Upon her release, she told reporters that her conditions in captivity had been “severe.” Most of the time she was held in a basement wearing a blindfold and her wrists and ankles tied.<sup>269</sup> After her release, the three Romanian journalists released on May 22 said they had been held together with Aubenas, but Aubenas declined to comment on their claim.<sup>270</sup>

Some insurgent groups have conducted armed attacks against foreign journalists. On May 27, 2004, insurgents killed two freelance Japanese journalists, Shinsuke Hashida and Kotaro Ogawa, an uncle and nephew team, with their Iraqi translator, Muhammad Najmuddin, as they returned to Baghdad from the southern town of al-Samawa, where they had visited a Japanese military base. According to press reports, gunmen in al-Mahmudiyya opened fire on the car, which then crashed into a tree and caught fire.<sup>271</sup>

On May 7, 2004, gunmen shot and killed a leading Polish war correspondent, Waldemar Milewicz, and his Polish-Algerian colleague, Mounir Bouamrane, both from Polish state television. Gunmen opened fire on their car as they drove through al-Latifyya south of Baghdad. According to the driver, who survived, a car chased them down from behind and gunmen opened fire into the car. The journalists’ car spun around and stopped, but the attacking car turned and opened fire again.<sup>272</sup> “Suddenly we found ourselves under heavy machine-gun fire,” recalled Polish cameraman Jerzy Ernst, who was injured in the attack. “All of us crouched. The driver didn’t stop but the windows were shattered.” He continued, “Mounir and the driver jumped out of the car and were trying to pull out

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<sup>267</sup> “Joy Sweeps France as Journalist Returns Home From Captivity in Iraq,” *Agence France-Presse*, June 12, 2005.

<sup>268</sup> Michael Georgy, “French Hostage in Iraq Pleads for Help,” *Reuters*, March 1, 2005. The video can be viewed at [www.pourefflorenceethusseine.org/english/index.shtml](http://www.pourefflorenceethusseine.org/english/index.shtml), as of March 6, 2005.

<sup>269</sup> “Freed French Journalist Thanks Public, Media for Campaign of Support,” *Agence France-Presse*, June 12, 2005.

<sup>270</sup> Elaine Ganley, “Former Hostage Describes Endless Wait During 157 Days in Baghdad Cellar,” *Associated Press*, June 14, 2005, and “Romanian Secret Agents Helped Free French Hostage in Iraq: PM,” *Agence France-Presse*, June 14, 2005.

<sup>271</sup> “Third Body Found in Iraq Where Japanese Died,” *Reuters*, May 28, 2004, and “Kyodo Agency Details Attack on Japanese Journalists,” *BBC Monitoring Asia Pacific*, May 28, 2004., and “Two Japanese Journalists, Iraqi Translator Killed in Iraq: Hospital,” *Agence France-Presse*, May 28, 2004.

<sup>272</sup> “Algerian, Polish Journalists Killed in Iraq Drive-by Shooting,” *Agence France-Presse*, May 7, 2004.

Milewicz but then they started shooting again.”<sup>273</sup> The team was driving to a Polish military base south of Baghdad, Ernst said. At the time, Poland had about 2,400 troops in Iraq.

International humanitarian law protects from attack both civilian journalists and “war correspondents” who accompany a state’s armed forces, so long as they are not taking a direct part in hostilities.<sup>274</sup> Protocol I of the Geneva Conventions, which applies during international armed conflicts and occupations, states that journalists in areas of armed conflict “shall be considered as civilians.”<sup>275</sup> Likewise, journalists during internal armed conflicts are considered to be civilians as a matter of customary international humanitarian law.<sup>276</sup>

This protection extends to journalists who are embedded with an armed force. According to ICRC Commentary to Article 79 of Protocol I, “a journalist, who is undoubtedly a civilian, does not lose this status by entering an area of armed conflict on a professional mission, even if he is accompanying the armed forces or if he takes advantage of their logistic support.”<sup>277</sup> Journalists in war zones, embedded with a military force or on their own, are putting themselves in danger. Their accidental death as collateral damage in an attack on a military target is not a violation of international humanitarian law, unless the attacker made no effort to discriminate between combatants and civilians.

## **X. Attacks on Intellectuals and Professionals**

Since late 2003, various armed groups have targeted Iraq’s intellectual and professional class, including professors, doctors and lawyers. The goals are diverse. In some cases, abductions are criminally motivated, because professionals are believed to have more money to pay in ransom. But some killings appear politically motivated, either because the victim had expressed support for the U.S.-led invasion or criticism of the insurgency, or because the attackers believed the person held such views.

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<sup>273</sup> Monte Morin and Ela Kasprzycka, “Foreign Journalists Killed in Ambush South of Baghdad,” *Los Angeles Times*, May 8, 2004.

<sup>274</sup> See ICRC, Customary International Humanitarian Law, rule 34 (“Civilian journalists are not to be confused with ‘war correspondents’”. The latter are journalists who accompany the armed forces of a State without being members thereof.”).

<sup>275</sup> Protocol I, article 79.

<sup>276</sup> See ICRC, Customary International Humanitarian Law, rule 34.

<sup>277</sup> ICRC, Commentary on the Additional Protocols, p. 920.

Some Iraqi academics see the attacks as a way to destroy Iraq's intellectual elite. "The victims cover a wide spectrum of research interests, different politics and different religious convictions. The only common denominator is their excellence," said Sa'adun 'Issa, vice-chancellor of al-Nahrain University in Baghdad. "I think there's a plan to strip Iraq of its scientific backbone."<sup>278</sup>

"We think it's politically motivated," a senior Education Ministry official said. The attacks are a devastating blow—"not only because of the number killed, but because of their quality."<sup>279</sup>

The intimidation and killing of intellectuals and professionals impedes governance, complicates work for security forces and weakens the economy, according to Anthony H. Cordesman, an insurgency expert at the Center for Strategic and International Studies in Washington D.C. The pattern of attacks on professionals, he says, "exacerbates the feeling of insecurity to the point where people lose faith in the Iraqi government, Coalition, and political process."<sup>280</sup>

Precise figures are difficult to obtain, but studies suggest that doctors and academics are particularly at risk. According to a study by the Iraqi Ministry of Health concluded in April 2005, armed groups have abducted between 160 and 300 Iraqi doctors since April 2003, and killed more than twenty-five, although the study did not distinguish between criminal and politically motivated attacks. Nearly 1,000 doctors have fled the country, the study said, with an average of thirty more following each month.<sup>281</sup> To stem the outflow, the ministry broadcast a public service announcement on television in spring 2005, with a message that said: "Dear Citizens, please do not kill doctors—you may need them one day."<sup>282</sup> In May 2005, the Interior Ministry gave doctors the right to carry a weapon for self-defense.<sup>283</sup>

Professors at Iraq's once prestigious universities and technical colleges are also under attack. According to an April 2005 United Nations University report, assassins have

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<sup>278</sup> Ed Blanche, "Exodus From Terror," *The Middle East*, April 1, 2005.

<sup>279</sup> Ibid.

<sup>280</sup> Anthony H. Cordesman, "Iraq's Evolving Insurgency," Center for Strategic and International Studies, Updated as of May 19, 2005.

<sup>281</sup> Ali Rifat and Hala Jaber, "Kidnap Gangs Force Doctors to Flee Iraq," *The Times*, June 5, 2005.

<sup>282</sup> Deborah Amos, "Iraqi Seeks to Protect Medical Workers," aired on *National Public Radio*, June 13, 2005.

<sup>283</sup> Scott Peterson, "Iraq's Ministries Struggle to Serve," *Christian Science Monitor*, May 13, 2005. For another article about attacks on doctors, see Robin Shulman, "Violence Targets Iraqi Doctors Seen as Rich, Connected," *Washington Post*, September 12, 2004.

killed forty-eight academics since 2003, and many more teachers and professors brave daily threats.<sup>284</sup> According to the Iraqi Minister of Higher Education, as of June 2005, attackers had killed more than sixty professors since the beginning of the war, although he did not specify how they died. The highest percentage of those had scientific backgrounds, he said.<sup>285</sup>

One of the first victims was Falah Hussein, deputy dean of the college of sciences at al-Mustansiriya University in Baghdad, who unknown gunmen killed in May 2003. Next was the assassination by unknown gunmen of Dr. Muhammad al-Rawi, president of Baghdad University, that July.<sup>286</sup>

One of the more prominent cases was the killing of `Abd al-Latif al-Mayah, a human rights advocate and political science professor at al-Mustansiriya University. On January 19, 2004, eight masked gunmen stopped him as he drove to work. They pulled him to the street, the Iraqi police said, and shot him dead in front of his bodyguard and another university lecturer.<sup>287</sup>

On June 19, 2005, unknown gunmen shot and killed engineer Sattar Sabbar al-Khazraji, a professor at the Technology University in Baghdad. According to the Iraqi newspaper *al-Sharqiyah*, two men on a motorcycle shot al-Khazraji in front of his house in the western Baghdad area of al-Hurriyah al-Thaniyah.<sup>288</sup>

Most recently, in the last week of August, three more Baghdad academics died. According to *Azzaman*, an Iraqi daily newspaper, unknown gunmen killed Zaki al-Ani from al-Mustansiriya University's College of Arts, and Hashim `Abd al-Amir from the College of Education on August 27 near the university's main entrance. A third professor, Samir Yalda of the College of Economics and Administration had been kidnapped two days earlier, and his body was found the same day.<sup>289</sup>

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<sup>284</sup> United Nations University press release, "5/6ths of Iraq's Higher Learning Institutions Burnt, Looted, Wrecked; 48 Profs Slain; UNU Calls for World Help to Repair System," April 27, 2005.

<sup>285</sup> *Al-Mashriq*, June 18, 2005.

<sup>286</sup> Annia Ciezadlo, "Death to Those Who Dare to Speak Out," *Christian Science Monitor*, April 30, 2004.

<sup>287</sup> Jeffrey Gettleman, "Assassinations Tear into Iraq's Educated Class," *New York Times*, February 6, 2004.

<sup>288</sup> *Al-Sharqiyah*, June 19, 2005.

<sup>289</sup> Katherine Zoepf, "3 More Professors Are Killed in Iraq, as Flight of Academics Intensifies," *The Chronicle of Higher Education*, August 31, 2005.

The violence has hit other cities as well. In November 2003, unknown men reportedly assassinated Asa`ad al-Sharida, dean of the engineering college in Basra. Two months later, assailants stabbed to death Muhammad Qasim, a teacher in Basra's technical college.<sup>290</sup>

In Mosul on June 22, 2004, unknown assailants killed the dean of Mosul University's Law School, Laila `Abdullah Sa`ad, together with her husband Munir al-Khairu. According to the Iraqi police, the attackers slit both their throats.<sup>291</sup>

Hundreds of academics and professionals have been threatened with death and told to leave Iraq. According to the Association of University Teachers, 2,000 professors have left Iraq since 2003, joining the 10,000 professors the association says left the country in the twelve years after the Gulf War.<sup>292</sup>

"I was given one week," the director of the Institute of Radiotherapy and Nuclear Medicine in Baghdad told one journalist. "But I can't quit. If I step down, nobody would come and take my place."<sup>293</sup> Others have taken the threats to heart and fled the country, usually for Damascus or Amman.

"We are losing the brain power of our most brilliant doctors," said Dr. Sami Salman, director of the Special Care Hospital at Baghdad's Medical City complex. "You just can't replace them overnight."<sup>294</sup>

## **XI. Attacks on Women**

Some insurgent groups have targeted women who are politicians, civil servants, journalists, women's rights activists or who work as cleaners or translators for foreign governments or militaries. They have also attacked women for what they considered "immoral" or "un-Islamic" behavior, like dancing, socializing with men or not wearing a

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<sup>290</sup> Jeffrey Gettleman, "Assassinations Tear into Iraq's Educated Class," *New York Times*, February 6, 2004.

<sup>291</sup> "Head of Mosul Law Faculty and Her Husband Killed in Northern Iraq: Police," *Agence France-Presse*, June 22, 2004, and Peter Y. Hong and Barbara Demick, "South Korean Held in Iraq is Beheaded," *Los Angeles Times*, June 23, 2004.

<sup>292</sup> Howard LaFranchi, "Iraq Losing its Best and Brightest," *Christian Science Monitor*, September 21, 2004.

<sup>293</sup> Jeffrey Gettleman, "Assassinations Tear into Iraq's Educated Class," *New York Times*, February 6, 2004.

<sup>294</sup> Ahmed Mukhtar, "Where is This Going?" *Al-Ahram Weekly*, June 10-16, 2004, available at <http://weekly.ahram.org.eg/2004/694/re7.htm>, as of July 16, 2005.

*hijab*, the Islamic headscarf. And some groups have abducted and at times killed foreign women to pressure governments or humanitarian organizations into leaving Iraq.

Not all of these attacks are on account of gender. Many of these attacks appear to have been motivated primarily by the victim's perceived connection to the foreign military presence or the current Iraqi government, as described in the chapters in this report that cover those targeted groups. The attacks against women's rights activists and women who exhibited behavior deemed "immoral" or "un-Islamic," however, do seem motivated by the fact that the targets were women or were helping women.

In general, the violence and lack of security, as well as religious and cultural conservatism, are having a major impact on Iraqi women, who once enjoyed a prominent role in their country's public life. The danger of kidnappings and assaults keeps many professional women at home, and limits their participation in the country's evolving political institutions

According to a January 2005 report by Women for Women International, the violence is preventing Iraqi women from playing a role in civic life:

Women with Western dress and progressive ideas have been attacked. The abduction and murders of these prominent women have sent a ripple of fear through local communities. Though the press has covered the stories of high-profile foreign aid workers, Iraqi women have seen members of their own communities—pharmacists, lawyers, councilwomen—assassinated. The effect is chilling and threatens the participation of Iraq's most educated women.<sup>295</sup>

The report continues, "Fear of violence, abduction and rape have emptied the streets of women and caused disruptions to education as children are also increasingly kept at home. Growing numbers of women are also leaving the country."

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<sup>295</sup> Women for Women International, *Windows of Opportunity: The Pursuit of Gender Equality in Post-War Iraq*, January 2005. For a media account of the threats women receive, see Sahar al-Haideri and Wa'ad Ibraheem, "Insurgents Impose Curbs on Women," *Institute for War and Peace Reporting*, July 5, 2005.



The number of known attacks against women reflects only a fraction of the real figure. The majority of attacks remain unreported due to fear and social taboos, especially those involving crimes of sexual violence.<sup>296</sup>

Like many of the attacks on men documented in this report, there is a nexus between politics, religion and crime. Insurgent groups have not always claimed responsibility for attacks on women, so it is not always clear if a criminal or political group committed the attack. The abduction of women professionals is a common occurrence that often ends with a ransom being paid.<sup>297</sup>

At least four prominent women politicians and government officials have been targeted between March 2003 and July 2005—‘Aqila al-Hashimi, Salama al-Khafaji, Nasrin Barwari and Lamia Abid Khaduri al-Sagri (al-Hashimi and al-Sagri died)—although they were most likely attacked because of their political activity rather than gender (see chapter VI of this report, “Attacks on Government Officials and Politicians”). Attacks on lower-ranking women officials, however, seem to have been motivated by their work on behalf of women.



Iraqi Governing Council member Salama al-Khafaji in her Baghdad home on May 28, 2004. The day before, unidentified assailants ambushed her convoy south of Baghdad, killing her bodyguard and eldest son. “It’s the women who have suffered the most under this occupation,” she told a journalist. “And that’s why it’s women who want peace the most.”

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On November 20, 2004, insurgents in Baghdad shot and killed an adviser at the Ministry of Municipalities and Public Works and a women’s rights activist, Amal al-Ma’amalchi, together with her secretary, bodyguard and driver. According to press accounts, gunmen opened fire on Amal al-Ma’amalchi’s car as she went to work.<sup>298</sup> “An Opel car with four

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<sup>296</sup> Many women and girls do not report sexual violence because they fear doing so may provoke “honor” killings and social stigmatization. For others, the obstacles to filing and pursuing a police complaint or obtaining a forensic examination that would provide legal proof of sexual violence hamper them from receiving medical attention and pursuing justice. See Human Rights Watch report, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003.

<sup>297</sup> See Hala Jaber, “Rebels Kill Iraqi Women as ‘Betrayers’ of Islam,” *The Times (London)*, March 20, 2005. See also James Glanz, “Rings That Kidnap Iraqis Thrive on Big Threats and Bigger Profits,” *New York Times*, March 28, 2005. According to the article, up to 5,000 Iraqi men and women have been kidnapped in the last year and a half, mostly for money.

<sup>298</sup> Anthony Shadid, “Baghdad Suffers a Day of Attacks, Assassinations,” *Washington Post*, November 21, 2004, *BBC Monitoring Middle East*, Iraqi Press Highlights 21 November, 2004, *al-Dustur* Newspaper, “Woman

masked passengers on board attacked another white car which was driving ahead, and which had three or four passengers inside,” a witness told al-Jazeera.<sup>299</sup> Amal al-Ma’amalachi was co-founder of the Advisory Committee for Women’s Affairs in Iraq and the Independent Iraqi Women’s Assembly—an organization established after April 2003.<sup>300</sup>

Other female politicians and government employees have reported receiving threats on account of their work in defense of women’s rights. According to an Amnesty International report on women in Iraq, unidentified individuals threatened a female member of the Interim Governing Council, Dr. Raja Khuza’i, in early 2004 after she opposed amendments to the Personal Status Law (governing marriage, divorce, inheritance, and child custody), which would have replaced civil personal status laws with *Shari`a*, or Islamic law.<sup>301</sup> “There was a proposal, Resolution 137, which was against women’s rights, insisting that marriages and family law and whatever had to be under the syariah [shari`a],” Khuza’i told an interviewer. “I succeeded in having this resolution cancelled in February. After that I received so many death threats, telephone calls, letters, to me and to my family.”<sup>302</sup>

Yanar Muhammad, who founded the Organization of Women’s Freedom in Iraq, said she received death threats in early 2004 after she defended women’s rights on Iraqi television. “Stop speaking out for women’s rights, or we will kill you,” an e-mail signed by the Jaysh al-Sahaba (Army of the Prophet’s Companions) reportedly said. “They said, because of my psychologically disturbed ideas, they would have to kill me and crucify me,” Yanar Muhammad told the press. “It sounded to me like a serious warning.”<sup>303</sup>

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Civil Servant, Three Aides Assassinated in Baghdad,” *Agence France-Presse*, November 20, 2004, Babak Dehghanpisheh, Eve Conant and Rod Nordland, “Iraq’s Hidden War; Extremists Have Shot Women Activists in the Streets and Killed Them in Private,” *Newsweek*, March 7, 2005, and “Gunmen Kill Iraqi Government Official in Baghdad,” *Reuters*, November 20, 2004. The articles spelled the victim’s name different ways, including: Amal al-Damarji, Amal Abdel Hamid, Amal Mamalchi and Amal Abdel-Hamid al-Maamalji.

<sup>299</sup> *BBC Monitoring Middle East*, Al-Jazeera Television, “Gunmen Kill Iraqi Official, Three Policemen in Baghdad,” November 20 2004.

<sup>300</sup> Amnesty International, *Iraq: Decades of Suffering, Now Women Deserve Better*, February 22, 2005, and Aaron D. Pina, *Women in Iraq: Background and Issues for U.S. Policy*, Congressional Research Service, June 23, 2005.

<sup>301</sup> Amnesty International, *Iraq: Decades of Suffering, Now Women Deserve Better*, February 22, 2005.

<sup>302</sup> Anthony Paul, “Grandmother Lends Voice to Iraq’s Women” *Straights Times*, August 23, 2004. See also *BBC Monitoring Middle East*, Iraqi Press Highlights 29 February 2004, *Al-Dustur* Newspaper, and Iraqi Press Highlights 16 March 2004, *Al-Dustur* Newspaper.

<sup>303</sup> “Women’s Groups Under Threat in the New Iraq,” *IRIN News*, March 24, 2004. See [http://www.irinnews.org/report.asp?ReportID=40230&SelectRegion=Iraq\\_Crisis&SelectCountry=IRAQ](http://www.irinnews.org/report.asp?ReportID=40230&SelectRegion=Iraq_Crisis&SelectCountry=IRAQ), accessed March 28, 2005. See also Annia Ciezadlo, “After an Advocate’s Killing, Iraqi Women Try to Stay the Course,” *Christian Science Monitor*, April 1, 2004.

One woman who founded two arts and culture organizations in Baghdad said that she also received death threats by e-mail. "We will kill you all," the e-mail warned, signed "Zarqawi." She told Human Rights Watch: "The first day was terrible. I didn't tell my family because I was afraid they would force me to leave the country."<sup>304</sup>

According to Amnesty International's 2005 report on women in Iraq, several women's centers established with U.S. government funds had to reduce their activities after threats and attacks, although it is not clear if armed groups threatened them because of their activity with women or because they received funding from the United States. Amira Salih, manager of the Zainab al-Hawra' center in Karbala, which gave women classes in computers, catering and sewing, said she resigned after getting death threats.<sup>305</sup> On March 9, 2004, gunmen opened fire on a car carrying center staffers and killed two of the women who helped found the center, an Iraqi and an American, together with an American male press officer from the CPA. Fern Holland, a women's rights coordinator for the CPA who was the driving force behind the center, and her assistant Salwa Oumashi were driving with Bob Zangas from Karbala to Baghdad when armed gunmen attacked. "I pulled them out of the car with my hands," said the al-Hilla police chief, Brigadier Qaed al-Ma'muri, who knew Holland. "Fern had been driving," he said, "and most of the bullets targeted her. The man was shot in the head, but the bullets were fired 360 degrees around the car. Probably thirty or more."<sup>306</sup>

Armed groups have attacked women because of behavior deemed immoral or contrary to Islamic codes. On March 8, 2005, for example, unknown gunmen reportedly shot and killed three women as they stood on a street corner in Baghdad's Sadr City. According to Iraqi police, an unspecified religious movement had accused them of being prostitutes.<sup>307</sup>

According to *Newsweek* magazine, armed groups killed twenty women in Mosul and a dozen more in Baghdad between March 2003 and mid-January 2005. One example the article gives, confirmed by other press accounts, is the abduction and death of Zina al-Qushtaini, a divorced mother in her late thirties who ran a pharmacy in Baghdad and had many women activist friends. Gunmen burst into her pharmacy last year, abducting al-Qushtaini and her business partner Dr. Ziad Bahu. Their bodies appeared ten days

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<sup>304</sup> Human Rights Watch interview with woman, Sulaimaniyya, Iraq, February 2, 2005.

<sup>305</sup> Annia Ciezadlo, "After an Advocate's Killing, Iraqi Women Try to Stay the Course," *Christian Science Monitor*, April 1, 2004.

<sup>306</sup> Elizabeth Rubin, "Fern Holland's War," *New York Times Magazine*, September 19, 2004.

<sup>307</sup> "Iraqi Women Shot Dead in Baghdad," *BBC*, March 8, 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4329075.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4329075.stm), accessed August 17, 2005. See also Hussein Ali and Ali Marzook, "Baghdad Prostitutes Fall on Hard Times," Institute for War and Peace Reporting, Iraqi Crisis Report 92, November 29, 2004, [www.iwpr.net/index.pl?archive/irq/irq\\_92\\_8\\_eng.txt](http://www.iwpr.net/index.pl?archive/irq/irq_92_8_eng.txt), accessed August 17, 2005.

later near a highway south of Baghdad. Bahu was beheaded and al-Qushtaini, shot in the head, was wearing a long black *abaya* and a headscarf, which she did not normally wear.<sup>308</sup>

## **XII. Abduction and Execution of Non-Iraqi Civilians**

Some insurgent groups have repeatedly targeted non-Iraqi civilians working in Iraq as drivers, businesspeople, contractors, journalists and humanitarian workers. Abductions, sometimes followed by execution, have been the most common abuse.

The goal of the abductions is often to pressure the victim's government into removing its forces from Iraq, or other concessions, such as the release of prisoners. Insurgent groups have also abducted drivers to force a company to stop doing business in Iraq.

A common motivation behind the abductions is money. Non-Iraqis are targeted because of the ransom from a country or a company that the insurgents, or a criminal group, hope to extract.

Since April 2003, insurgent groups have abducted more than 200 non-Iraqis from at least twenty-two different countries.<sup>309</sup> The abductors killed fifty-two of these people, and at least forty-three are still missing.<sup>310</sup> The rest were released.

The first reported summary execution of a non-Iraqi civilian by an insurgent group resulting in death happened on April 14, 2004. A group called the Mujahadin Brigades said it had detained four Italian civilian security guards in al-Falluja, and it demanded that Italy withdraw its military from Iraq in order for them to be released. "The Italian government...should vow and give guarantees to withdraw its forces from Iraq and give a time schedule and to free Muslim clerics in Iraq," a voice on a video broadcast on al-

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<sup>308</sup> Babak Dehghanpisheh, Eve Conant and Rod Nordland, "Iraq's Hidden War; Extremists Have Shot Women Activists in the Streets and Killed Them in Private," *Newsweek*, March 7, 2005, and Robin Fields, "Women on Iraq Ballot Lie Low," *Los Angeles Times*, January 17, 2005.

<sup>309</sup> For a list of foreign hostages taken in Iraq, see, "Foreign Hostages Still Held Captive in Iraq," *Agence France-Presse*, July 3, 2005, and "Foreign Hostages in Iraq," *Reuters*, July 27, 2005. The names of the missing and killed is believed to be accurate, but the list excludes dozens of non-Iraqis who were abducted and then released.

<sup>310</sup> The abducted non-Iraqis still missing are from the following countries: Australia, Canada, Jordan, Kuwait, Somalia, Turkey, Syria, Sudan, U.S., Lebanon, South Korea, Egypt and Brazil. The abductees who were killed came from: Italy, U.S., Lebanon, South Korea, Bulgaria, Pakistan, Turkey, Egypt, Italy, Nepal, United Kingdom, Macedonia, Japan, Jordan, Sudan, Somalia and Algeria.

Jazeera said.<sup>311</sup> The group eventually freed three of the men but they executed the fourth, Fabrizio Quattrocchi.<sup>312</sup>

The executions of non-Iraqi civilians became headline news in the international media the next month with the videotaped beheading of U.S. businessman Nicholas Berg, aged twenty-six, who had been abducted in mid-April 2004. On May 11, a video circulated widely on the Internet, entitled “Abu Mus`ab al-Zarqawi Shown Slaughtering an American.” It showed a group of masked men standing behind Berg, who sat on the ground in an orange jump-suit, similar to those worn by detainees at Guantanamo Bay. “For the mothers and wives of American soldiers, we tell you that we offered the U.S. administration to exchange this hostage with some of the detainees in Abu Ghraib and they refused,” one of five men wearing headscarves and black masks read from a statement. “So we tell you that the dignity of the Muslim men and women in Abu Ghraib and others is not redeemed except by blood and souls.”<sup>313</sup> One of the men then beheaded Berg with a large, curved knife. Millions of Internet users around the world downloaded the video, making al-Zarqawi a household name.<sup>314</sup>

In August 2004, Ansar al-Sunna abducted and executed twelve Nepalese, who were working in Iraq as cleaners and cooks for a Jordanian company, including one by beheading. On August 31, the group posted pictures and video of the executions on the Internet, with a statement that said they had been killed because they “came from their country to fight the Muslims and to serve the Jews and the Christians.”<sup>315</sup>

On September 16, 2004, armed men abducted three civil engineers, two Americans and a Briton, from their home in the al-Mansour neighborhood of Baghdad.<sup>316</sup> Two days later, al-Zarqawi’s al-Tawhid wal-Jihad group announced it would kill the hostages—Eugene

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<sup>311</sup> Andrew Hammond, “Iraqis Show Italian Hostages, Want Italy Out—TV,” *Reuters*, April 13, 2004.

<sup>312</sup> “Italy Confirms Hostage Killed in Iraq,” *Reuters*, April 14, 2004. Since Quattrocchi, three other Italian civilians have been abducted and killed: the journalist Enzo Baldoni, Italian-Iraqi businessman Ayad Anwar Wali and the aid worker Salvatore Santoro. (“Italian Soldier Killed in Iraq Auto Accident,” *ANSA*, July 14, 2005.)

<sup>313</sup> Niko Price, “Video on Islamic Militant Web Site Shows Beheading of American,” *Associated Press*, May 11, 2004.

<sup>314</sup> Susan B. Glasser and Steve Coll, “The Web as Weapon; Zarqawi Intertwines Acts on Ground in Iraq With Propaganda Campaign on the Internet,” *Washington Post*, August 9, 2005.

<sup>315</sup> “Nepalese Hostages Killed in Iraq,” *BBC*, August 31, 2004, accessible at [http://news.bbc.co.uk/2/hi/south\\_asia/3614866.stm](http://news.bbc.co.uk/2/hi/south_asia/3614866.stm), as of June 22, 2004, “Militants Kill 12 Nepal Hostages,” *CNN*, August 31, 2004, accessible at <http://edition.cnn.com/2004/WORLD/meast/08/31/iraq.main/>, accessed June 22, 2005, and Stephen Farrell and Charles Bremner, “Hostage Fears After Mass Killing,” *The Times*, September 1, 2004, accessible at <http://www.timesonline.co.uk/article/0,,7374-1240841,00.html>, as of June 22, 2005.

<sup>316</sup> The men were working on Iraqi reconstruction projects for Gulf Supplies and Commercial Services, a United Arab Emirates-based company.

Armstrong, Jack Hensley and Kenneth Bigley—in forty-eight hours if the U.S. did not release the Iraqi women it held in detention. After the deadline passed, on September 20, a website used by radical Islamic groups posted a video that showed the beheading of a man identified as Eugene Armstrong. “You, sister, rejoice. God’s soldiers are coming to get you out of your chains and restore your purity by returning you to your mother and father,” the man said before grabbing the hostage and cutting his throat. “The fate of the first infidel was cutting off the head before your eyes and ears. You have a 24-hour opportunity. Abide by our demand in full and release all the Muslim women, otherwise the head of the other will follow this one,” the speaker said.<sup>317</sup>

Twenty-four hours later, al-Tawhid wal-Jihad posted a message that the other American, Jack Hensley, had also been killed. “Thank God, the lions of the Tawhid and Jihad have slaughtered the second American hostage at the expiration of the set deadline,” the message said. “The British hostage will face the same fate unless the British government does what’s necessary to free him.”<sup>318</sup> The next day, September 22, the British engineer Kenneth Bigley appeared in a video posted to the Internet, pleading with British Prime Minister Tony Blair to: “Please, please release the female prisoners that are held in Iraqi prisons.”<sup>319</sup> The group executed Bigley three weeks later.<sup>320</sup>

Some of the abductions were to pressure a foreign government into withdrawing its forces from Iraq. In July 2004, for example, the Islamic Army in Iraq abducted the Filipino truck driver Angelo de la Cruz, aged forty-six, and threatened to kill him if the Philippine military did not withdraw from Iraq. On July 12, the Philippine government announced it was withdrawing all of its forces from Iraq to save de la Cruz. “In response to your request, the Philippines ... will withdraw its humanitarian forces as soon as possible,” the government said.<sup>321</sup> A week later the insurgents released de la Cruz.

Insurgents released another Filipino hostage on June 22, 2005, after holding him for nearly eight months. According to media reports, a group called Jaysh al-Mujahidin (Mujahadin Army) released Robert Tarongoy, a thirty-one-year-old accountant for a

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<sup>317</sup> Bassem Mroue, “Video on Website Shows Beheading of Man Said to Be American Hostage,” *Associated Press*, September 20, 2004.

<sup>318</sup> “Body of Slain American Hostage Found,” *CNN*, September 22, 2004, available at <http://www.cnn.com/2004/WORLD/meast/09/22/iraq.beheading/>, as of August 18, 2005.

<sup>319</sup> “British Hostage Pleads For His Life Amid Claim Italians Killed in Iraq,” *Agence France-Presse*, September 23, 2004.

<sup>320</sup> “*British Hostage Beheaded in Iraq*,” *Reuters*, October 10, 2004.

<sup>321</sup> Alistair Lyon, “Philippines Announces Pullout to Save Iraq Hostage,” *Reuters*, July 13, 2004. The government claimed that it was already planning to withdraw its fifty-one-person contingent at the end of the month.

Saudi firm, after the Philippine government agreed to ban its nationals from traveling to Iraq and to adopt a new law that punished those who disobey the order.<sup>322</sup> The group had abducted Tarongoy on November 1, 2004, along with five co-workers. The group quickly released four of them, a Nepali and three Iraqis, but is believed to still be holding the U.S. citizen Roy Hallums, who worked for a Saudi company that does catering for the Iraqi army.<sup>323</sup>

Other abducted non-Iraqis have pleaded in videos for soldiers from their respective countries to leave Iraq, such as the Italian journalist Enzo Baldoni in August 2004 (see chapter IX of this report, “Attacks on Media”) and the British-born director of CARE Margaret Hassan (see chapter VIII, “Attacks on Humanitarian Organizations”), both of whom were killed.

The abductions of truck drivers are sometimes meant to pressure a company into halting its business operations in Iraq. “This work is an abandonment of Islam,” two Sudanese truck drivers held by the Islamic Army in Iraq said in a March 2005 video. “I advise others to leave any work with the occupying infidel because the hand of justice will reach them wherever they are.”<sup>324</sup> The group eventually released the two men.<sup>325</sup>

On June 7, 2005, a group using the name the `Ali bin `Abi Talib Brigades warned that it would kill a Turkish businessman named `Ali Musluoglu it had abducted and two of his companions “unless the Turkish authorities cease all forms of logistical support to the U.S. military as well as cooperation with U.S. firms doing business in Iraq.”<sup>326</sup> The group later said it would release their hostage if his family paid “several million dollars,” Musluoglu’s brother said.<sup>327</sup>

In August 2004, an insurgent group made a demand not directly related to the conflict in Iraq: the Islamic Army in Iraq, holding the French journalists Christian Chesnot and Georges Malbrunot, said they wanted France to lift its ban on headscarves in schools.

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<sup>322</sup> Al-Jazeera Television, June 22, 2005.

<sup>323</sup> “Filipino Returns Home After Hostage Ordeal in Iraq,” *Reuters*, June 23, 2005.

<sup>324</sup> “Iraq Militants Post Video of Two Sudanese Hostages,” *Reuters*, March 9, 2005.

<sup>325</sup> “Two Sudanese Hostages to Be Released by Islamic Army in Iraq: Video,” *Agence France-Presse*, April 6, 2005.

<sup>326</sup> “Family of Turkish Hostage Implore Iraqi Kidnappers to Spare Him,” *Agence France-Presse*, June 8, 2005, and “Iraq Militants Threaten to Kill Turkish Hostage,” *Agence France-Presse*, June 7, 2005, and “Dubai Television Shows Video of Turkish Businessman Kidnapped in Iraq,” *Associated Press*, June 7, 2005.

<sup>327</sup> “Iraqi Kidnappers Demand Multi-million Dollar Ransom for Turkish Hostage,” *Agence France-Presse*, June 18, 2005.

The French government ignored refused the demand, and the captors eventually released the two men.<sup>328</sup>

In summer 2005 insurgent groups began abducting foreign diplomats from Middle Eastern countries—an apparent attempt to isolate Iraq’s government from the Arab and Muslim world—and three of them were killed. The first victim was Egyptian envoy Ihab al-Sharif, who was seized on July 2, and al-Qaeda in Iraq later claimed he had been killed because of his country’s allegiance “to Jews and Christians.”<sup>329</sup> The previous month Egypt had announced it would be the first Arab country to upgrade its mission in Iraq to a full embassy. Then, on July 21, al-Qaeda in Iraq abducted two Algerian diplomats, `Ali Belaroussi and Azzedine Belkadi. A statement posted to the Internet six days later claimed the group had killed the two men because of their government’s ties to the U.S. and its crackdown on Islamic militants. “Didn’t we warn you, O enemies of God, not to be loyal to the Jews and the Christians and to stand by the side of America or to carry out its plans,” the statement said.<sup>330</sup>

### **XIII. Unlawful Attacks on Government Security Forces**

Insurgent groups have conducted numerous armed attacks against Iraqi security forces, which as of June 2005 numbered more than 160,000 soldiers and police,<sup>331</sup> as well as against the U.S.-led Multi-National Force. Attacks against a state’s armed forces are not unlawful under international humanitarian law, although such acts do violate local Iraqi law and subject the perpetrator to criminal prosecution (see section on Criminal Responsibility in Chapter XVI of this report, “Legal Standards and the Conflict in Iraq”).

Under the laws of war, police forces are civilian and individual police may not be subject to attack unless they directly participate in hostilities. However, police units that become formally attached to the state’s armed forces or take on military functions, including

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<sup>328</sup> “Hostage Takers Widen Demands Beyond Iraqi Affairs,” *Agence France-Presse*, August 29, 2004.

<sup>329</sup> Marian Fam, “Kidnappers of Egyptian Diplomat Raise Stakes, Threaten to Kill Him to Punish Egypt,” *Associated Press*, July 6, 2005, and “Al-Qaida Claims to Have Killed Top Egyptian Diplomat in Iraq,” *Associated Press*, July 7, 2005.

<sup>330</sup> Robert H. Reid, “Al-Qaida Says It Killed Algerian Diplomats,” *Associated Press*, July 27, 2005.

<sup>331</sup> According to the U.S. government, the Iraqi security forces had 168,227 personnel as of June 1, 2005 (91,256 in the police and 76,971 in forces of the Ministry of Defense). See U.S. Department of State, Iraq Weekly Status Report, June 1, 2005, available at [http://www.defendamerica.mil/downloads/Iraq%20Weekly%20Status%20Report\\_20050601.pdf](http://www.defendamerica.mil/downloads/Iraq%20Weekly%20Status%20Report_20050601.pdf), as of June 14, 2005.



participating in military operations against insurgents, will become legitimate objects of attack.<sup>332</sup>

International humanitarian law does, however, limit the means and manner in which legitimate military targets may be attacked. Attacks that do not distinguish between combatants and civilians or are likely to cause disproportionate harm to the civilian population in excess of the expected military advantage are prohibited. Attackers must take all feasible precautions to minimize civilian harm.

In addition, captured military and police personal are considered no longer participating in hostilities (*hors de combat*). Such persons must be treated humanely; torture and other mistreatment, and summary executions are strictly forbidden.

Insurgent groups have conducted many attacks against the Iraqi army and police and the Multi-National Force that violated the laws of war. First, various insurgent groups have tortured and summarily executed dozens if not hundreds of captured Iraqi police and soldiers they have in custody. Some captured Multi-National Force soldiers have also been killed. Article 3 common to the four Geneva Conventions, binding on government armed forces and non-state armed groups, states that members of armed forces who have laid down their arms due to sickness, wounds, detention, or any other cause “shall in all circumstances be treated humanely.” Violence to life and person, in particular murder, mutilation, cruel treatment and torture, are forbidden. And no party to the conflict may pass sentences or carry out executions without previous judgment by a regularly constituted court that has afforded the defendant all judicial guarantees.<sup>333</sup>

Second, many insurgent attacks on legitimate military targets have been carried out using unlawful means, namely perfidy. A perfidious attack is one in which the attacker feigns a protected status in order to carry out the attack. Thus, while suicide attacks are not in themselves unlawful, a suicide bomber who pretends to be an unarmed civilian while approaching a military checkpoint or group of soldiers before carrying out an attack is committing a war crime. Unlike the use of decoys, camouflage and other lawful forms of deception, perfidy places noncombatants at unnecessary risk by causing soldiers to

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<sup>332</sup> See ICRC Commentary on the Additional Protocols, Protocol II, article 1(1), p. 1352: “The term ‘armed forces’ of the High Contracting Party should be understood in the broadest sense. In fact, this term was chosen in preference to others suggested such as, for example, ‘regular armed forces’, in order to cover all the armed forces, including those not included in the definition of the army in the national legislation of some countries (national guard, customs, police forces or any other similar force).”

<sup>333</sup> Common article 3 to the four Geneva Conventions of 1949.

disregard the protected status of civilians and incapacitated fighters out of fear of being attacked.

Third, many attacks that appeared to be targeting a valid military object, such as massive car bombings outside police stations used for military purposes, have caused disproportionate harm to civilians. That is, the attackers carried out the operation knowing that the loss to civilians was going to be greater than any foreseeable military advantage to be gained from the attack. Indeed, some operations appear designed to link attacks on military targets with high civilian casualties, to undermine public support for, interaction with, and recruitment by the security forces.<sup>334</sup>

### **Summary Executions of Government Forces**

Some insurgent groups have summarily executed, often by beheading, captured Iraqi police and army personnel, as well as soldiers from the Multi-National Force. The number of security force members murdered in the custody of insurgent groups is not known, but groups like Ansar al-Sunna and al-Tawhid wal-Jihad have repeatedly claimed responsibility for executing soldiers and police.

The case with the most deaths occurred on October 23, 2004, when insurgents executed forty-six Iraqi soldiers and three drivers taking them home on leave. Insurgents dressed as Iraqi soldiers or police manning a checkpoint stopped three buses with the U.S.-trained soldiers near the Iranian border between 6:00 and 8:00 p.m. The insurgents apparently ordered the soldiers off the bus, forced them to lie in rows and shot them systematically from behind. “Most of them were shot in their backs and the back of their heads,” a local official said.<sup>335</sup>

Officials found thirty-seven bodies lying in rows and, according to the Interior Ministry, the victims’ hands were tied behind their backs. They found twelve others the next day a short distance away in one of the buses. The three drivers were among the dead. Most of the victims were from Basra, al-`Amara and al-Nasiriyya.<sup>336</sup>

In an Internet posting, al-Zarqawi’s al-Qaeda in Iraq claimed responsibility for the executions. “The mujahadeen killed them all, stole two vehicles and the salaries they had

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<sup>334</sup> Protocol I, article 51(5).

<sup>335</sup> Monte Morin, “Dozens of Iraqi Soldiers Found Slain,” *Los Angeles Times*, October 25, 2004.

<sup>336</sup> Karl Vick, “Insurgents Massacre 49 Iraqi Recruits,” *Washington Post*, October 25, 2004.

just received from their masters,” a statement said.<sup>337</sup> Interim Iraqi Prime Minister Ayad `Allawi faulted “foreign troops” for their “gross negligence” in failing to provide security for recruits on leave.<sup>338</sup>

Other examples of summary executions are:

- On April 9, 2004, armed men attacked a seventeen-truck U.S. fuel convoy near Abu Ghraib and captured two U.S. servicemen, Sgt. Elmer C. Krause and Pfc. Keith M. Maupin from the Army Reserve’s 724th Transportation Company, and seven contractors.<sup>339</sup> Bodies of four of the contractors were later found, as was the body of Sgt. Krause. One of the contractors, Thomas Hamill, escaped after one month, but the two other contractors and Pfc. Maupin remained missing. On April 16, al-Jazeera broadcast a video from an unnamed armed group that showed Pfc. Maupin sitting on the ground, apparently in good health, surrounded by six masked men. Ten weeks later, on June 28, al-Jazeera aired another video that showed Pfc. Maupin, along with a statement that he had been executed. Al-Jazeera did not broadcast the execution but said the video showed a gunman shooting Pfc. Maupin in the head from behind. U.S. officials said they could not confirm the execution due to the poor quality of the video.<sup>340</sup> Pfc. Maupin remains the only missing U.S. soldier in Iraq.
- On October 26, 2004, Ansar al-Sunna announced the abduction of eleven Iraqi soldiers south of Baghdad. Two days later, a statement posted on the Internet along with photographs said the group had executed the eleven men. “The ruling of God has been implemented against them by slaughtering one and killing the others by firing squad,” the statement reportedly said.<sup>341</sup>
- On November 20, 2004, U.S. and Iraqi soldiers found the bodies of nine Iraqi soldiers in an industrial area of central Mosul. Each of the victims reportedly had a bullet wound in the head, and four of them were badly burned in manner

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<sup>337</sup> Monte Morin, “Dozens of Iraqi Soldiers Found Slain,” *Los Angeles Times*, October 25, 2004 and Faris al-Madhawi, “Rebels Admit Massacre - Al-Qaeda Ally Claims Credit for Slaughter of 50 Cadets,” *Daily Telegraph*, October 26, 2004.

<sup>338</sup> Jackie Spinner, “Allawi Accuses Foreign Troops of Negligence in Massacre,” *Washington Post*, October 27, 2004.

<sup>339</sup> “DOD Announces Army Soldiers as Wherabouts-Unknown,” U.S. Department of Defense Releases, April 12, 2004.

<sup>340</sup> Dana Priest, “Iraqi Militants Allege Slaying of U.S. Soldier; Identity Unclear From Video, Officials Say,” *Washington Post*, June 29, 2004, and John Nolan, “Army Unsure if Taped Execution Was Real,” Associated Press, August 9, 2004.

<sup>341</sup> “Al-Qaeda-Linked Group Executes 11 Iraqi National Guards: Website,” *Agence France-Presse*, October 28, 2004.

suggesting they might have first been tortured.<sup>342</sup> Eight days later, al-Qaeda in Iraq claimed responsibility for killing seventeen members of Iraq's security forces in Mosul, although it is not clear if some of these victims were the men found on November 20. In a statement posted on a website, the group reportedly said it had killed seven "apostates" from the armed forces, as well as a Kurdish militiaman. Three members of the Iraqi government's Emergency Response Units were executed after being "investigated," the group said.<sup>343</sup>

- On January 1, 2005, a group claiming to be al-Qaeda Group of Jihad in Mesopotamia in al-Ramadi posted a video on the Internet that reportedly showed the execution of five Iraqi soldiers. Entitled "Confessions and Implementations of God's Judgment on the American Dogs," the video showed five men in civilian clothes on a deserted city street with their hands tied behind their backs. One of the five men had identified himself as Bashar Latif Jassim, who "confessed" that his assignment was to "prevent the terrorists from entering Iraq."<sup>344</sup> Men with handguns shot them repeatedly in their backs.<sup>345</sup>
- On January 23, 2005, Ansar al-Sunna released a video that showed the execution of an Iraqi soldier. Posted on the Internet, it reportedly showed a man in a chair with an identity card that read, "Defense Ministry, `Abd al-Jabbar `Ali `Abdullah, colonel." An insurgent in a hood then shot the man. A statement with the video said, "the colonel was taken captive in Mosul, where he had been sent to help U.S. forces seeking to recapture the town from the mujahadin. He was executed by firing squad after confessing to his crimes."<sup>346</sup>
- On February 2, 2005, insurgents stopped a minibus carrying Iraqi soldiers south of Kirkuk. They reportedly ordered the fourteen soldiers off the bus and then executed twelve of them. The insurgents allowed two wounded men to live apparently as a warning to others. According to the Iraqi military commander in Kirkuk, Maj. Gen. Anwar Muhammad, "they deliberately wounded them and

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<sup>342</sup> "Iraqis Slain in Mosul as US Soldier Killed in Baghdad Ambush," *Agence France-Presse*, November 20, 2004.

<sup>343</sup> "Al-Zarqawi's Group Claims Responsibility for Killing Security Troops in Northern Iraq," *Associated Press*, November 28, 2004. The Emergency Response Units were announced by then-Iraqi Prime Minister Ayad `Allawi in late June 2004 as part of the government's plan to establish new security structures within the police and armed forces. The units were meant to take part in "special operations," he said, but he did not elaborate on their nature.

<sup>344</sup> "Zarqawi Group Executes Five Iraqi National Guards: Video," *Agence France-Presse*, January 1, 2005.

<sup>345</sup> Christine Hauser, "5 in Iraq Force Are Shot Dead in Rebel Video," *New York Times*, January 2, 2005.

<sup>346</sup> "Ansar al-Sunna Executes Iraqi Soldier: Video," *Agence France-Presse*, January 23, 2005.

told them: go and tell your village what we did.”<sup>347</sup> The assailants identified themselves as members of al-Takfir wal-Hijra (Atonement and Pilgrimage).<sup>348</sup>

- On April 20, 2005, officials discovered the corpses of nineteen Iraqi soldiers in a stadium in the largely Sunni Arab city of Haditha, about 130 miles northwest of Baghdad. Unknown insurgents apparently kidnapped the soldiers while they were on leave from their posts. According to a local health official, “the armed group threatened the people and the medical staff of the hospital not to evacuate the bodies from the stadium,” so Iraqis would be warned not to join the Iraqi army or police.<sup>349</sup> Two witnesses said they ran to the stadium after hearing shots and saw the nineteen bodies slumped up against a wall stained with blood.<sup>350</sup>

### **Perfidious Attacks**

Perfidious attacks by insurgent groups on legitimate military targets (attacks in which a combatant pretends to be a civilian or other “protected person”) have directly caused hundreds of civilian casualties and have in general placed all civilians in Iraq at greater risk of harm. Suicide attacks in which the attacker conceals his or her identity as a combatant are war crimes for which those organizing such attacks can be prosecuted. Perfidious attacks increase the risk to all civilians at checkpoints and at other defended zones. Attackers who unlawfully feign civilian status to carry out attacks increase the likelihood that armed forces will use force against civilians who are perceived to be disguised combatants. Many of the shootings of civilians at U.S. and Iraqi checkpoints, however unlawful, occurred in part as a result of the fear the soldiers had of being attacked by insurgents pretending to be civilians (see Chapter XVI of this report, “Legal Standards and the Conflict in Iraq”).

Not all insurgent groups use suicide attacks. Al-Qaeda in Iraq and Ansar al-Sunna have claimed responsibility for most of the major suicide attacks, both on civilian targets and government armed forces, and in most of those attacks the attacker feigned civilian status.

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<sup>347</sup> “Military Chief Says Al-Takfir Group Killed Soldiers Near Kirkuk,” *BBC Monitoring*, KurdSat TV, February 3, 2005.

<sup>348</sup> Jason Keyser, “Vengeful Insurgents Ramp Up Iraq Attacks,” *Associated Press*, February 3, 2005, and “Surge in Violence in Iraq Ends Post-election Lull,” *Associated Press*, February 3, 2005. An Islamic group called al-Takfir wal-Hijrah emerged in Egypt in the 1960s, but it is not clear if it is linked to the group in Iraq.

<sup>349</sup> Patrick J. McDonnell, “Iraqis Find 70 Bodies in River, Arena,” *Los Angeles Times*, April 21, 2005, and “Insurgents Kill 19 Iraqi Guards,” *Reuters*, April 20, 2005.

<sup>350</sup> “19 Bodies Left in Iraqi Soccer Stadium,” *Associated Press*, April 20, 2005.

On June 25 and 26, 2005, unknown insurgents in Mosul attacked Iraqi police and army personnel four times using perfidious methods, killing at least thirty-eight. The first attack came Saturday night, June 25, when a suicide car bomb exploded at a police checkpoint around 8:00 p.m., killing five officers and wounding two more. The next morning just after dawn, a man drove a red pick-up truck full of explosives into the Bab al-Tub police station in the center of town, killing ten policemen and two civilians. According to an Iraqi policeman at the scene, the explosives were hidden beneath a pile of melon and fruit. A policeman at the front gate said that he “opened the barbed wires for [the truck], thinking that he was trying to cross the street to unload his cargo in the nearby wholesale market. . . . The suicide bomber was able to get close to the gate of the police station and blow himself up.”<sup>351</sup> A short time later, a suicide car bomber blew himself up outside the al-Kasik army base west of the city, killing fifteen civilians who worked at the base and wounding seven, although it is not clear if he was dressed as a civilian or driving a civilian car. Finally, that afternoon, a man wearing a hidden explosive vest pretended he needed medical attention and then blew himself up inside a small police station at al-Jamuri Hospital in Mosul, where many of the dead and wounded from the previous three attacks had been taken. That attack killed four policemen and wounded six.<sup>352</sup>

On September 14 and 15, 2005, more than one dozen suicide bomb attacks in Shi`a neighborhoods around Baghdad killed nearly 200 people, including civilians and Iraqi police. Al-Qaeda in Iraq claimed responsibility and said the attacks were retaliation for a joint U.S.-Iraqi counter-insurgency operation in the town of Tal Afar.<sup>353</sup> In one of the attacks, a suicide bomber driving a civilian car rammed into a police bus in the al-Dora district, killing fifteen policemen and five civilians. Four hours later, two suicide bombers in the same area killed another nine members of the police, although it is not clear if they were feigning civilian status.<sup>354</sup> In the most deadly incident, a suicide bomber in the Kadhimiyya neighborhood lured a large group of Shi`a men around his car with promises of work. In the midst of a large crowd, he detonated his explosives, killing at least 112 people.<sup>355</sup>

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<sup>351</sup> Richard A. Oppel Jr. and Eric Schmitt, “Bombing Attacks on Iraqi Forces Kill 38 in North,” *New York Times*, June 27, 2005.

<sup>352</sup> “Iraq Bombings Kill 25 as Rumsfeld Confirms US Rebel Contact,” *Agence France-Presse*, June 26, 2005, Andy Mosher and Dhlovan Brwari, “Three Suicide Attacks Kill 26 in Mosul,” *Washington Post*, June 27, 2005.

<sup>353</sup> Mohammed Ramahi, “Suicide Bomber Kills 24 Policemen in Baghdad,” *Reuters*, September 15, 2005.

<sup>354</sup> Michael Howard, “Suicide Bombers Maintain Intense Attack on Baghdad,” *The Guardian*, September 16, 2005, and “New Suicide Attacks Kill Nine Iraqi Policemen,” *Reuters*, September 15, 2005.

<sup>355</sup> Robert F. Worth and Richard A. Oppel Jr., “Multiple Attacks Kill Nearly 150 in Iraqi Capital,” *New York Times*, September 15, 2005.

## **Attacks on Security Forces Causing Disproportionate Civilian Harm**

Attacks by insurgents against legitimate military targets, such as Iraqi and multinational forces, have at times apparently caused harm to civilians far exceeding any expected military advantage. Such attacks violate the laws of war.<sup>356</sup> Insurgent groups that use car bombs and suicide bombs in crowded civilian areas have shown a blatant disregard for civilian lives.

On April 21, 2004, for example, four car bombs exploded just after 7:00 a.m. in the southern city of Basra, killing sixty-eight people and wounding 200. The attackers detonated the bombs outside three police stations and a police academy, which would be legitimate targets if used for military purposes. Fifty-nine of the dead were civilians, including at least sixteen children.<sup>357</sup> Human Rights Watch did not conduct field research in Basra to determine whether the police stations and police academy were performing a military function and therefore were legitimate targets, and if so, whether the expected military gains from the attacks justified the expected loss of civilian life. The available evidence, however, strongly suggests that the expected harm to civilians far exceeded the expected military gain.

“I saw a minibus full of children on fire,” said one man, who lived near the Sa`udiyya police station, which came under attack. “Fifteen of the eighteen passengers were killed and three badly wounded. I looked around and saw my leg bleeding and my neighbor lying dead on the floor torn apart.”<sup>358</sup>

A fifteen-year-old girl was about to board the bus when the explosion went off. “I had just left the house,” she told a journalist. “I opened the door and went out. I could see the bus. I found myself flying in the air and falling on the ground. I saw fire and smoke. It was a huge explosion. I couldn’t get up again.”<sup>359</sup>

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<sup>356</sup> See ICRC, CIHL, rule 14 (“Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.”) The principle of proportionality is codified in Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977, Article 51.

<sup>357</sup> Abbas Fayadh, “Suicide Car Bomb Attacks Kill At Least 68 People in Southern Iraqi City of Basra, Including Children,” *Associated Press*, April 21, 2004.

<sup>358</sup> Luke Harding and Mohammad Haidar, “Iraq British-controlled Basra Suffers Its Worst Day Since Saddam’s Fall as Bombs Destroy Buses Full of Children: School Sees All Her Friends Perish in Blast,” *The Guardian*, April 22, 2004.

<sup>359</sup> *Ibid.*

On November 11, 2004, a suicide bomber in a Kia microbus detonated his explosives on Baghdad's Sadun Street, a busy commercial strip, during the morning rush hour. The target was a five-car convoy of Iraqi police, but the blast killed seventeen civilians and wounded twenty people, including some police, incinerated ten cars and destroyed shops along the street. Seven bodies arrived at al-Kindi hospital, six of them burnt beyond recognition, a doctor said. The blast carved a crater in the road and caused a building to collapse.<sup>360</sup> Again, although Human Rights Watch did not investigate this case itself, the evidence strongly suggests that the expected harm to civilians far exceeded the expected military gain.

"No one should see what I saw: pieces of flesh, cut legs, burned bodies," said Thae Khudhair Jasim, a twenty-three-year-old taxi driver, who suffered wounds to his neck and chest when the windshield of his taxi shattered from the blast.<sup>361</sup>

"I entered the shop, then suddenly there was a huge blast that brought down the roof. Then I don't know what happened next," said Sami Hanun, a thirty-four-year-old worker who was wounded in the attack. "Right now, I can't feel my legs. I don't know if I can walk again."<sup>362</sup>

"It was a car bomb directed at our patrol, but it hit civilians," said Iraqi police officer Hadi `Umar, who cut his head on broken glass. "We're still trying to find people under the rubble."<sup>363</sup>

In a number of reported incidents, insurgents have apparently caused disproportionate civilian deaths in attacks on U.S. forces. On September 30, 2004, for example, two car bombs exploded at a ribbon-cutting ceremony outside a recently reconstructed sewage pumping station in Baghdad's Hay al-`Amal neighborhood, killing forty-one people, more than thirty of them children. The target was apparently a convoy of U.S. soldiers from the First Cavalry Division who were attending the ceremony and distributing candy to children outside the station when the bombs exploded. Ten soldiers were injured, the U.S. military said.<sup>364</sup>

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<sup>360</sup> Waleed Ibrahim, "Central Baghdad Car Bomb Kills 17, Wounds 20," *Reuters*, November 11, 2004.

<sup>361</sup> Karl Vick and Bassam Sebt, "Violence Spreads in Iraq; Car Bomb Kills 17 in Baghdad," *Washington Post*, November 12, 2004.

<sup>362</sup> Alex Rodriguez and James Janega, "Iraq Rebels Step Up Attacks; 6 Police Stations in Mosul Hit; 17 Killed in Baghdad," *Chicago Tribune*, November 12, 2004.

<sup>363</sup> *Ibid.*

<sup>364</sup> Dexter Filkins, "2 Car Bombings in Iraq Kill 41, Many Children," *New York Times*, October 1, 2004.



“I went out after the first explosion and then got hit by the second. I felt my leg crack, and I fell,” said Karab `Abd al-Karim, aged sixteen.<sup>365</sup> “I hate the people who did this. But I also blame the Americans, they came into our neighborhood and brought this with them,” said the father of nine-year-old Muhammad Akhbar Yunis, who was hit by shrapnel in the arm.<sup>366</sup>

Again, Human Rights Watch did not conduct field research into this incident, but the fact that forty-one civilians died, many of them children, in an attack on soldiers opening a pumping station strongly suggests that the expected civilian cost far outweighed any anticipated military gain.

#### **XIV. Violations by U.S. Forces**

The violations of international humanitarian law documented in this report occurred in the context of an armed conflict in which abuses have been committed by all sides. This in no way lessens the responsibility of those implicated in war crimes and other offenses. It is a fundamental principle of the laws of war that violations by one side never justify violations by the other.

Human Rights Watch has previously documented violations of international humanitarian law by the U.S.-led coalition forces during the invasion of Iraq until President Bush’s declaration of the end of active hostilities on May 1, 2003.<sup>367</sup> The organization has also reported on abuses by U.S. forces during the military occupation of Iraq and since that time, including the torture and humiliation of detainees at Abu Ghraib prison and other detention centers.<sup>368</sup> The following is only a summary of Human Rights Watch’s major concerns.

During the U.S.-led invasion of Iraq, the U.S. military took inadequate steps to minimize civilian casualties. The widespread use of cluster munitions in populated areas, especially by U.S. and U.K. ground forces, caused at least hundreds of civilian casualties. In addition, fifty so-called “decapitation strikes” on Iraqi leaders relied on satellite phone

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<sup>365</sup> Kim Sengupta, “Dozens of Iraqi Children Die in Baghdad Bomb Attack” *The Independent*, October 1, 2004.

<sup>366</sup> *Ibid.*

<sup>367</sup> See, e.g. Human Rights Watch report, *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, December 2003. Available at <http://www.hrw.org/reports/2003/usa1203/>.

<sup>368</sup> See, e.g. Human Rights Watch reports, *Violent Response: the U.S. Army in al-Falluja*, June 2003, available at <http://www.hrw.org/reports/2003/iraqfalluja/>, and *Hearts and Minds: Post-War Civilian Deaths in Baghdad Caused by U.S. Forces*, October 2003, available at <http://www.hrw.org/reports/2003/iraq1003/index.htm>.

call intercepts and corroborating intelligence that proved inadequate, missing all fifty targets but causing dozens of civilian deaths.<sup>369</sup> While U.S. and U.K. air forces generally avoided civilian infrastructure, air strikes on civilian power distribution facilities in al-Nasiriyya caused considerable civilian suffering and attacks on Iraqi media installations were of questionable legality. In some instances of direct combat, especially in Baghdad and al-Nasiriyya, problems with training and the rules of engagement for U.S. ground forces may have contributed to loss of civilian life.

After the fall of the Saddam Hussein government and throughout the military occupation of Iraq, the United States had a legal obligation under international humanitarian law to take all measures in its power to restore and ensure, as far as possible, public order and safety—an obligation the United States failed to meet.<sup>370</sup> U.S. and coalition forces largely stood by as individual Iraqis and organized groups looted government offices, hospitals, and, most dangerously for the country's security, abandoned police and army depots filled with arms and ammunition.

In the intervening two years, the U.S. military's use of force has resulted in hundreds of civilian deaths and injuries that warrant investigation as possible indiscriminate or disproportionate attacks in violation of the laws of war. A September 2003 Human Rights Watch study of civilian deaths in Baghdad revealed a pattern by U.S. forces of over-aggressive tactics, indiscriminate shooting in residential areas and a reliance on lethal force rather than control measures at checkpoints. In some cases, U.S. forces faced a legitimate threat, which gave them the right to respond with force. But that response was often disproportionate to the threat or inadequately targeted, thereby harming civilians or putting them at unnecessary risk.<sup>371</sup> Human Rights Watch has also criticized the U.S. military for overaggressive reactions that put journalists in unnecessary

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<sup>369</sup> Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, December 2003.

<sup>370</sup> Under the Hague Regulations, to which the U.S. is a party, an occupying power has a duty to restore and ensure, as far as possible, public order and safety in the territory under its authority. Hague Regulations, article 43. Under the 1949 Geneva Conventions, the duty to ensure public order and safety attaches as soon as the occupying force is in contact with the civilians of that territory, that is, at the soonest possible moment. See ICRC *Commentary to the Fourth Geneva Convention*, article 6. This principle is reflected in the U.S. Army Field Manual 27-10, Law of Land Warfare:

Military commanders on the spot must prevent and where necessary suppress serious violations involving the local population under their control or subject to their authority. Ensuring local security includes protecting people from reprisals and revenge attacks, such as against minority groups or local officials. Commanders are responsible for restoring and ensuring public order and safety as far as possible, and shall take all appropriate measures within their power to do this. See ICRC *Commentary to Protocol I*, article 87.

<sup>371</sup> Human Rights Watch report, *Hearts and Minds: Post-War Civilian Deaths in Baghdad Caused by U.S. Forces*, October 2003. For documentation of the first major incident in al-Falluja in April 2003, when the U.S. opened fire on a demonstration, killing seventeen and wounding more than seventy, see Human Rights Watch report, *Violent Response: the U.S. Army in al-Falluja*, June 2003.

danger.<sup>372</sup> U.S. forces have failed to conduct investigations into the loss of civilian lives during military operations and thus have made insufficient effort to take steps to reduce civilian casualties.



A boy watches a U.S. military vehicle on the main road in al-Falluja in May 2003. U.S. soldiers have used excessive and indiscriminate force there and in other towns.

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Due to security considerations, Human Rights Watch has not been able to investigate violations of international humanitarian law by both sides during U.S. military assaults and counter-insurgency sweeps, such as in al-Falluja and along the Syrian border. Reported summary executions, torture and other mistreatment by U.S. forces against Iraqi insurgents and civilians captured on the battlefield are a major concern. A September 2005 Human Rights Watch report, *Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division*, provides U.S. soldier testimony of the torture and other mistreatment of Iraqis in detention. The failure of the U.S. military to undertake criminal prosecutions where there is strong evidence of war crimes—the videotaped incident of a U.S. Marine shooting to death an incapacitated insurgent in an al-Falluja mosque being among the most highly publicized incidents<sup>373</sup>—reinforces these concerns.

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<sup>372</sup> Human Rights Watch press release, "Iraq: U.S. Military Responses Imperil Journalists," September 24, 2003.

<sup>373</sup> See Andrew Marshall, "Reporter Recounts Killing of Wounded Iraqi by Marine," *Reuters*, November 22, 2004.

U.S. forces have also been implicated in acts of torture and other mistreatment of suspected insurgents at Abu Ghraib prison and other detention facilities in Iraq. Methods of interrogation include harsh and coercive techniques such as subjecting detainees to painful stress positions and prolonged sleep deprivation. The Schlesinger panel appointed by U.S. Defense Secretary Donald Rumsfeld noted fifty-five substantiated cases of detainee abuse in Iraq, plus twenty instances of detainee deaths under investigation. An earlier report by Maj. Gen. Antonio Taguba found “numerous incidents of sadistic, blatant, and wanton criminal abuses” that constituted “systematic and illegal abuse of detainees” at Abu Ghraib. Another U.S. Defense Department report documented forty-four allegations of such war crimes at Abu Ghraib.<sup>374</sup>

Human Rights Watch reiterates its call that the U.S. government investigate all credible allegations of unlawful killings by U.S. soldiers, and punish soldiers and officers found to have used or tolerated the use of excessive or indiscriminate force. Human Rights Watch has also found that high-ranking U.S. civilian and military leaders—including Secretary of Defense Donald Rumsfeld, former CIA Director George Tenet, Lt. Gen. Ricardo Sanchez, formerly the top U.S. commander in Iraq, and Maj. Gen. Geoffrey Miller, who commanded Abu Ghraib prison in Iraq—made decisions and issued policies concerning detainees that facilitated serious and widespread violations of the law in Iraq, as well as in Afghanistan and at Guantanamo Bay. The circumstances of the abuse strongly suggest that they either knew or should have known that such violations would take place or were taking place as a result of their actions. There is also information indicating that, when presented with evidence that abuse was in fact occurring, they failed to act to stop the abuse.<sup>375</sup>

## **XV. Violations by the Iraqi Government**

As this report documents, members of the Iraqi army and police are under regular attack by insurgent groups using suicide bombers, roadside bombs and car bombs, and subjecting those in custody to torture and summary execution. But this does not absolve the government from its obligations to respect Iraqi and international law in its law enforcement and counter-insurgency operations.

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<sup>374</sup> Human Rights Watch press statement, “U.S.: Abu Ghraib Only the ‘Tip of the Iceberg,’” April 27, 2005. Available at <http://hrw.org/english/docs/2005/04/27/usint10545.htm#below>.

<sup>375</sup> Human Rights Watch report, *Getting Away with Torture? Command Responsibility for the U.S. Abuse of Detainees*, April 2005.

Thus far, these obligations are not being met. One area of concern is the Iraqi government's treatment of persons in detention. A January 2005 Human Rights Watch report found that Iraqi security forces were committing systematic torture and other abuses against detainees, including children.<sup>376</sup> In particular, the report documented the systematic use of arbitrary arrest, prolonged pre-trial detention without judicial review, torture and ill-treatment, denial of access by families and lawyers and abysmal conditions in pre-trial detention facilities. Trials were marred by inadequate legal representation and the acceptance of coerced confessions as evidence. Persons tortured or mistreated had inadequate access to health care and no realistic avenue for legal redress. With rare exception, Iraqi authorities have failed to investigate and punish officials responsible for violations. Human Rights Watch found that international police advisers, primarily U.S. citizens funded through the United States, had turned a blind eye to these rampant abuses.

A human rights report by the United Nations Assistance Mission for Iraq (UNAMI) documented the use of excessive force and other violations by Iraqi security forces throughout the summer of 2005. According to an UNAMI report released in September, "UNAMI received consistent reports of excessive use of force with regard to persons and property as well as mass arrests carried out by Iraqi police and special forces acting alone or in association with the MNF [Multi-National Force]." In addition, "mass detentions of persons without warrants continue to be used in military operations by Iraqi police, special forces of the Ministry of Interior and by MNF-I."<sup>377</sup>

Iraqi authorities have mistreated in detention both alleged common criminals and suspected insurgents. Regardless of the reasons for detention or arrest, the Iraqi government is legally bound to treat all detainees and arrested individuals humanely and to prosecute them in accordance with international fair trial standards.<sup>378</sup>

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<sup>376</sup> Human Rights Watch report, *The New Iraq? Torture and Ill-treatment of Detainees in Iraqi Custody*, January 2005. Available at <http://hrw.org/reports/2005/iraq0105/>.

<sup>377</sup> U.N. Assistance Mission for Iraq, Human Rights Report, July 1-August 31, 2005.

<sup>378</sup> As explained in chapter XVI, "Legal Standards and the Conflict in Iraq," insurgents operating in Iraq do not enjoy the so-called "combatant's privilege" under international humanitarian law, which means that they may be arrested and charged with taking up arms under domestic crimes like treason, murder or the illegal possession of arms. They still enjoy the basic rights to be treated humanely and to have fair and independent trial. See generally ICRC, *Customary International Humanitarian Law*, chapter 32 on fundamental guarantees and chapter 37 on persons deprived of their liberty.

A growing area of concern is the Iraqi government's counter-insurgency campaign, with increasingly frequent reports in 2005 that Iraqi forces were committing torture against detainees and some extra-judicial executions.<sup>379</sup>

On May 26, 2005, the Iraqi Interior and Defense Ministers announced a major counter-insurgency campaign across Iraq in cooperation with the Multi-National Force called "Operation al-Barq" (Lightning), which involved 40,000 Iraqi security forces.<sup>380</sup> Sunni political and religious leaders quickly complained that the operation was indiscriminately targeting Sunni communities and arbitrarily detaining Sunni civilians arbitrarily or without legal basis in dragnets.<sup>381</sup> Due to security concerns, Human Rights Watch was not able to investigate the charge.

Of particular concern is the growing number of security units and militias, some of which enjoy nominal autonomy but cooperate to varying degrees with Iraqi security forces. Sunni leaders have accused elements within SCIRI's Badr Organization,<sup>382</sup> and the Special Police Commandos of illegal killings and abuse against detainees. An American journalist who accompanied the Special Police Commandos for one week in Samarra witnessed a commander threatening the son of a suspected insurgent with death and the beating of other detainees. U.S. military advisors, some of them with counter-insurgency experience from El Salvador, were working closely with the commando group.<sup>383</sup>

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<sup>379</sup> See Anthony Shadid and Steve Fainaru, "Militias on the Rise Across Iraq," *Washington Post*, August 21, 2005, and Peter Beaumont and Martin Bright, "UK Aid Funds Iraqi Torture Units," *The Observer*, July 3, 2005.

<sup>380</sup> U.S. Department of State, Iraq Weekly Status Report, June 1, 2005, available at [http://www.defendamerica.mil/downloads/Iraq%20Weekly%20Status%20Report\\_20050601.pdf](http://www.defendamerica.mil/downloads/Iraq%20Weekly%20Status%20Report_20050601.pdf), as of June 14, 2005.

<sup>381</sup> "Iraq's Sunni Clerics Thunder Against Operation Lightning," *Agence France-Presse*, June 7, 2005, and Nancy A. Youssef, "Offensive Unfairly Targets Us, Sunni Say," *Seattle Times*, June 4, 2005.

<sup>382</sup> SCIRI's first militia was the Badr Brigade, founded in the 1980's in Iran, where SCIRI leaders were living. After the U.S. invasion of Iraq, it transformed itself into the Badr Organization of Reconstruction and Development and pledged to disarm. Active mostly in Baghdad and Shi'a-controlled southern Iraq, the Badr Organization remained armed and maintains ties to the Ministry of Interior, currently run by a former high-ranking Badr Brigade official. See Edward Wong, "Leaders of Iraq Support Militias and Widen Rift," *New York Times*, June 9, 2005, and Council on Foreign Relations, Iraq: Militia Groups, June 9, 2005, available at [http://www.cfr.org/pub8175/lionel\\_beehner/iraqmilitia\\_groups.php](http://www.cfr.org/pub8175/lionel_beehner/iraqmilitia_groups.php), as of June 19, 2005.

<sup>383</sup> Peter Maass, "The Salvadorization of Iraq," *New York Times Magazine*, May 1, 2005, available at <http://www.petermaass.com/core.cfm?p=1&mag=123&magtype=1>, as of June 15, 2005. According to the article, the Iraqi Human Rights Ministry is investigating the case.

In May 2005 the Association of Muslim Scholars accused the Badr Organization of killing fourteen Sunnis, including three imams, but Human Rights Watch could not verify the claim.<sup>384</sup>

A recent example of Iraqi government abuse occurred on July 10, when ten Sunni Arab men suffocated after Iraqi commandos locked them in a police van in temperatures exceeding 100 degrees Fahrenheit. The details of the case remain in dispute but, by all accounts, the commandos seized the men (who the police claim were insurgents) from Nur Hospital near Abu Ghraib and threw them into the van, where ten of them died and two survived. “We were left from 5:30 that evening inside a kind of container that had no air vents,” one of the survivors later told the press. “After one hour, we lost consciousness and some people began to die, the others were dead by one o’clock in the morning.”<sup>385</sup> According to doctors who examined the bodies, the commandos had tortured the men with electric shock. Witnesses told the press the commandos were from the First Brigade, but one of the officers in charge of the commando unit, Brig. Gen. Rashid Flayih, said the unit was a police paramilitary force known as the Special Security Force.<sup>386</sup>

Iraq’s Human Rights Ministry condemned the deaths as “an inhuman act that violates all international norms and standards,” and said it had established a team of experts to investigate. “If proved guilty, the commandos must be tried to receive just penalty for their deeds,” a ministry statement said.<sup>387</sup>

In the north, Kurdish security forces have also been responsible for abuses. Most recently, Kurdish security forces have been implicated in a concerted effort to illegally detain Arabs and Turkomans in the city of Kirkuk. In mid-June, the *Washington Post* reported that Kurdish police and security forces, backed by the U.S. military, had abducted hundreds of minority Arabs and Turkomans in the city, detaining them in prisons in Arbil and Sulaimaniyya, where some were tortured. According to a confidential U.S. State Department cable the paper obtained, the “extra-judicial

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<sup>384</sup> “Sunni Religious Leaders Accuse Shiite Militias of Killing 14,” *Agence France-Presse*, May 18, 2005.

<sup>385</sup> Richard Galpin, “Iraq Police Accused of Torture,” *BBC*, July 28, 2005, available at [http://news.bbc.co.uk/2/hi/middle\\_east/4718999.stm](http://news.bbc.co.uk/2/hi/middle_east/4718999.stm), as of August 19, 2005.

<sup>386</sup> John F. Burns, “10 Sunnis Suffocate in Iraqi Police Custody,” *New York Times*, July 13, 2005.

<sup>387</sup> Khayoun Saleh, “Rights Ministry Wants Iraqi Soldiers to Face Trial Over Killing of Inmates,” *Azzaman*, July 20, 2005.

detentions” were part of a “concerted and widespread initiative” by Kurdish political parties “to exercise authority in Kirkuk in an increasingly provocative manner.”<sup>388</sup>

In 2005, the Iraqi Interior Ministry began participating in a television show called “Terrorism in the Grip of Justice,” which airs almost nightly on al-`Iraqiya, Iraq’s U.S.-funded national station. Very popular among Iraqis, the program shows alleged insurgents, some of them cut and bruised, purportedly confessing to rapes, kidnappings and executions. Given the Interior Ministry’s record of systematic torture, Human Rights Watch is deeply concerned that some of the detainees may have suffered physical abuse or due process violations, as well as public humiliation, which are forbidden by international humanitarian and human rights law. In transcripts of four shows reviewed by Human Rights Watch, the interrogator repeatedly mocks the detainees.<sup>389</sup> In one show described in the English-language press, a former policeman with two black eyes confessed to killing two police officers in Samarra; a few days after the broadcast, the former policeman’s family told reporters that someone had delivered to them the man’s corpse.<sup>390</sup>

## **XVI. Legal Standards and the Conflict in Iraq**

### ***International Humanitarian Law in Iraq***

All parties to the military conflict in Iraq—Iraqi government forces, U. S. and other coalition forces and insurgent groups—are bound by international humanitarian law (or the laws of war). International humanitarian law imposes upon warring parties legal obligations to reduce unnecessary suffering and to protect civilians and other non-combatants. An important guiding principle of international humanitarian law is to distinguish between combatants and those not taking part in the hostilities.

International humanitarian law is applicable to situations of armed conflict without regard to the legal basis for the conflict. That is, it applies whether the armed conflict itself is legal or illegal under international law, and whether those fighting are regular armies or non-state armed groups. U.S. and other coalition forces, Iraqi government forces and insurgent groups are all obligated to respect the laws of war regardless of whether the armed conflict and resulting occupation are considered lawful or not.

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<sup>388</sup> Steve Fainaru and Anthony Shadid, “Kurdish Officials Sanction Abductions in Kirkuk,” *Washington Post*, June 15, 2005.

<sup>389</sup> Human Rights Watch reviewed the transcripts of the program from April 11-14, 2005.

<sup>390</sup> Maass, “The Salvadorization of Iraq,” *New York Times Magazine*, May 1, 2005. According to the article, the Iraqi Human Rights Ministry is investigating the case.



Likewise, insurgency is not in itself a violation of international humanitarian law. The laws of war do not prohibit the existence of insurgent groups or their attacks on legitimate military targets. Rather, it restricts the means and manner of insurgent attacks and imposes upon them a duty to protect civilians and other non-combatants. In other words, international humanitarian law does not regulate *if* states and armed groups engage in hostilities, but rather *how* states and armed groups engage in hostilities. Human Rights Watch, consistent with our position of neutrality in armed conflicts, takes no position on the legality under international law of the U.S.-led invasion of Iraq or the resulting insurgency.

The specific international humanitarian law provisions applicable in Iraq have changed as the nature of the conflict has evolved over the past two years. The U.S.-led attack on Iraq that began on March 20, 2003 is considered to be an international armed conflict—a conflict between opposing states. The law applicable to international conflicts includes the four Geneva Conventions of 1949, to which Iraq and the United States are party,<sup>391</sup> and the Hague Regulations of 1907,<sup>392</sup> which are considered reflective of customary international law.

With the fall of the Iraqi government in April 2003, the United States along with the United Kingdom became occupying powers under international law, regulated primarily by the Hague Regulations and the Fourth Geneva Convention.<sup>393</sup> Occupying powers have a legal obligation to restore and ensure, as far as possible, public order and safety in the territory under their authority.<sup>394</sup> Military commanders on the ground must act to prevent and where necessary suppress serious violations involving the local population

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<sup>391</sup> The four Geneva Conventions are: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 75 U.N.T.S. 31, entered into force October 21, 1950; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 75 U.N.T.S. 85, entered into force October 21, 1950; Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention), 75 U.N.T.S. 135, entered into force October 21, 1950; Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 75 U.N.T.S. 287, entered into force October 21, 1950.

<sup>392</sup> Hague Regulations annexed to the Convention (IV) Respecting the Laws and Customs of War on Land, 1907 (Hague Regulations).

<sup>393</sup> International humanitarian law provides that once an occupying power has assumed authority over a territory, it is obliged to restore and maintain, as far as possible, public order and safety. Hague Regulations, article 43. U.S. President George W. Bush declared an end to major combat operations on May 1, 2003, but the U.S. government did not contest that it was an occupying power. U.N. Security Council Resolution 1483 (May 22, 2003), recognized the situation in Iraq as one of occupation under international law. In a September 2003 meeting with Human Rights Watch, officials from the U.S. Judge Advocate General and the CPA General Counsel's office said that there had been no cessation of hostilities in Iraq, and therefore the coalition was in "a state of armed conflict and a state of occupation." Human Rights Watch interview with Col. Marc Warren, Col. Mike Kelly and Maj. P.J. Perrone, Baghdad, September 23, 2003.

<sup>394</sup> Hague Regulations, article 43.

under their control or subject to their authority. The occupying force is responsible for protecting the population from violence by third parties, such as newly formed armed groups or forces of the former government. Ensuring local security includes protecting civilians, including minority group members and other targeted groups, from reprisals and revenge attacks. Until such time that local police can be organized for securing public order, occupying armed forces may have to be deployed in this role. Unless such forces are facing hostilities, the use of force is governed by international human rights standards for law enforcement. That is, only necessary and proportionate force may be used and only to the extent required.<sup>395</sup>

The occupying powers in Iraq exercised power through the Coalition Provisional Authority (CPA), headed by U.S. diplomat L. Paul Bremer.<sup>396</sup> From 2003 to 2004, the CPA gradually transferred power to Iraqi bodies it had established. On July 13, 2003, the CPA created the Interim Governing Council as a stated step towards transferring authority to Iraqis, followed by the Iraqi Interim Government on June 1, 2004, run by Prime Minister Ayad `Allawi.<sup>397</sup> On June 28, 2004, the CPA transferred all government authority to the Iraqi Interim Government. The Transitional Administration Law, prepared by the CPA, became supreme law of the land until an elected assembly drafted a new permanent constitution. Under the Geneva Conventions an occupation is considered ended when control by the occupying power is no longer exercised.<sup>398</sup> The United Nations, via U.N. Security Council Resolution 1546,<sup>399</sup> and the ICRC each determined that the occupation of Iraq under international law ended with the June 28 transfer of power.<sup>400</sup>

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<sup>395</sup> See *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, August 27 to September 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).

<sup>396</sup> The CPA passed regulations, orders and memoranda on issues ranging from security to taxes. It also prepared the Law on Administration for the State of Iraq for the Transitional Period (Transitional Administration Law, or TAL), which was intended as temporary constitutional law. The validity of certain provisions of the TAL under the law of occupation is a matter of dispute. See, e.g. Naomi Klein, "Iraq is Not America's to Sell," *The Guardian (UK)*, Nov. 7, 2003; Antonia Juhasz, "The Handover That Wasn't," *Foreign Policy in Focus*, posted July 20, 2004.

<sup>397</sup> The U.N. Security Council endorsed the Iraqi Interim Government on June 8, 2004, in resolution 1546. The CPA acknowledged the members of the interim government the next day (CPA Regulation 10, Members of Designated Iraqi Interim Government with Annex A, June 9, 2004).

<sup>398</sup> See ICRC Commentary to the Fourth Geneva Convention, art. 6.

<sup>399</sup> The U.N. Security Council endorsed the Interim Iraqi Government on June 8, 2004, in resolution 1546. The CPA acknowledged the members of the interim government the next day (CPA Regulation 10, Members of Designated Iraqi Interim Government with Annex A, June 9, 2004).

<sup>400</sup> The ICRC issued a statement on August 5, 2004 that stated in part:

After the hand-over of power from the Coalition Provisional Authority to the interim Iraqi Government on 28 June 2004, following the United Nations Security Council resolution 1546 stating the end of the foreign occupation, the legal situation has changed. As stated in the resolution, the presence and the military operations of the Multi-National Forces in Iraq are based on the consent of the Interim Government of Iraq. The ICRC therefore

The hostilities in Iraq since the end of the formal occupation are considered a non-international (internal) armed conflict, governed primarily by common article 3 to the Geneva Conventions and customary international humanitarian law.<sup>401</sup> Many provisions of the 1977 Protocols, including most of those concerned with protecting the civilian population, are considered reflective of customary international law.<sup>402</sup>

During armed conflicts, international human rights law remains in effect, though it may be superseded by more specific provisions of international humanitarian law (the principle of *lex specialis*).<sup>403</sup> Human rights law may also be limited by so-called derogation clauses imposed under a state of emergency.<sup>404</sup> Some rights can never be derogated from, including the right to life, the right not to be tortured or otherwise mistreated, the right not to be charged *ex post facto*, and the right to freedom of thought, conscience and religion.<sup>405</sup> International humanitarian law has been increasingly interpreted to be

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no longer considers the situation in Iraq to be that of an international armed conflict between the US-led coalition and the state of Iraq and covered by the Geneva Conventions of 1949 in their entirety. The current hostilities in Iraq between armed fighters on one hand opposing the Multi-National Force (MNF-I) and/or the newly established authorities on the other, amount to a non-international armed conflict. This means that all parties including MNF-I are bound by Article 3 common to the four Geneva Conventions, and by customary rules applicable to non-international armed conflicts.

(ICRC, "Iraq post 28 June 2004: protecting persons deprived of freedom remains a priority," August 5, 2004, available at <http://www.icrc.org/Web/Eng/siteeng0.nsf/iwplList265/89060107D77D7299C1256EE7005200E8>, as of September 15, 2005.

For an analysis of the occupation's legal end, see Sir Adam Roberts, "The End of Occupation in Iraq," *International Humanitarian Law Research Initiative*, June 28, 2004, available at <http://www.ihlresearch.org/iraq/feature.php?a=51>, as of September 15, 2005.

<sup>401</sup> An authoritative study of customary international humanitarian law is the two-volume ICRC *Customary International Humanitarian Law* (2005). Important sources of customary international humanitarian law are the First and Second Additional Protocols of 1977 to the 1949 Geneva Conventions (respectively Protocol I and Protocol II). Protocol I, which has been ratified by Iraq, applies to international armed conflicts but many provisions on the methods and means of warfare are recognized as reflective of customary law during internal armed conflicts. Protocol II applies during internal armed conflicts and virtually all of its provisions are considered indicative of customary law. See generally Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977 and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non- International Armed Conflicts (Protocol II), of 8 June 1977.

<sup>402</sup> See, e.g. Theodore Meron, *Human Rights and Humanitarian Norms as Customary Law*, 1989, pp.62-70, 74-78 (discussing the customary law character of certain aspects of Protocol I). In 1987, the U.S. State Department Deputy Legal Advisor gave a speech in which he enumerated many of the principles enshrined in Protocol I that the U.S. considers customary international law. See "The Sixth Annual American Red-Cross Washington College of Law Conference on International Humanitarian Law: A Workshop on Customary International Law and the 1977 Protocols Additional to the 1949 Geneva Conventions," *The American University Journal of International Law and Policy*, Vol. 2, No. 2, Fall 1987, pp. 419-427 (containing remarks of Michael J. Matheson).

<sup>403</sup> See International Court of Justice, *Nuclear Weapons Case*, Advisory Opinion (1996).

<sup>404</sup> See International Covenant on Civil and Political Rights (ICCPR), article 4. See also, Human Rights Committee, General Comment 29, States of Emergency, article 4, U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 186 (2003).

<sup>405</sup> ICCPR, art. 4(2).

consistent with the requirements of human rights law. Thus the fundamental guarantees provided to all persons in custody under common article 3 to the 1949 Geneva Conventions and customary international humanitarian law also can be found in international human rights law.<sup>406</sup>

On October 16, 2003, the U.N. Security Council authorized a Multi-National Force in Iraq. Dominated by the United States but including other members of the coalition, the Security Council gave the force the authority “to take all necessary measures to contribute to the maintenance of security and stability in Iraq.”<sup>407</sup> As of September 2005, the United States had approximately 140,000 soldiers in Iraq.<sup>408</sup> Twenty-six countries in the coalition were contributing another 23,000 military personnel.<sup>409</sup>

National and regional elections were held on January 30, 2005. In addition to eighteen provincial bodies, Iraqis voted for a 275-member Transitional National Assembly. The Assembly appointed a transitional government run by Prime Minister Ibrahim al-Ja'fari, but its main task over 2005 is to draft the constitution, to be presented to the Iraqis for approval in a general referendum scheduled for October 15, 2005.<sup>410</sup>

### ***International Humanitarian Law and the Protection of Civilians***

The changed designation of the conflict since 2003 from an international to an internal armed conflict is largely irrelevant when dealing with the basic issue of civilian protection. Regardless of how a conflict is defined, all forces must respect the principles of preventing unnecessary suffering, ensuring humane treatment, and upholding the distinction between combatants and civilians. It is always forbidden to target civilians, and government armed forces and non-state armed groups must take all feasible precautions to minimize civilian harm.

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<sup>406</sup> See generally the discussion of fundamental guarantees, ICRC, *Customary International Humanitarian Law*, pp. 299-383..

<sup>407</sup> U.N. Security Council Resolution 1511, October 16, 2003.

<sup>408</sup> “Two Infantry Battalions to Deploy to Iraq for Election Period,” *States News Service*, August 24, 2005.

<sup>409</sup> The countries in the Multi-National Force as of July 1, 2005, were: Albania, Armenia, Australia, Azerbaijan, Bulgaria, Czech Republic, Denmark, El Salvador, Estonia, Georgia, Italy, Japan, Kazakhstan, South Korea, Latvia, Lithuania, Macedonia, Mongolia, Netherlands, Norway, Poland, Romania, Slovakia, United Kingdom, and Ukraine.

<sup>410</sup> If the constitution is accepted by more than 50 percent of voters, elections for a new Assembly will be held within two months. If the constitution is rejected, the Transitional Assembly will be dissolved and Iraqis will elect a second Transitional Assembly to redraft the constitution. The permanent constitution also will fail if rejected by two-thirds of the voters of any three provinces.

The principle of distinction between civilians and combatants is recognized as a fundamental principle of international humanitarian law in both international and internal armed conflicts. This principle provides that all parties to a conflict:

must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.<sup>411</sup>

All parties must also distinguish between civilian objects and military objectives; attacks may not be directed against civilian objects.<sup>412</sup> Attacks that are primarily designed to spread terror among the civilian population are prohibited.<sup>413</sup>

A civilian is defined under international humanitarian law as a person who is not a member of the armed forces. The term “civilian” also includes some employees of the military establishment who assist the armed force.<sup>414</sup> This would include, for instance, the numerous civilians serving on military bases as cleaners, translators and construction workers. While as civilians they may not be targeted, these civilian employees of military establishments or those who indirectly assist combatants assume the risk of death or injury incidental to attacks against legitimate military targets while they are in the immediate vicinity of military targets.

Civilians are protected from attack unless and for only such time as they take a direct part in hostilities. In case of doubt whether a person is a civilian, that person is considered a civilian.<sup>415</sup>

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<sup>411</sup> ICRC, *Customary International Humanitarian Law*, Rule 1, citing Protocol I, articles 48, 51(2), 52(2); Protocol II, article 13(2).

<sup>412</sup> ICRC, *Customary International Humanitarian Law*, Rule 7, citing Protocol I, arts. 48 and 52(2).

<sup>413</sup> ICRC, *Customary International Humanitarian Law*, Rule 2, citing Protocol I, art. 51(2); Protocol II, article 13(2).

<sup>414</sup> Civilians include those persons who are “directly linked to the armed forces, including those who accompany the armed forces without being members thereof, such as civilian members of military aircraft crews, supply contractors, members of labour units, or of services responsible for the welfare of the armed forces, members of the crew of the merchant marine and the crews of civil aircraft employed in the transportation of military personnel, material or supplies. . . . Civilians employed in the production, distribution and storage of munitions of war. . . .” See M. Bothe, K. Partsch, and W. Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (The Hague: Martinus Nijhoff, 1982), pp. 293-94.

<sup>415</sup> Protocol I, Article 50(1). Some states have expressed reservations about the military implications of a strict interpretation of this rule. According to the ICRC, “when there is a situation of doubt, a careful assessment has to be made as to whether there are sufficient indications to warrant an attack. One cannot automatically attack anyone who might appear dubious.” See ICRC, *Customary International Humanitarian Law*, pp. 23-24.

The meaning of “taking a direct part in hostilities” has never been fully clarified. According to the ICRC commentary to Protocol I, “direct participation [in hostilities] means acts of war which by their nature and purpose are likely to cause actual harm to the personnel and equipment of enemy armed forces,” and includes acts of defense.<sup>416</sup> Direct participation in hostilities “implies a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place.” Civilians lose their immunity from attack for as long as they directly participate in hostilities.<sup>417</sup>

Typically, civilians who fire weapons or directly assist combatants on the battlefield, such as by loading weapons or acting as artillery spotters, are considered to be directly participating in the hostilities. “Hostilities” not only covers the time when the civilian actually makes use of a weapon but also the time that he is carrying it, as well as situations in which he undertakes hostile acts without using a weapon.<sup>418</sup> Persons planning military operations or directing attacks would also be considered directly participating in hostilities.

There are a number of gray areas in the phrase “direct participation in the hostilities.” These relate not only to the civilian’s activity and whether it is direct participation or not, but also to its geographic or temporal beginning and end. That is, there is little clarity as to when a civilian with a weapon actually begins participating in the hostilities, and at what point the participation ends. However, civilians subjected to attack documented in this report were unambiguously not directly participating in the hostilities. Iraqi politicians or government employees, civilian officials and staff of foreign governments, humanitarian aid workers, journalists and contractors without a military function are all protected civilians under the laws of war.

Police normally have the status of civilians.<sup>419</sup> Police units that take part in military operations or otherwise engage in military functions may be targeted as combatants. Individual police may only be targeted during such time that they take a direct part in the

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<sup>416</sup> ICRC, *Commentary on the Additional Protocols*, p. 619.

<sup>417</sup> Bothe, *New Rules for Victims of Armed Conflicts*, p. 303.

<sup>418</sup> ICRC, *Commentary on the Additional Protocols*, p. 618-19. This is a broader definition than “attacks” and includes at a minimum preparation for combat and return from combat. Bothe, *New Rules for Victims of Armed Conflicts*, p. 303.

<sup>419</sup> See Bothe, *New Rules for Victims of Armed Conflicts*, p. 240; Report of Working Group B, Committee I, 18 March 1975 (CDDH/I/238/Rev.1; X, 93), in Howard S. Levie, ed., *The Law of Non International Armed Conflict*, (Dordrecht, Netherlands: Martinus Nijhoff, 1987), p. 67.

hostilities.<sup>420</sup> Recruitment candidates for the police or military, such as those waiting in line outside police stations or army recruitment centers, are also civilians not considered to be participating in hostilities.

The principle of distinction is also enshrined in common article 3 of the four Geneva Conventions, which imposes legal obligations on all parties to a conflict to ensure humane treatment of persons not, or no longer, taking an active role in hostilities. Common article 3 states:

Persons taking no active part in the hostilities, including members of armed forces who had laid down their arms and those placed *hors de combat* [out of combat] by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

Common article 3 expressly binds “each Party to the conflict,” that is, government forces and non-state armed groups, even though the latter do not have the legal capacity to sign the Geneva Conventions. In Iraq, the Multi-National Force, Iraqi government forces and organized insurgent groups are parties to the conflict and therefore bound by common article 3’s provisions.

The obligation to apply common article 3 is absolute for all parties to the conflict and independent of the obligation of the other parties. In other words, Iraqi insurgent groups cannot excuse themselves from complying with common article 3 on the grounds that the Multi-National Force or Iraqi government forces are violating common article 3, and vice versa.

With regard to civilians and captured combatants, both government and insurgent forces are prohibited from using violence to life and person, in particular murder, mutilation, cruel treatment and torture. The taking of hostages is forbidden, as is humiliating and degrading treatment. No party to the conflict may pass sentences or carry out executions

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<sup>420</sup> ICRC, *Customary International Humanitarian Law*, rule 4, citing Protocol I, article 43(1). The commentary to rule 4 states: “Incorporation of paramilitary or armed law enforcement agencies into armed forces is usually carried out through a formal act, for example, an act of parliament. In the absence of formal incorporation, the status of such groups will be judged on the facts and in the light of the criteria for defining armed forces. When these units take part in hostilities and fulfill the criteria of armed forces, they are considered combatants.” Ibid. p. 17.

without previous judgment by a regularly constituted court that has afforded the defendant all judicial guarantees.<sup>421</sup>

Customary international humanitarian law provides a more encompassing list of protections for civilians in internal armed conflicts. While not an all-inclusive list, the following practices, orders, and actions are prohibited by all sides:

- Rape and other forms of sexual violence.<sup>422</sup>
- Enforced disappearance.<sup>423</sup>
- Arbitrary deprivation of liberty.<sup>424</sup>
- Convictions or sentencing without a fair trial.<sup>425</sup>
- Collective punishments.<sup>426</sup>
- Desecration of corpses.<sup>427</sup>

In addition parties must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.<sup>428</sup> The freedom of movement of humanitarian relief workers must be ensured.<sup>429</sup>

### ***Designation of Military Objectives***

Under international humanitarian law, a legitimate military objective is an object or a target, selected by its nature, location, purpose, or use, that contributes effectively to the enemy's military capability, and whose destruction or neutralization offers a definite

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<sup>421</sup> Common article 3 to the 1949 Geneva Conventions.

<sup>422</sup> ICRC, *Customary International Humanitarian Law*, rule 93, citing 1949 Geneva Conventions, common article 3; Protocol I, art. 75(2); Protocol II, art. 4(2).

<sup>423</sup> ICRC, *Customary International Humanitarian Law*, rule 98.

<sup>424</sup> ICRC, *Customary International Humanitarian Law*, rule 99. Arbitrary deprivation of liberty violates the right to humane treatment under common article 3 to the Geneva Conventions.

<sup>425</sup> ICRC, *Customary International Humanitarian Law*, rule 100, citing Protocol I, art. 75; common article 3 to the Geneva Conventions.

<sup>426</sup> ICRC, *Customary International Humanitarian Law*, rule 103, citing Hague Regulations, art. 50; Third Geneva Convention, art. 87; Fourth Geneva Convention, art. 33.

<sup>427</sup> ICRC, *Customary International Humanitarian Law*, rule 113, citing Hague Regulations, article 16; 1949 Geneva Conventions; Protocol I, article 34; and Protocol II, article 8.

<sup>428</sup> ICRC, *Customary International Humanitarian Law*, rule 55, citing Fourth Geneva, article 23; Protocol I, art. 70(2).

<sup>429</sup> ICRC, *Customary International Humanitarian Law*, rule 56, citing Protocol I, article 71(3); Protocol II, article 18(2).



military advantage in the circumstances.<sup>430</sup> Legitimate military objectives include the enemy's forces, weapons, convoys, installations, and supplies. In addition, objects generally used for civilian purposes, such as houses, buses, taxicabs, or a civilian airfield, can become military objectives if their location or use meets the criteria for a military objective."<sup>431</sup>

The laws of war characterize all objects as civilian unless they satisfy the two-fold test mentioned above. Objects normally dedicated to civilian use, such as houses, mosques, churches and schools, are presumed not to be military objectives. If they do in fact assist the enemy's military action, they can lose their immunity from direct attack. This presumption only attaches to objects that ordinarily have no significant military use or purpose. For example, this presumption would not include objects such as transportation and communications systems that under applicable criteria are military objectives.

The attacker must take all feasible precautions to verify that the objectives to be attacked are military and not civilian. "Feasible" means "that which is practical or practically possible taking into account all the circumstances at the time, including those relevant to the success of military operations."<sup>432</sup> At the same time, defenders must take all feasible precautions to protect civilians under their control from the effects of attacks.<sup>433</sup> During international armed conflicts and arguably during internal ones, all parties must avoid locating military objectives near densely populated areas and they must, to the extent feasible, remove civilians and civilian objects from the vicinity of military objectives.<sup>434</sup>

### ***Prohibition on Attacks Causing Disproportionate Civilian Harm and Indiscriminate Attacks***

International humanitarian law prohibits attacks that cause disproportionate harm to civilians or which cannot discriminate between civilians and military objectives.

The principle of proportionality obliges combatants to choose a means of attack that avoids or minimizes damage to civilians. Attacks are prohibited if they may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a

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<sup>430</sup> ICRC *Customary International Humanitarian Law*, rule 8, citing Protocol I, art. 52(2).

<sup>431</sup> Bothe, *New Rules for Victims of Armed Conflicts*, pp. 306-07.

<sup>432</sup> ICRC *Customary International Humanitarian Law*, rule 16, citing Protocol I, article 57(2)(a); see also Bothe, *New Rules for Victims of Armed Conflict*, p. 362.

<sup>433</sup> ICRC *Customary International Humanitarian Law*, rule 22, citing Protocol I, article 58(c).

<sup>434</sup> ICRC *Customary International Humanitarian Law*, rules 23-24, citing Protocol I, article 58(a-b)..

combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.<sup>435</sup>

If an attack can be expected to cause incidental civilian casualties or damage, two requirements must be met before that attack is launched. First, there must be an anticipated “concrete and direct” military advantage. Thus, a remote advantage to be gained at some unknown time in the future would not be a proper consideration to weigh against expected civilian losses.”<sup>436</sup>

Creating conditions “conducive to surrender” by conducting attacks that incidentally harm the civilian population<sup>437</sup> is too remote to qualify as a “concrete and direct” military advantage.<sup>438</sup>

The second requirement of the principle of proportionality is that the foreseeable injury to civilians and damage to civilian objects not be disproportionate, that is, “excessive” in comparison to the expected “concrete and definite military advantage.”

Excessive damage is a relative concept. For instance, the presence of a single soldier cannot serve as a justification to destroy the entire village. If the destruction of a bridge is of paramount importance for the occupation of a strategic zone, “it is understood that some houses may be hit, but not that a whole urban area be leveled.”<sup>439</sup> There is never a justification for excessive civilian casualties, no matter how valuable the military target.<sup>440</sup>

Indiscriminate attacks are also prohibited. An indiscriminate attack has been defined as an attack that:

- 1) is not directed at a specific military objective;
- 2) employs a method or means of combat that cannot be directed at a specific military objective; or

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<sup>435</sup> ICRC, *Customary International Humanitarian Law*, rule 14; see also Protocol I, arts. 51(5)(b) & 57(2)(iii).

<sup>436</sup> Bothe, *New Rules for Victims of Armed Conflict*, p. 365.

<sup>437</sup> ICRC, *Commentary on the Additional Protocols*, p. 685.

<sup>438</sup> *Ibid.*, p. 685. As set out above, to constitute a legitimate military objective, the object, selected by its nature, location, purpose or use must contribute effectively to the enemy's military capability or activity, and its total or partial destruction or neutralization must offer a “definite” military advantage in the circumstances. See Protocol I, art. 52(2) where this definition is codified.

<sup>439</sup> ICRC, *Commentary on the Additional Protocols*, p. 684.

<sup>440</sup> *Ibid.*, p. 626.

- 3) employs a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.<sup>441</sup>

### ***Suicide Attacks and International Law***

Suicide attacks are a method of warfare that in themselves do not violate the laws of war. For example, Japanese kamikaze attacks against U.S. military forces during World War II were lawful attacks on military targets. In Iraq, most suicide attacks have been carried out by persons carrying explosive devices on their person or driving vehicles packed with explosives. As weapons they are very discriminate: a suicide bomber is able to detonate with an accuracy that exceeds that of the most sophisticated guided weapon. It is not an inherently indiscriminate weapon, such as land mines or roadside bombs detonated by a timing mechanism.

Yet for several reasons, many if not most of the suicide bomb attacks carried out in Iraq have been in violation of the laws of war. First, many of the suicide bombers have targeted civilians or civilian objects, not military targets. Second, attacks conducted against military targets have been against police stations or convoys surrounded by civilians, such that the attacks caused disproportionate civilian casualties compared to the expected military advantage. Third, most suicide bombers have carried out their attacks dressed as civilians with their explosives hidden, although they are combatants under the law; any attempt to feign civilian or noncombatant status to deceive the enemy into letting down their guard is perfidy, and violates international humanitarian law.<sup>442</sup>

Perfidy poses particular dangers because it blurs the distinction between enemy soldiers, who are a valid target, and civilians and other noncombatants, who are not. Soldiers fearful of perfidious attacks are more likely to fire upon civilians and wounded or surrendering soldiers, however unlawfully. Perfidy is distinguished from ruses of war, such as mock operations, misinformation, surprises, ambushes, or the use of camouflage or decoys. Ruses are permissible acts of warfare intended to trick the enemy; they do not

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<sup>441</sup> ICRC, *Customary International Humanitarian Law*, rule 14, citing Protocol I, arts. 51(4)(a).

<sup>442</sup> ICRC, *Customary International Humanitarian Law*, rule 65, citing Hague Regulations, article 23(b); Protocol I, art. 37(1). Acts of perfidy include pretending to be a civilian, who cannot be attacked, or feigning surrender (surrendering soldiers also cannot be attacked) so that opposing forces let down their guard at the moment of attack. Other examples include feigning protective status by the misuse of emblems of the United Nations or the red cross and red crescent.

violate international law to the extent that they do not depend on taking advantage of an enemy's willingness to abide by the law protecting noncombatants.<sup>443</sup>

### ***Criminal Responsibility***

Serious violations of international humanitarian law are war crimes. All individuals—combatants and civilians—are criminally responsible for war crimes they commit. Military commanders, whether of regular armed forces or non-state armed groups, may be held responsible for war crimes committed under their orders. They may also be held culpable as a matter of command responsibility for crimes committed by their subordinates if they knew or should have known of the crimes and did not take all necessary and reasonable measures to prevent such crimes or to punish those responsible.<sup>444</sup>

The law governing internal armed conflicts does not recognize what is known as the combatant's privilege—the license to kill or capture enemy troops, and destroy military objectives. The privilege immunizes combatants from criminal prosecution by their captors for violent acts that do not violate the laws of war but would otherwise be crimes under domestic law. Members of armed groups may be prosecuted under domestic law for participating in the hostilities.<sup>445</sup> Specifically, Iraqi courts can prosecute captured insurgents taken into custody according to international fair trial standards for such offenses under Iraqi law. They may also be prosecuted under a CPA order that prohibits the possession, transport, concealment, sale, and use of unauthorized firearms, and military weapons, by any individuals other than the coalition forces, Iraqi security

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<sup>443</sup> See ICRC *Commentary to Protocol I*, pp. 439-441.

<sup>444</sup> See generally, ICRC, *Customary International Humanitarian Law*, chapter 43. Regarding command responsibility of commanders of non-state armed groups, see ICTY, *Prosecutor v. Aleksovski*, Trial Chamber, Judgment, case no. IT-95-14/1, June 25, 1999. ("Superior responsibility is thus not reserved for official authorities. Any person acting *de facto* as a superior may be held responsible under Article 7(3) [of the ICTY statute on individual criminal responsibility]. The decisive criterion in determining who is a superior according to customary international law is not only the accused's formal legal status but also his ability, as demonstrated by his duties and competence, to exercise control." Para. 76).

<sup>445</sup> Under the laws of war, during a military occupation the criminal laws of the occupied country remain in effect. The occupying power may only set aside or modify laws that pose a security threat to the occupying power or which contradict international legal standards (Fourth Geneva, art. 64). Any new criminal laws must be publicized and *ex post facto* (retroactive) laws are prohibited (Fourth Geneva, art. 65).

The Iraqi Penal Code (Law No. 111 of 1969), as amended, includes broad categories of offenses under which those involved in insurgent activities might be prosecuted: offenses against the internal security of the state (pt. II, ch. 2); offences that endanger the public (pt. II, ch. 7); offenses affecting the life and physical safety of others (pt. III, ch. 1); offenses affecting the freedom of an individual and the deprivation of such freedom (pt. III, ch. 2); and, offenses against property (pt. III, ch. 3).

police and personnel under the supervision of the coalition and private security companies licensed by the Ministry of the Interior.<sup>446</sup>

Any non-Iraqis taking part in insurgent activities in Iraq would generally be governed by the same laws that apply to Iraqis, that is, they could be prosecuted for taking up arms. Such persons could also be legally returned to their home country unless there are substantial grounds for believing they will be subjected to torture, ill-treatment or persecution upon return.<sup>447</sup>

### **Crimes Against Humanity**

Some insurgent groups have committed murder, torture and other offenses as part of widespread or systematic attacks against the civilian population. When carried out as part of a group's policy or plan—evidenced for instance by claims of responsibility for suicide attacks against civilians—such attacks are crimes against humanity.

Crimes against humanity were first codified in the charter of the Nuremberg Tribunal of 1945 to prohibit crimes “which either by their magnitude and savagery or by their large number or by the fact that a similar pattern was applied...endangered the international community or shocked the conscience of mankind.”<sup>448</sup> The concept has been incorporated into a number of international treaties and the statutes of international criminal tribunals, including the Rome Statute of the International Criminal Court.<sup>449</sup> The definition of crimes against humanity varies slightly by treaty, but as a matter of customary international law the term “crimes against humanity” includes a range of serious human rights abuses committed as part of a widespread or systematic attack by a government or non-state group against a civilian population.<sup>450</sup> Murder and torture all

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<sup>446</sup> CPA Order 3 (revised and amended), Weapons Control, December 31, 2003.

<sup>447</sup> International law prohibits the transfer, return (refoulement) or expulsion of persons to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture. The prohibition against torture and refoulement is absolute and cannot be waived under any circumstances. See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 3. Both Iraq and the United States are party to the convention.

<sup>448</sup> *History of the United Nations War Crimes Commission and the Development of the Laws of War* (1943), p. 179, quoted in Rodney Dixon, “Crimes against humanity,” in *Commentary on the Rome Statute of the International Criminal Court* (O. Triffterer, ed.) (1999), p. 123.

<sup>449</sup> Rome Statute of the International Criminal Court, 2187 U.N.T.S. 3, *entered into force* July 1, 2002.

<sup>450</sup> See Rodney Dixon, “Crimes against humanity,” in *Commentary on the Rome Statute of the International Criminal Court* (O. Triffterer, ed.) (1999), p. 122. This is the standard applied by Article 7 of the Rome Statute of the International Criminal Court. Iraq is not a state party to the Rome Statute and is therefore not bound by it, but the definition in Article 7 accords with the conception of crimes against humanity in customary international law.

fall within the range of acts that can qualify as crimes against humanity.<sup>451</sup> Unlike war crimes, crimes against humanity may be committed in times of peace or in periods of unrest that do not rise to the level of an armed conflict.

Crimes against humanity include only abuses that take place as part of an attack against a civilian population. So long as the targeted population is of a predominantly civilian nature, the presence of some combatants does not alter its classification as a “civilian population” as a matter of law.<sup>452</sup> Rather, it is necessary only that the civilian population be the primary object of the attack.<sup>453</sup> The attack against a civilian population underlying the commission of crimes against humanity needs only to be widespread *or* systematic; it need not be both.<sup>454</sup> “Widespread” refers to the scale of the acts or number of victims.<sup>455</sup> A “systematic” attack indicates “a pattern or methodical plan.”<sup>456</sup> Finally, the perpetrator must have known that the conduct was part of a widespread or systematic attack against a civilian population.<sup>457</sup>

Those who commit crimes against humanity, like war crimes, are held individually criminally responsible for their actions. Crimes against humanity give rise to universal jurisdiction, they do not permit the defense of following superior orders, and they do

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<sup>451</sup> Murder and torture are among the core offenses that have been included within the definition of crimes against humanity at least since the adoption of the charter establishing the Nuremberg tribunal after World War II. The ICC Statute also lists: extermination, rape, enslavement, deportation, imprisonment, persecution, enforced disappearance, apartheid, and “other inhumane acts.” ICC Statute, article 7(1).

<sup>452</sup> See, e.g., *Prosecutor v. Naletilic and Martinovic*, International Criminal Tribunal for the former Yugoslavia (ICTY), Trial Chamber, March 31 2003, par. 235 (“The population against whom the attack is directed is considered civilian if it is predominantly civilian”); *Prosecutor v. Akayesu*, International Criminal Tribunal for Rwanda (ICTR), Trial Chamber, September 2, 1998, par. 582 (“Where there are certain individuals within the civilian population who do not come within the definition of civilians, this does not deprive the population of its civilian character”); *Prosecutor v. Jelusic*, ICTY Trial Chamber, December 14, 1999, par. 54 (“The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.”).

<sup>453</sup> See *Naletilic and Martinovic*, para. 235.

<sup>454</sup> See *Prosecutor v. Tadic*, ICTY Trial Chamber, para. 646 (“it is now well established that...the acts...can...occur on either a widespread basis or in a systematic manner. Either one of these is sufficient to exclude isolated or random acts.”).

<sup>455</sup> *Akayesu* defined widespread as “massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims,” *Prosecutor v. Akayesu*, ICTR Trial Chamber, September 2, 1998, para. 579; see also *Kordic and Cerkez*, ICTY Trial Chamber, February 26, 2001, para. 179; *Kayishema and Ruzindana*, ICTR Trial Chamber, May 21, 1999, para. 123.

<sup>456</sup> *Tadic*, para. 648. In *Kunarac, Kovac and Vokovic*, the Appeals Chamber stated that “patterns of crimes—that is the non-accidental repetition of similar criminal conduct on a regular basis—are a common expression of [a] systematic occurrence.” Para. 94.

<sup>457</sup> See *Kupreskic et al.*, ICTY Trial Chamber, January 14, 2000, para. 556: “[T]he requisite mens rea for crimes against humanity appears to be comprised by (1) the intent to commit the underlying offence, combined with (2) knowledge of the broader context in which that offence occurs.” See also *Tadic*, ICTY Appeals Chamber, para. 271; *Kayishema and Ruzindana*, ICTR Trial Chamber, May 21, 1999, paras. 133-134.

not benefit from statutes of limitation. There is an emerging trend in international jurisprudence and standard setting that those responsible for crimes against humanity and other serious violations of human rights should not be granted amnesty.<sup>458</sup> As in the case of war crimes, all states are responsible for bringing those who commit crimes against humanity to justice.

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<sup>458</sup> For example, on July 7, 1999, the Special Representative of the Secretary-General attached a disclaimer to the Sierra Leone Peace Agreement, saying "The United Nations interprets that the amnesty and pardon in article nine of this agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law." See also, Commission on Human Rights, resolutions 1999/34 and 1999/32; the Annual Report of the U.N. Committee Against Torture to the General Assembly, 09/07/1996,A/51/44, para. 117; and U.N. Human Rights Committee General Comment 20, April 10, 1992.

## Appendix A

### **Major Attacks with Civilian Deaths by Insurgent Groups in Iraq**

*A major attack is defined as having resulted in ten or more civilian deaths. The list is based on major media sources (see below) and may not include all attacks.*

#### **Attacks in 2003**

August 7 - A truck bomb outside the Jordanian embassy in Baghdad kills sixteen and injures more than fifty.

August 19 - A suicide bomber in a truck demolishes U.N. headquarters in Baghdad, killing twenty-two people, including U.N. Special Representative to the Secretary-General Sergio Vieira de Mello, and wounding more than 150.

August 29 - Car bomb kills at least eight-three at the Imam Ali mosque in Najaf, including Shi`a Muslim leader Ayatollah Muhammad Baqir al-Hakim.

October 27 - A truck bomb explodes outside the headquarters of the International Committee of the Red Cross (ICRC) in Baghdad, killing twelve. Bombs at three police stations in the city kill at least twenty-three more.

#### **Attacks in 2004**

January 18 - Suicide car bomber kills at least twenty-five, mostly Iraqi civilians, at entrance to the main U.S. headquarters in Baghdad.

February 1 - Ninety-nine Kurdish civilians are killed and 246 wounded when two suicide bombers detonate bombs at the offices of the main Kurdish political parties in Arbil.

February 10 - Suicide car bomb explodes in a police station in al-Iskandariyya south of Baghdad, killing fifty-three civilians.

February 11 - Suicide car bomb explodes outside an Iraqi army recruitment center in Baghdad, killing up to forty-seven and wounding fifty.

March 2 - More than 181 die and 573 are wounded when multiple blasts erupt in Baghdad and Karbala while Shi`a pilgrims are observing `Ashura', the holiest day of the Shi`a calendar.

April 20 - Insurgents fire twelve mortar rounds into Abu Ghraib prison near Baghdad. According to U.S. military officials, the attacks kill twenty-two prisoners and wound ninety-two.



- April 21 - Car bombs outside three Iraqi police stations and a police academy in Basra kill sixty-eight people, including sixteen children, and wound 200. Nine of the sixty-eight victims were police.
- April 24 - Fourteen Iraqi civilians are killed when insurgents fire mortars and rockets into a crowded market in Baghdad's Sadr City.
- April 24 - A roadside bomb in al-Iskandariyya kills fourteen Iraqis traveling to Baghdad on a bus.
- June 17 - A car bomb kills thirty-five Iraqis and wounds more than 100 outside an army recruiting station in Baghdad.
- June 25 - A wave of attacks by insurgents in six cities kills more than 100 and wounds more than 300. In Mosul, sixty-two people die and 220 are injured from car bombs at the police academy, two police stations and a hospital, although it is not clear how many of the victims were civilians.
- July 14 - A suicide car bomber blows himself up at the gates of the U.S.-fortified Green Zone, killing at least ten Iraqi civilians and injuring dozens.
- July 28 - A suicide car bomb kills sixty-eight people and wounds fifty-six in Ba`quba intended for men lined up outside a police recruiting center.
- August 1 - Coordinated car bomb attacks on five churches, four in Baghdad and one in Mosul, kill eleven and wound more than forty.
- August 26 - A mortar attack on a mosque in Kufa kills twenty-seven Iraqis and wounds sixty-three.
- August 27 - Unidentified gunmen fire into a group walking on the main road from Kufa to Najaf, killing fifteen.
- August 31 - Ansar al-Sunna announce the execution of twelve Nepalese contractors, including one beheading, on a web site.
- September 14 - A car bomb near a police station in Baghdad kills at least forty-seven people and wounds 114 in a nearby market. Recruits were lining up out the station to sign up for the police.
- September 30 - Insurgents detonate three car bombs in Baghdad's Hay al-'Amel neighborhood as U.S. soldiers hand out candy for the opening of a renovated water pumping station, killing forty-one people, thirty-four of them children.
- October 10 - A suicide car bomb near the Oil Ministry in Baghdad killed an estimated ten Iraqis.
- October 15 - A suicide bomber in a car explodes near a police station in Baghdad, killing ten civilians, including a family of four.
- October 23 - Insurgents capture and execute forty-six soldiers from the Iraqi armed forces and three drivers taking them home for the weekend on leave.
- October 31 - A rocket slams into a hotel in Tikrit, killing fifteen and wounding eight.

- November 11 - A car bomb explodes just after a U.S. patrol passes, killing seventeen Iraqi civilians and wounding thirty.
- December 3 - A car bomb kills at least fourteen people outside a Shi`a mosque in Baghdad and heavily damages the mosque.
- December 16 - An explosion outside a Shi`a shrine in Karbala kills ten Iraqis and wounds forty-one, including Grand Ayatollah `Ali al-Sistani's representative in the holy city.
- December 19 - A suicide car bomb in Najaf, 300 yards from the Imam Ali shrine kills and wounds more than 120. On the same day, a car bomb explodes at Karbala's bus station, killing fourteen and injuring at least forty.
- December 27 - A suicide car bomber kills thirteen people outside the offices of SCIRI, one of the main Shi`a Muslim political parties, in Baghdad.
- December 28 - Twenty-eight people are killed in an explosion that flattens several houses in Baghdad, apparently when a police unit was lured into a trap laid by insurgents.

### ***Attacks in 2005 (through mid-September)***

- January 19 - A suicide car bomb explodes near a police station in Baghdad's Karrada neighborhood, killing an estimated eleven civilians.
- January 21 - A suicide car bomb blows up outside a Shi`a mosque in Baghdad killing fourteen and wounding forty
- January 30 - Insurgents execute at least nine suicide bombings on Iraq's election day, killing at least thirty-five.
- February 7 - Suicide bombers kill at least twenty-seven in two Iraqi cities; outside a Ba`quba police station and a Mosul hospital.
- February 7 - A suicide car bomb kills fifteen civilians and wounds seventeen outside the main police headquarters in Ba`quba.
- February 8 - A suicide bomber killed twenty-one people waiting to sign up for the Iraqi police and wounded twenty-seven in Baghdad.
- February 11 - A car bomb kills at least twelve Iraqis and wounds forty outside a Shi`a mosque in Balad Ruz, 45 miles northeast of Baghdad.
- February 11 - Masked gunmen kill at least ten at a bakery in a Shi`a area of Baghdad. It remains unclear if the attack was by insurgents or the result of a tribal dispute.
- February 12 - A suicide car bomber kills seventeen Iraqis outside a hospital south of Baghdad.

February 18 - A suicide bomber kills fifteen and wounds twenty-four as Shi`a Muslims celebrate the religious festival of `Ashura`in a procession to al-Kadhimiyya mosque in southern Baghdad.

February 28 - A suicide car bomb attack on a crowd of mostly Shi`a police and army recruits in al-Hilla kills 125 and wounds about 130. Most of the dead were police and army recruits, but civilians from the market across the street were also killed.

March 10 - A suicide bomber strikes a Shi`a mosque during a funeral in Mosul, killing at least forty-seven and wounding more than 100.

April 20 - Nineteen Iraqi soldiers are found executed in a stadium in Haditha.

April 24 - Two bombs kill fifteen Iraqis and wound fifty-seven near the Shi`a Ahl al-Bayt mosque in Baghdad.

May 1 - A car bomb kills at least twenty-five and wounds more than fifty at the funeral of Sayyid Talib Sayyid Wahhab, an official of the Kurdistan Democratic Party, in Tal Afar.

May 4 - A suicide bomber kills forty-six civilians and wounds about 100 as they are waiting to sign up for the police in Arbil.

May 5 - A suicide bomber blew himself up outside an army recruitment center in Baghdad, killing thirteen and wounding fifteen.

May 6 - A suicide car bomber kills fifty-eight Iraqi civilians and wounds 44 more at a vegetable market in the mostly Shi`a town of Suwayra.

May 11 - A suicide bomber kills at least thirty-one people and wounds more than sixty-six in Tikrit.

May 11 - A suicide bomber kills thirty-two and wounds more than forty outside a police and army recruitment center in Hawija.

May 15 - Police find the bodies of twelve Iraqi men killed execution-style in northeastern Baghdad, thirteen bodies in eastern Baghdad, and eleven more near al-Iskandariyya.

May 23 - Two suicide car bombs kill fifteen Iraqis outside the home of Hasan Bagdash, a Turkoman politician, in Tal Afar. Bagdash survived the attack.

May 23 - A suicide car bomber kills at least ten people and wounds thirty outside a Shi`a mosque in al-Mahmudiyya.

May 23 - A car bomb kills eleven Iraqis and wounds more than 110 outside a Baghdad restaurant popular with the police.

June 2 - An explosion at a restaurant in Tuz Khormatu kills twelve people.

June 3 - A suicide bomber kills ten Iraqis and wounds ten more at a home in Sa`ud, a remote village near Balad.

- June 7 - Three explosions in and around Hawija kill thirty-four people; the deadliest kills ten people at a checkpoint on the outskirts of town.
- June 11 - Gunmen open fire on a minibus in Diyara, killing eleven Iraqi construction workers.
- June 14 - A suicide bomber kills twenty-three people outside a bank in Kirkuk, among them some pensioners.
- June 19 - A suicide bomber detonates his charges in a popular Baghdad restaurant during lunchtime, killing twenty-three people.
- June 20 - A suicide bomber kills fifteen traffic police officers and wounds 100 people in Arbil.
- July 2 - A suicide bomber with explosives hidden beneath his clothing targets a police recruitment center in Baghdad, killing sixteen people and wounding twenty-two.
- July 10 - An attacker detonates an explosive vest outside a Baghdad army recruitment center, killing twenty-five and wounding forty-seven.
- July 13 - A suicide car bomb explodes next to U.S. troops handing out candy and toys to children, killing thirty-two children and one U.S. soldier.
- July 16 - A suicide car bomber detonates his explosives underneath a propane tanker that insurgents had hijacked and parked near a Shi`a mosque south of Baghdad. At least ninety-eight people die and 156 are wounded.
- July 24 - A suicide car bomber kills twenty-five people and wounds thirty-three others near al-Rashad police station in Baghdad. Iraqi police are among the casualties but most of the victims are civilians.
- July 29 - At least forty-eight people are killed and fifty-eight wounded in a suicide bomb attack on an army recruitment center in the northern town of Rabi`a.
- August 17 - Three car bombs near the Nadha bus station in Baghdad and at the nearby al-Kindi Hospital kill up to forty-three people.
- September 14-15 – More than one dozen car bombs and suicide bomb attacks in Shi`a neighborhoods of Baghdad killed nearly 200 people. Al-Qaeda in Iraq claimed responsibility for the attacks and declared “all-out war” on the Shi`a population.
- September 17 - A suicide car bomb killed eleven Shi`a worshippers as they left a Baghdad mosque, and wounded twenty-four.

### **Sources**

- Associated Press (see in particular “Some of the Deadliest Attacks by Insurgents Targeting Iraqi Citizens, September 14, 2005.)

- Agence France-Presse (see in particular “Deadliest Attacks in Iraq Insurgency, September 14, 2005)
- Reuters (see in particular “Major Bomb Attacks in Iraq, May 8, 2005)
- Council on Foreign Relations (see [http://cfr.org/reg\\_index.php?id=6|35||12](http://cfr.org/reg_index.php?id=6|35||12))

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