

Human Rights Report

1 January– 28 February 2006

Summary

1. The human rights situation in the country remains a matter of serious concern. Following the events of 22 February 2006, which included, the destruction of Al Askari Shrine in Samarra, there has been a marked deterioration in the security environment, resulting in hundreds of cases of killings, torture, illegal detention and displacement.

2. Serious allegations have been received by UNAMI Human Rights Office regarding the actions of some segments of the security forces, in particular the police and special forces, and their apparent collusion with militias in carrying out human rights violations. Allegations that "death squads" operate in the country grew stronger following the discovery by the Multi-National Forces in Iraq (MNF-I) and the Iraqi Security Forces of a suspicious group, acting within the structures of the Ministry of Interior. This re-affirms the urgent need for the Government to assert control over the security forces and all armed groups. Throughout the reporting period, insurgent activities, including terrorist acts, intensified after 22 February and continue to affect the civilian population.

3. The legality and the conditions of detention in Iraq, under the authority of the MNF-I and the Government of Iraq continue to warrant attention. UNAMI has repeatedly expressed concerns to relevant members of the Government about allegations of systematic human rights violations in detention centers under the direct or indirect control of the Ministries of Interior and Defense.

4. Minorities groups, including Palestinians, continue to be the victims of discrimination, labeling, detention and torture because of their alleged association with foreign Arabs supporting the insurgency. During the reporting period, specific religious groups have also been targeted.

Situation of human rights following 22 February 2006

5. On Wednesday 22 February 2006, following the destruction of the Al-Askari Shrine in Samarra, which was strongly condemned by the Special Representative of the Secretary-General for Iraq Ashraf Qazi, serious incidents of violence erupted in and around Baghdad, in Basra as well as in other parts of the country, following the destruction of the

Shia Al-Askari Shrine in Samarra by unknown perpetrators. Numerous killings reportedly took place, including public executions by militias, in Al-Baldiat, Saddr City and Al-Sha'ab areas of Baghdad. Street clashes and assaults by armed groups continued for days. Many individuals were reportedly detained at improvised checkpoints, or were abducted from homes and mosques. Several of those illegally detained were later found dead, often bearing signs of severe torture. The Human Rights Office received information that some were released after being severely tortured.

6. In retaliation for the Samarra bombing, a significant number of Sunni mosques were reportedly attacked, destroyed or damaged and clerics were among those assassinated¹. Such attacks did not seem to have been spontaneous but rather revealed a degree of organization and the fact that the perpetrators had readily access to resources and equipment.

7. While the initial violence randomly targeted the Arab Sunni community, allegedly for their unproven association with the destruction of Al Askari Shrine, members of all communities were negatively affected by the unleashed violence and tit-for-tat attacks. There are no reliable means to accurately assess the number of casualties, the whereabouts of those missing, or the number of persons detained.

8. Serious abuses were also reported in Basra with many reported killings and attacks at local mosques. In one of the most serious incidents, inmates accused of terrorism detained inside the Basra's port authority were extra-judicially executed, reportedly, on 22 February by a group of approximately 70 armed men wearing bullet-proof vests. The men entered the detention facility and separated Shi'a and Sunni inmates, taking away five Iraqis, two Tunisians, two Egyptians, one Libyan, one Saudi, and one Turkish national. Ten of the twelve detainees were killed, while two survived the attack. On the same day, the headquarters of the Iraqi Islamic Party (IIP) in Basra was attacked by armed militias. Two IIP members were injured in the attack. Several hours later, men wearing black clothing reportedly took the two injured IIP members from the hospital and executed them.

Security Forces / Police operations

9. Following the destruction of the Samarra Shrine, the security forces faced formidable challenges and in most cases acted generally with professionalism to defend the Iraqi population from terrorist, sectarian or revenge attacks. For example, the security forces provided protection to mosques and funeral processions of those who were killed in the violence. UNAMI, however, remains concerned at reports that, on occasions, militias and elements of the Ministry of Interior would have colluded in the violence against civilians or would not have acted to stop or deter further bloodshed.

¹ According to the Iraqi Islamic Party, about 96 Sunni mosques were damaged in Baghdad, 8 in the Lower South (Diwaniya, Basra and Nassariya); 2 in Babil and 2 in Diyala. At least 20 Imams and Sheiks were assassinated in Baghdad and Basra and about 9 detained according to the same source.

10. Over the last year, there have been persistent allegations that militia elements have joined the security forces and formed clandestine parallel structures. Police officers and members of the security forces, who were also previously militia members, tend to retain original loyalties or affiliations. Militias are being empowered throughout the country: in the North with the recruitment of thousands of former Kurdish militias (*Peshmerga*) in the police and armed forces. In other parts of the country, former members of militias are also said to have joined the police and armed forces. Furthermore, existing militias are allegedly responsible for systematic acts of violence against members of the Sunni community and for carrying out illegal policing often in collusion with local security forces. It has been recently reported that Sunni Arabs have now formed their own militia, allegedly to counter Shi'a and Kurdish forces, and that neighbourhoods are forming armed "watch patrols" to cope with rising insecurity. Such developments undermine the effectiveness of the security forces in dealing with the security environment and may weaken their ability to maintain the rule of law. It is imperative that all armed forces maintain the trust of Iraqis by ensuring that its ranks are representative of all communities and that their actions work to reinforce the authority of the Government in line with its international obligations. Corruption is also reportedly endemic among the security forces.

Extra-judicial executions

11. The reporting period was also marked by numerous reports of summary executions and torture in and around Baghdad. A large number of extrajudicial killings, kidnappings and torture were reportedly perpetrated mainly by members of armed militias linked to political factions or criminal gangs. The same methods of execution-style killings are usually used: mass arrests without judicial warrant and extrajudicial executions with bodies found afterwards bearing signs of torture and killed by a shot to the head. Such extrajudicial executions are further fueling sectarian tensions.

12. During January and February 2006, many bodies continued to appear in and around Baghdad and in other places as a result of extrajudicial executions. In January 2006, MNF-I and Iraqi forces allegedly uncovered the existence of at least one possible death squad operating within the Ministry of Interior. Twenty-two men, dressed as special police commandos, were detained when driving with a man who was allegedly about to be executed. UNAMI welcomes the announcement of the Ministry of Interior regarding an inquiry into the alleged existence of such illegal factions inside the institution.

Ongoing military operations

13. Military operations conducted by the Multinational Force and Iraqi security forces, especially in the al-Anbar Governorate, have raised a number of human rights concerns as allegations of restrictions to freedom of movement, excessive use of force, mistreatment and theft during raids of private homes, evictions and demolitions of houses have been received by UNAMI. Such reports were reiterated during visits by UNAMI to Ramadi and Fallujah on 20 and 21 February 2006. UNAMI is following up on these allegations with the MNF-I and the relevant Iraqi authorities.

Population movements

14. UNAMI finds it encouraging that many reports in the aftermath of the Samarra bombing indicated acts of solidarity among the Iraqi citizens and communities, in the face of actions clearly intended to disrupt inter-communal relations. In addition, Friday prayers calling for national unity seemed to reflect the overwhelming desire of the Iraqi population, horrified by the upsurge in violence, for peace and security.

15. However, the Human Rights Office received reports that a number of Sunni and Shi'a families living in mixed neighborhoods were forcibly evicted from their homes or left voluntarily because of threats of violence from militias, insurgents and other armed groups. Indiscriminate mortar attacks reportedly targeted civilian neighborhoods. Real concerns for their safety prompted some residents to move to areas where they constitute a majority. Such movements divide communities further, add innumerable socio-economic problems to the already significant displaced population in Iraq, and harden the consolidation of communities along sectarian lines. The return of those who were forcibly displaced from their homes due to the recent violence should be considered a matter of priority in order to help alleviate sectarian tensions. The calls for peace and respect for human rights expressed by political and community leaders should be accompanied by renewed efforts to ensure that such commitments are adhered to by their followers and that priority consideration is given to the creation of a strong national human rights protection systems – including the establishment of an independent national human rights commission as foreseen by the Constitution.

Attacks on civilians

16. The current level of conflict constitutes a major source of violation of human rights for the population of Iraq. General insecurity in the streets due to fighting often makes it too dangerous for civilians to access basic public services, such as schools or medical facilities.

17. The Ministry of Interior announced on 25 February that some 249 people were killed in the period 22-25 February². Those figures reflect a new high in a trend that has been steadily increasing and provide an important indicator of the absence of protection of the right to life which still prevails at this time in Iraq. Women and children are also increasingly affected by the current security situation in Iraq.

Situation of minorities

18. UNAMI continues to receive disturbing reports that minorities, including Palestinians living in Iraq, are victims of human rights violations because of their perceived association with the insurgency. Palestinian refugees, a community estimated at 34,000

² These official figures correspond to the bodies brought to the Medico Legal Institute in Baghdad during the period 22-26 February. They are not inclusive of many victims who were not taken to the Institute. Some commentators mentioned that those were conservative estimates.

individuals who arrived in Iraq over the past three decades, suffer the same discrimination, labeling, stigmatization and profiling affecting other communities of foreign Arabs residing in Iraq (e.g. Syrians and Sudanese). Following the destruction of Al-Askari Shrine in Samarra, militias attacked Palestinians living in the neighbourhood of Baladiyah in Baghdad with mortars and indiscriminate fire on several occasions. The intervention of the MNF-I, assisted in stopping further violence. Since then, other attacks have taken place. Up to 10 Palestinians have been reported killed; others have been illegally detained and tortured or have disappeared.

19. The Christians of Iraq, among other religious groups, have also been targeted and continue to live in fear. On 29 January, car bombs targeted the Catholic Church of the Virgin Mary and the Orthodox Church in Kirkuk, the Saint Joseph's Catholic Church and an Anglican Church in Baghdad, killing at least three people and wounding nine. A car bomb also exploded outside the residence of the Apostolic Nunzio, without causing any casualties. Political and religious leaders from all communities condemned the attacks. The Special Representative of the Secretary-General, Mr. Ashraf Jehangir Qazi, condemned the explosions and called on Iraqi authorities and political leaders to commit themselves to the safety of all worshippers, and preserve the sanctity of places of worship. In the days following the attack of 22 February, militias fired shot towards a church near Al Sadr City, lightly wounding a priest. The Human Rights Office also received reports that in the course of February, 150 Christian families moved from Mosul city to other areas in Ninewa Governorate where Christians constitute a majority because of increasing concerns for their security.

Freedom of expression

20. Journalists and other media professionals continue to suffer greatly due to insecurity, violence and harassment including, at times, by the authorities and the MNF-I. On 8 January 2006, in Baghdad the home of an Iraqi journalist was reportedly searched by the MFN-I and Iraqi forces, allegedly, without a warrant. He was reportedly hooded and taken for questioning and released hours later. An American female journalist, Ms. Jill Carroll, who was kidnapped on 7 January 2006 is still being kept hostage. The Iraqi interpreter working with Ms. Carroll was murdered during the kidnapping. On 22 February 2006, Ms. Atwar Bahjat, a well respected and well-known Iraqi journalist, was killed with two other media workers when reporting from Samarra.

21. UNAMI continues to follow attentively the case of Mr. Kamal Sayid Qadir, an Austrian citizen of Kurdish origin, who has been in prison in Erbil since 26 October 2005. Mr. Qadir was initially sentenced to 30 years in prison on 19 December 2005 for "endangering national security". On 26 February 2006, the Supreme Court of the Kurdish Region rejected the conviction and ordered a retrial under a lesser charge.

22. The Human Rights Office has also received reports of assassinations of and intimidation against students and academics in cities around the country. UNAMI HRO is verifying these reports and expresses its concern about any violation of human rights in the context of the right of freedom of opinion and expression.

Rule of law

Detention

23. The conditions and the legality of detention in Iraq remain a matter of particular concern. Overcrowding and the lack of judicial oversight remain problematic. According to the Ministry of Human Rights, as of 28 February 2006, there were total of 29,565 detainees -- 14,229 in the custody of the MNF-I; 8,391 in the custody of the Ministry of Justice; 488 juveniles under the custody of the Ministry of Labor and Social Affairs; 5,997 held by the Ministry of Interior and 460 by the Ministry of Defense. These figures are higher than in previous months as the overall number of detainees continues to increase often as a result of mass arrests.

24. Internment for imperative reasons of security by MNF-I should be used sparingly and in full conformity with international law. Hundreds of detainees have been released by the administrative Release and Review Board, composed of members of the Iraqi Government and MNF-I. As MNF-I envisage transferring detainees to local authorities, there is a need to ensure that any legislation pertaining to detainees will be consistent with international law and best practice. Specifically, detainees have rights to due process within a reasonable period of time.

25. According to Coalition Provisional Authority Memorandum No. 3³, individuals detained since 30 June 2004, should be either released or transferred to Iraqi criminal jurisdiction. Internment can be prolonged upon the approval of the Joint Detention Committee (JDC) aimed at reviewing the cases of individuals that have been held for 18 months (after 30 June 2004). The duration of the additional period of internment should be specified. The Human Rights Office hopes that the creation of the JDC, in late December 2005, will address the most urgent concerns of the internees and lead to their release or to a judicial review of their case.

26. The application of humanitarian law and human rights law is not mutually exclusive but complementary as stated by the Human Rights Committee in general comment No. 31 (2004) and UNAMI continues to hope that this situation with regard to detentions is swiftly addressed in a manner consistent with international human rights standards.

27. The Human Rights Office continues to receive accounts of arbitrary detentions by the Iraqi security forces despite marked improvements in detention practices, as reported by the Ministry of Human Rights, and regular public assurances by the Ministry of Interior that all detentions will be handled in accordance with the law. The Human Rights Office also continues to receive regular allegations and evidence of torture in detention centres, particularly not operated or controlled by the Ministry of Justice. Inspections are being carried out in places of detention under the control of the Ministry of Interior, Defense and Special Forces throughout the country. The inspections are led by Iraqi representatives of relevant Iraqi Ministries and supported by the MNF-I. According to

³ CPA Memorandum No. 3 "Criminal Procedures", dated 27 June 2004.

credible information received, 5 places under the jurisdiction of the Ministries of Interior and Defense, or run by the Special Forces have been inspected so far. More inspections are underway. UNAMI encourages this process and calls for the reports resulting from those inspections to be made public.

Al-Jadiryia

28. UNAMI continues to remain interested in the work of the investigative committee formed after the discovery of Al-Jadiryia abuses in November 2005. The Special Representative of the Secretary-General and the High Commissioner for Human Rights sent a letter to the Prime Minister on 10 February 2006 expressing concern at the delay in publishing the results of the investigative committee and in bringing the perpetrators of human rights abuses to justice. In this respect, UNAMI welcomes the statements of the Acting Minister of Human Rights, Ms. Nermin Othman, requesting that charges are pressed against all those found to be responsible for the human rights abuses committed in the case of Al Jadiriya. UNAMI supports the calls for an international involvement in this investigation as well as and for a thorough review of all the conditions of detention in Iraq and stands ready to assist the Government of Iraq in these endeavours.

Impunity

29. The United Nations welcomes the decision of the Government of the United Kingdom to carry out a thorough investigation into the alleged abuse of Iraqi citizens in Basra, which allegedly took place during street protests in early 2004. All such allegations against either Iraqi or foreign forces should be thoroughly investigated and those found to be responsible be brought to justice.

Trial of Saddam Hussein

30. UNAMI continues to closely follow the trial of Saddam Hussein and seven co-defendants accused for the 1982 killings of 148 residents in Al Dujail village. Following the resignation of the Presiding Judge Rizgar Hamad Amin and the appointment of Judge Raouf Rasheed Abdul-Rahman as his replacement, the defense team questioned the impartiality of the Iraqi Higher Tribunal. Disquiet was fuelled when certain Government officials blocked the promotion of the Deputy-Presiding judge Sae'ed Al-Hamashy due to his alleged membership of the Ba'ath Party.

31. The defendants' rights were at the core of the proceedings on 29 January after the ejection from the courtroom of Barzan Tikriti by the presiding judge following the former's outburst amounting to contempt. Subsequently, Saddam Hussein walked out of the courtroom followed by his team of privately-retained Iraqi and foreign counsel. The defense counsel for Saddam and the other accused then failed to appear in the courtroom, on 1 February. Demonstrating the non-absolute character of the right of the defendants to have the legal counsel of their choice, the court-appointed defense counsels were designated to ensure the continuation of the proceedings in accordance with Iraqi law. Those of the accused who appeared in court, on 1 February, signaled their disquiet with

the replacement of their counsel. On 2 February, the accused refused to appear before the court but, on 13 February and on the order of the presiding judge, the defendants were compelled to appear. This gave rise to protests, in particular on the part of Saddam Hussein and Barzan Tikriti. All but one member of the privately-retained counsel were reinstated on 1 March. The prosecution has called all its witnesses to testify before the court and begun submitting documentary evidence to the presiding judge.

Institutional Capacity-Building Activities

32. The Human Rights Office continues to work towards strengthening Iraqi human rights institutions and build capacity for Iraqi Ministries and civil society organizations in order to develop a strong national human rights protection system and promote a culture of human rights and respect for the rule of law.

33. The Rule of Law Sectoral Working Group (ROL-SWG) met on 15 and 23 February in Baghdad under the chairmanship of the President of the Supreme Judiciary Council, Mr. Medhat Mahmood. The ROL-SWG process is intended as a tool to ensure coordination by various Iraqi ministries and the donor community through the facilitation of the Human Rights Office. Representatives of the ministries of Justice, Defense, Interior and Human Rights and the donor community participated in the meeting, chaired by the Chief Justice. The areas to be covered by the group include: support for the administration of justice (Police, Prisons Administration, Justice system); implementing human rights provisions in the Constitution; establishing a national human rights commission; ensuring human rights education and support for civil society organizations. The meetings were an opportunity to map out Iraqi needs and take stock of current donor assistance in the rule of law sector and to formulate an overall strategic plan for strengthening the administration of justice and the rule of law in Iraq in close cooperation with all UN agencies and programs as well as the World Bank.

33. Similar initiatives have been made in Basra where the Human Rights Office co-chairs the Informal Coordination Group on Rule of Law and Human Rights (RoLHR) together with a member of the Basra Council member. The first meeting was held on 20 January.

Non Governmental Organizations (NGOs)

34. The new civil society law regulating non-governmental organizations (NGOs), drafted by the Ministry of Civil Society, is a major source of concern. The draft law imposes harsh restrictions on both national and international civil society organizations. If approved, such law would hinder the work of NGOs and weaken their role. UNAMI finds encouragement in the commitment of many civil society organizations, particularly human rights organizations. They have approached the Human Rights Office and asked for support in strengthening the rule of law and the human rights situation in the country. In February, a group of eight local human rights NGOs launched an initiative under the motto "Deliver all weapons to the State" based on article 9 of the new Iraqi Constitution, which stipulates that: "The formation of military militia outside the framework of the armed forces is prohibited". The NGOs main demand is that all militias are disarmed and

that the experience of the United Nations in disarming militias in Africa, Yugoslavia and Latin America be also used in Iraq.
