

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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### Annual reports

Events of 2006

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The human rights situation worsened significantly in 2006. The continuing armed conflict became increasingly sectarian in nature, with many commentators declaring the onset of a civil war, and Sunni and Shia armed groups targeting civilians from each other's communities. United States forces continued military operations against insurgent forces throughout the country, resulting in an unknown number of civilian deaths and injuries. In October, a Johns Hopkins-MIT mortality study estimated that 650,000 Iraqis had died as a result of the war since 2003, 600,000 of them in violent deaths; this figure was far higher than previous estimates.

The bombing on February 22 of two Shia holy sites in Samarra' catalyzed an unprecedented level of violent attacks, primarily against civilians. Despite several security plans announced by the Iraqi government and Multi-National Forces (MNF) to curb the violence and bring armed militias under control, the overall security situation continued to deteriorate. In October, Iraq's National Assembly passed legislation providing for the formation of federal regions in the country in 2008, despite strong opposition by Sunni representatives and two Shia parties. Some feared the law would fuel sectarian violence and threaten Iraq's sovereignty while depriving the central region of access to natural resources.

Further revelations emerged of Ministry of Interior and Ministry of Defense personnel systematically torturing and sometimes killing detainees in their custody. Government investigations failed to lead to the arrest and prosecution of alleged suspects, despite mounting evidence.

Elections were held on December 15, 2005, for a new 275-seat National Assembly. Political uncertainty continued, however, as outgoing Prime Minister Ibrahim al-Ja'fari, nominated again by the largest parliamentary bloc, failed to gain consensus. On April 23 the National Assembly elected Jalal Talabani as the country's president and nominated Nouri al-Maliki as prime minister after al-Ja'fari withdrew his candidacy.

In June, Prime Minister Maliki announced a 24-point National Reconciliation Plan addressing the political and security crises in the country. Among other things, the plan provided for mechanisms to facilitate the political process, the disbanding of armed militias and laying down security plans, tackling mass internal displacement, legislative and judicial reforms, a partial amnesty for non-terrorist offenses, and accountability mechanisms for human rights abuses. At this writing, the government had not implemented any of these provisions.

Civilians remained the primary victims of directed or indiscriminate attacks perpetrated by Sunni and Shia armed groups. Numerous attacks appeared aimed at inflicting maximum casualties and spreading fear among the civilian population as militias targeted marketplaces, places of worship, and shops. Incidents were also rife of armed groups on both sides reportedly abducting, torturing, and killing people on the basis of their religious or sectarian affiliation. Sunni insurgent groups, including al Qaeda and Ansar al-Sunna, claimed responsibility for a number of incidents involving car bomb and suicide attacks against civilian areas, while levels of abduction by such groups remained very high. Shia armed groups, in particular the Mahdi Army and the Badr militia, were reportedly responsible for numerous abductions and killings in Baghdad and elsewhere. According to Iraqi government figures, the number of killings in Baghdad in July and August exceeded 5,000.

Relentless violent attacks caused greater displacement of civilians across Iraq, affecting Sunni and Shia communities as well as Christians and other minorities. The Iraqi government stated that 234,000 persons were displaced since February, but a study published

by the Brookings Institution and the University of Bern in October estimated that the numbers were between 300,000 and 400,000. The report cited failure to register and the politicization of tracking the numbers of displaced persons as key reasons for the higher figures.

Evidence of widespread torture and other ill-treatment of detainees in the custody of the Iraqi ministries of interior and defense continued to emerge. A joint MNF-Iraqi raid on the Ministry of Interior's al-Jadiriyya facility in Baghdad in November 2005 discovered some 170 detainees, many bearing injuries consistent with torture. At least 18 others allegedly had died in custody, and the fate of others remained unknown. Between December 2005 and May 2006, joint MNF-Iraqi teams inspected at least eight facilities run by the two ministries in and around Baghdad. The inspectors found consistent evidence of detainee abuse at most locations, including the Ministry of Interior's Site 4 facility, where in May many of the 1,845 detainees displayed recent injuries consistent with severe beatings and electric shock.

In December 2005 the government ordered an investigation into detainee abuse at the al-Jadiriyya facility. While it released tens of detainees as a result of a case review by a judicial committee, by October 2006 it had not made public the findings of the investigation. The government also failed to announce the findings of another investigation into detainee abuse at the Site 4 facility. At this writing, the government had neither arrested nor charged any of the alleged perpetrators at either facility, including 52 personnel at Site 4. No further joint inspections of detention facilities were carried out after May 31, reportedly because of governmental opposition to the program.

Security forces (*Asayish*) in the Kurdistan Federal Region continued to hold illegally hundreds of detainees, including Kurds, Arabs, and other nationals, many of them on suspicion of terrorism offenses. The majority of detainees stated during prison visits conducted by Human Rights Watch that security officials had neither referred them to an investigative judge nor charged them with cognizable offenses, often for up to three years. Many also stated that detaining officials denied them access to legal counsel and family visits, and subjected them to torture or ill-treatment under interrogation. Beginning in May, and following the unification of the administrations of the Kurdistan Democratic Party and the Patriotic Union of Kurdistan, the Kurdish authorities took positive steps to resolve some of these issues, and a partial review of case files led to several hundred detainees being released by August.

As of October, US forces were detaining about 13,000 Iraqis on the basis of United Nations Security Council authorization, but the legal regime applicable to the detainees remained unclear. Detainees may be held indefinitely on security grounds and then released, while others were transferred after several months to Iraqi custody for prosecution. Among the detainees were journalists, including Associated Press photographer Bilal Hussein, arrested in Ramadi on April 12 and since held without charge or judicial review.

Further details of widespread detainee abuse by US military personnel emerged from new accounts by US soldiers, revealing that such abuse was an established policy of detention and interrogation processes in Iraq for much of 2003-05. Senior officers apparently rebuffed or ignored soldiers who sought to report abuse.

The first trial before the Iraqi High Tribunal (IHT), which began in October 2005, concluded in July. Eight defendants, including former president Saddam Hussein, were tried on charges of crimes against humanity in connection with the arbitrary detention and forced displacement of 800 men, women, and children from the town of Dujail in 1982, of whom 148 men and boys were executed or died in detention. In the verdict delivered on November 5, Saddam Hussein and six other defendants were convicted; Hussein and two others were sentenced to death by hanging. In a report issued in November 2006 Human Rights Watch concluded that the trial had not respected basic fair trial guarantees. A second trial opened in August, with Saddam Hussein and six other defendants facing charges including genocide, crimes against humanity, and war crimes in connection with the former government's Anfal campaign against the Kurdish population in northern Iraq, involving the systematic, deliberate murder of at least 50,000 and possibly as many as 100,000 Kurds, over six months in 1988.

Serious concerns remained about the capacity of the IHT to fairly and effectively try these massive crimes in accordance with international criminal law and fair trial standards. The IHT was also beset by external problems, misunderstanding and hostility in public opinion, and grave security threats to all participants. Serious administrative, procedural, and substantive legal defects characterized the Dujail trial, which was also marred by the assassination of a third defense lawyer in June, the resignation of the presiding judge, and boycotts by defense counsel. In the Anfal trial, the transfer of the presiding judge off the case in September by decision of the Council of Ministers interfered with the independence of the judiciary.

As of September 2005, US forces retained physical custody of 108 "high value detainees," most of whom were held at Camp Cropper near Baghdad International Airport. Most were awaiting trial before the IHT and had been brought before an investigative judge, but it remained unclear how many had been formally charged.

In November 2005 the UN Security Council extended the mandate of the MNF-I until December 31, 2006, under resolution 1637. As of August, the United States maintained approximately 130,000 active troops in Iraq, with the United Kingdom as the key partner retaining some 7,200 troops principally in the southeastern governorates. Among the 28 countries contributing to the MNF-I forces were Australia, the Czech Republic, and Georgia.

The US government urged Iraqi officials on numerous occasions to take action in restraining armed militias operating death squads responsible for many of the abductions and killings of civilians. It pressed for decisive action in holding the leadership of such groups accountable, and for the prosecution of officials of the Ministry of Interior identified as operating detention facilities where the routine torture of inmates was discovered. US military investigative teams carried out several inspections of facilities under the authority of the ministries of interior and defense, urging Prime Minister Maliki to authorize official investigations.

In his September report to the Security Council, UN Secretary-General Kofi Annan said, "Iraq is experiencing an acute human rights and humanitarian crisis, with indiscriminate killings, targeted attacks, crime and corruption contributing to the lack of law and order." The United Nations Assistance Mission in Iraq (UNAMI) reported regularly on these abuses, describing a "vicious cycle of violence and revenge killings resulting in overall instability in the country."

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