

Following the fall of the Ba'athist regime and brief period of rule by the U.S.-led Coalition Provisional Authority, the United States returned full sovereignty to the Iraqi people in June 2004 under the terms of UN Security Council Resolution 1546. That resolution endorsed the formation of an interim Iraqi government, which was then followed by parliamentary elections in January 2005. Boycotted by many Sunni groups, those elections brought a Shi'a majority government to power in coalition with Kurdish parties. United States and foreign military forces subsequently remained in Iraq at the Iraqi government's invitation to support the new regime and help fight international terrorism.<sup>1</sup>

Despite ongoing efforts to stabilize the country, however, successive Iraqi governments have not curbed the growing scope and severity of human rights abuses. Instead, in the past year, there has been a dramatic increase in sectarian violence between Arab Sunni and Shi'a factions, combined with religiously-motivated human rights abuses targeting non-Muslims, secular Arabs, women, homosexuals, and other vulnerable groups, on which the Commission has previously reported. Although the Sunni-dominated insurgency and foreign *jihadi* groups are responsible for a substantial proportion of the sectarian violence and associated human rights abuses, Iraq's Shi'a-dominated government bears responsibility for the actions it engages in, as well as for tolerating abuses committed by Shi'a militias with ties to political factions in the governing coalition. What is more, the Iraqi government is a party to the International Covenant on Civil and Political Rights, which permits no government derogation from international protections for religious freedom, even during declared periods of national emergency.<sup>2</sup>

The Commission has identified two major areas of concern. The first is human rights violations committed by the Iraqi government through its state security forces, including arbitrary arrest, prolonged detention without due process, extrajudicial executions, and torture. Many such actions of the security forces are directed

against suspected terrorists and insurgents. Some of these actions, however, fail to discriminate between those groups and ordinary Sunnis targeted on the basis of their religious identity. The second is the Iraqi government's apparent tolerance of religiously-motivated attacks and other religious freedom abuses carried out by armed Shi'a factions, including the *Jaysh al-Madhi* (Mahdi Army) and the Badr Organization (formerly the Badr Brigades). Abuses committed by these militias target Sunnis on the basis of religious identity and include abductions, beatings, extrajudicial executions, intimidation, forced resettlement, murder, rape, and torture.

Many of these militia-related abuses occur contrary to the stated policy of Iraq's senior national leadership, and despite considerable security assistance from the U.S.-led coalition forces. Nonetheless, relationships between these militias and leading Shi'a factions within Iraq's ministries and governing coalition indicate that the Madhi Army and

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Children's Hospital, Basra, Iraq (Courtesy of Frederick Gerber/Project Hope)

Badr Organization are para-state actors, and operate with impunity or even governmental complicity. Given these ties, the Iraqi government's failure to control such actors could ultimately constitute tolerance of egregious, ongoing and systematic violations of religious freedom as defined in the International Religious Freedom Act of 1998 (IRFA).

The Commission is also concerned about the grave conditions affecting non-Muslims in Iraq, including Chaldo-Assyrian Christians, Yazidis, Sabeen Mandaeans, and other minority religious communities. These groups face widespread violence from Sunni insurgents and foreign jihadis, and they also suffer pervasive discrimination and marginalization at the hands of the national government, regional governments, and para-state militias, including those in Kurdish areas. As a result, non-Muslims are fleeing the country in large numbers. The Commission continues to monitor conditions for Iraqi refugees and internally displaced persons (IDPs), particularly those minority groups experiencing a degree of religious intolerance and persecution vastly disproportionate to their numbers. Together with the rising tide of sectarian violence, conditions for religious minorities and the associated Iraqi refugee crisis require heightened attention and more effective action by the U.S. government.

The Secretary of State designated Saddam Hussein's Iraq a "country of particular concern" (CPC) under IRFA from 1999 until 2002, following Commission recommendations citing extensive, systematic government violations of religious freedom. The Secretary later dropped that designation in 2003, following the U.S. intervention and the subsequent collapse of Hussein's government. In the intervening years, the Commission has reported on religious freedom conditions in Iraq, noting improvements in some areas but new and continuing problems in others. Now, due to the alarming and deteriorating situation for freedom of religion and belief, and because the new Iraqi government has either engaged in or otherwise tolerated violations of freedom of religion as defined under IRFA, the Commission has placed Iraq on its Watch List with the understanding that it may designate Iraq as a CPC next year if improvements are not made by the Iraqi government.\*

\* Commissioners Bansal, Gaer, and Prodromou conclude that based on the severe human rights and religious freedom conditions now extant in that country, and the sovereign government's complicity with, or toleration of, abuses as outlined in this chapter, Iraq should be recommended for designation as a country of particular concern (CPC) at this time.

### Abuses by the Sunni-Dominated Insurgency

IRFA addresses religious freedom violations that are either committed or tolerated by governments. It does not contemplate abuses committed by non-state actors, including groups engaged in military confrontations with state authorities. Accordingly, the Commission's Watch List designation does not reflect the actions of indigenous Sunni insurgents or foreign jihadis, whom the Iraqi government is fighting alongside U.S. and other coalition forces. Nonetheless, it is essential to note that these non-state militants continue to perpetrate severe abuses of religious freedom and other human rights.<sup>7</sup>

The Sunni-dominated insurgency is comprised of former Ba'athists, indigenous *Salaḥī* militants, tribal groups, and various organized criminal groups. This insurgency is hydra-headed, with each faction possessing varied objectives and *modus operandi*. Former Ba'athists systematically target Iraqi government officials and suspected coalition collaborators, including but not limited to fellow Sunni Arabs. Tribal factions and other Sunni nationalists, by comparison, appear to be locked in a cycle of violence and reprisal with government-linked Shi'a militias. These indigenous insurgents operate alongside a growing spectrum of foreign jihadi groups that cooperate in some instances and compete in others.<sup>8</sup>

The insurgency's effect on security and protections for universal human rights in Iraq is pernicious. As the U.S. Department of State observed, Sunni militants routinely "kidnapped and killed government officials and workers, common citizens, party activists participating in the electoral process, civil society activists, members of security forces, and members of the armed forces, as well as foreigners."<sup>9</sup> Other abuses include religiously-motivated attacks on Shi'as and Shi'a holy sites, such as the February 2006 bombing of the al-Askari Mosque in Samarra and the March 2007 suicide attacks that killed an estimated 120 Shi'a pilgrims traveling to Karbala to mark the end of Ashura.<sup>10</sup> Finally, Sunni insurgents and foreign jihadis are a principal source of violence between Arabs and Kurds in ethnically-mixed regions such as Mosul and Kirkuk, as well as violence targeting non-Muslim religious minorities living in northern and western Iraq.

Also significant are foreign Sunni fighters with links to al-Qaeda in Iraq (AQI) and similar transnational jihadi groups. Though small in number when compared with Iraq's indigenous insurgents, military observers widely acknowledge that these factions are responsible for many

This Watch List designation follows four years of Commission activity concerning U.S. efforts to advance protections for universal human rights, including religious freedom, for all in post-Saddam Hussein Iraq. As early as April 2003, the Commission urged President Bush to work with Iraqis to ensure that all Iraqis could exercise their religious freedom in full accordance with international human rights standards. In February 2004, the Commission notified the leadership of the Coalition Provisional Authority (CPA) that the initial drafts of Iraq's Transitional Administrative Law (TAL) did not guarantee the freedom of thought, conscience, religion or belief for all Iraqis. In a letter to then-CPA Chief Ambassador Paul Bremer, the Commission also expressed concern about provisions establishing Islam as a source of legislation and the potential impact of these provisions on protections for human rights. These warnings encouraged a substantial expansion of the TAL's guarantees for individual rights, including protections for religious freedom.

Later that same year, the Commission issued recommendations advocating extensive human rights protections in Iraq's permanent constitution, including the individual freedoms enumerated in the revised TAL. The Commission continued to press for these guarantees following the election of Iraq's National Assembly in 2005, urging both Iraqi civil society leaders and U.S. Ambassador to Iraq Zalmay Khalilzad to promote constitutional guarantees for freedom of thought, conscience, and religion or belief for all Iraqis, as well as provisions for the legal equality of religious minorities and women. These themes were featured prominently in an August 2005 op-ed by Commissioners Preeta Bansal and Nina Shea published in *The Washington Post*.<sup>9</sup>

The Commission also produced a detailed analysis of Iraq's draft constitution and a comparative study of constitutions in 44 Muslim-majority countries, which was published in the Georgetown University Journal of International Law. The Commission extended that analysis in March 2006, raising concerns regarding the newly adopted constitution's "repugnancy" clause, which mandated that no law be contrary to "the established provisions

*Both the U.S. government and international human rights defenders locate the primary source of government-perpetrated human rights violations in the Iraqi Ministry of the Interior.*

of the most provocative and egregious attacks upon Shi'a civilians, mosques and religious festivals. More than any other element in the Sunni-dominated insurgency, foreign fighters focus attacks on Shi'a religious leaders and sites with the stated object of fomenting and fueling sectarian discord.

The hatred with which foreign jihadis view Iraq's Shi'a majority is particularly evident in slain AQI leader Abu Musab al-Zarqawi's February 2004 letter to Osama bin Laden and Ayman al-Zawahiri. The letter accuses Shi'a of atheism, polytheism, treachery against Islam, and collusion with the West. Al-Zarqawi's indictments sketched a political and theological rationale for fomenting sectarian civil war, thus underscoring the importance of religion and religious identity as a motivating and exacerbating factor in the violence in Iraq.<sup>11</sup> Combined with abuses perpetrated by the Iraqi government, para-state militias and other non-state actors, AQI's presence amplifies the radicalization of Iraqi society along sectarian lines while fostering growing religious intolerance.

### Violations by the Iraqi Government

Although the Sunni insurgency accounts for a significant proportion of religiously-motivated human rights abuses in Iraq, the Iraqi government remains responsible for those violations perpetrated by its own security forces and officials of national ministries, as well as by regional and local government authorities. These violations include arbitrary arrest, prolonged detention without due process, extrajudicial executions, and torture. Pervasive threats and abuses against women, members of religious minorities and other vulnerable groups are also common, as is the continued *de facto* marginalization of these vulnerable groups. These actions, including those evident in Kurdish regions, are discussed in greater detail later in this chapter.

Many of the documented human rights violations by Iraqi national security officials have been committed against suspected Sunni insurgents and criminals. Nonetheless, ordinary Sunnis have also been swept up in government dragnets and abused while in official custody. These individuals' religious affiliation appears to be a dominant factor in their arbitrary detention and subsequent maltreatment. Moreover, the Iraqi government has done little to date to hold government personnel who perpetrate these violations accountable. As a result, many Sunnis have come to believe that attacks on their community by Iraq's Shi'a-dominated security forces can be carried out with impunity.<sup>12</sup> This impression is further exacerbated by the fact that the Iraqi government has excluded Sunnis and non-Muslims from various state-sponsored benefits and programs.

Both the U.S. government and international human rights defenders locate the primary source of government-perpetrated human rights violations in the Iraqi Ministry of the Interior (MOI).<sup>13</sup> In January 2005, for example, human rights monitors published an extensive report documenting the routine torture of detainees by Interior Ministry officials, including beatings and electrocution, as well as their deprivation of food and water.<sup>14</sup> As noted above, detainees abused by this treatment included suspected insurgents and criminals, as well as other Sunnis who appear to have been targeted based on their religious identity. Most troubling, there "was little indication that MOI or other government officials took disciplinary action in cases alleging abuses, apart from some transfers within the ministry."<sup>15</sup>



Commissioner Preeta D. Bansal and Sheikh Fatih Kashif Al-Ghitta at a 2005 meeting of Iraqi civil society in Amman, Jordan, to discuss issues related to drafting Iraq's permanent constitution.

Human rights violations by MOI forces are also committed outside custodial settings. In May 2006, for example, the Iraqi government admitted the presence of a Shi'a terror group within the MOI's 16<sup>th</sup> Brigade, before arresting a Major General and 17 other MOI employees implicated in kidnapping and "death squad activities."<sup>16</sup> In October 2006, the U.S. military charged that Iraq's 8<sup>th</sup> Brigade, 2nd National Police had been responsible for the kidnapping of 26 Sunni factory workers in southwest Baghdad, 10 of whom were later executed. During the same period, print and broadcast media reported that the 8<sup>th</sup> Brigade wore government uniforms and used government vehicles during armed raids on civilians in Sunni neighborhoods.<sup>17</sup> The MOI subsequently disbanded the brigade, sending hundreds of officers to alternative units. To date, the Commission has not received reports indicating that 8<sup>th</sup> Brigade personnel were held accountable for these violations beyond receiving administrative transfers. In numerous other cases of MOI violations, there have been no reported actions to hold violators to account.

The Commission's concern over these violations is further amplified by new emergency regulations announced on February 13, 2007 in conjunction with the joint Iraqi-Coalition Baghdad Security Plan. Those regulations authorize arrests without warrants, as well as the interrogation of suspects without clear limitations on the amount of time they can be held in pre-trial detention. Despite government assurances that MOI and other officials would observe international human rights standards and conduct investigations in accordance with Iraq's Criminal Procedure Code, such commitments have seldom been respected in the past. Moreover, as the UN Assistance Mission for Iraq (UNAMI) noted, "the absence of effective monitoring and accountability mechanisms governing the conduct of law enforcement personnel only serves to exacerbate the problem."<sup>18</sup>

The violations described above accompany other government violations of religious freedom in Iraq, including the seizure of religious property by the Iraqi government and its security apparatus. In May 2006, for example, the MOI raided Baghdad's Abu Hanifa Mosque with the stated object of capturing alleged Sunni insurgents. National government officials subsequently converted this historic Sunni structure to Shi'a use, against the objection of Sunni leaders and clerics. This conversion of religious property followed the MOI's June 2005 seizure Amarra's Hetten Mosque in a similar operation. As with the Abu Hanifa Mosque, this incident also led to the transfer of historic

of Islam.<sup>4</sup> The Commission also expressed concern over constitutional provisions requiring that Islam serve as a "foundational source" for legislation while providing "no additional constitutional guidance to address the question of what governmental body, person or mechanism, if any, is charged with assessing legislation's conformity with Islamic principles or law."<sup>5</sup>

Later in 2006, the Commission concluded that the United States' direct involvement in Iraq's political reconstruction created a special obligation to remedy the systemic flaws that continue to undermine the protection of universal human rights.<sup>6</sup> The Commission also affirmed that international human rights standards must be understood to protect each Iraqi as an individual, and not just as a member of a particular ethnic, political, or religious group. With these concerns in mind, the Commission has met with senior U.S. and Iraqi officials, as well as Iraqi human rights activists, legal experts, and representatives of Iraq's diverse religious communities. The Commission has encouraged both U.S. and Iraqi officials to ensure that every Iraqi citizen has the freedom not only to worship and to practice his or her faith openly, but also the right to dissent from state-imposed orthodoxies on issues related to religion. The Commission further reiterated these concerns when briefing experts of the Iraq Study Group.

Finally, the Commission has consistently urged the U.S. government to expand opportunities for Iraqis fleeing religious persecution to access the U.S. Refugee Program. Chief among them are ChaldoAssyrian Christians, Sabeen Mandaens, Yazidis, and other religious minorities who now represent a vastly disproportionate share of Iraqis who are internally displaced or seeking refuge outside their country. As the Commission noted in its 2006 annual report and in subsequent letters to U.S. Secretary of State Condoleezza Rice, the future of communities inside Iraq now hangs in the balance.

Sunni property to Shi'a control. These and other actions prompted protests from Sunni political and religious leaders, who viewed government counterinsurgency operations as a pretext for state-sanctioned expropriation of prominent Sunni religious sanctuaries by the Shi'a majority.

Religious freedom violations by Iraqi authorities at the regional and local level include growing official pressure to adopt strict Islamic religious practices. This pressure has manifested in Sunni-dominated central and western Iraq, where the collapse of Saddam Hussein's regime removed a significant impediment to the activities of *Salafist* imams. Buoyed by anti-American sentiment among Sunnis and burgeoning sectarian conflict with Iraq's Shi'a majority, some of these imams have pressed for more stringent application of sharia by local government officials, particularly in Sunni insurgent strongholds such as Ramadi and Fallujah.<sup>19</sup> Similar pressures have also been evident in mixed ethnic and sectarian regions, as well as in the Shi'a-dominated south. In March 2005, for example, officials in the northern city of Mosul promulgated an ordinance requiring all female university students to wear the *hijab* regardless of their religious affiliation.<sup>20</sup> That same year, Basra's education director instituted a policy requiring all female schoolchildren to cover their heads, regardless of their religion.

Government complicity in religiously-motivated discrimination is also reported in the pro-Western Kurdish Regional Government (KRG). According to the State Department, Christians and other minorities "living in areas north of Mosul asserted that the KRG confiscated their property ... without compensation and ... Assyrian Christians also alleged that the Kurdish Democratic Party-dominated judiciary routinely discriminates against non-Muslims."<sup>21</sup> ChaldoAssyrian Christians have also alleged that KRG officials affiliated with the Kurdistan Democratic Party deny Christians key social benefits, including employment and housing.

Additional reports also alleged that foreign reconstruction assistance for ChaldoAssyrian communities was being controlled by the KRG without input from that community's legitimate leaders. KRG officials were also reported to have used public works projects to divert water and other vital resources from ChaldoAssyrian to Kurdish communities. These deprivations reportedly threatened the safety of ChaldoAssyrians leading to mass exodus, which was later followed by the seizure and conversion of abandoned ChaldoAssyrian property by the local Kurdish population. Turk-

men groups in the region surrounding Tel Afer also report similar abuses by Kurdish officials, suggesting a pattern of pervasive discrimination, harassment, and marginalization. Combined with non-state sources of instability, including violence from foreign jihadis and Sunni insurgents, the KRG's practices add to the continuing flight of Iraq Christians and other ethnic and religious minorities to sanctuaries outside the country.

### Abuses by Actors with Government Ties

In addition to human rights violations committed by Iraq's national, regional, and local governments, particularly severe violations of religious freedom are committed by armed groups with ties to the Iraqi government. Several armed Shi'a factions orchestrate and participate in sectarian violence and associated religious freedom abuses. Chief among those factions are the Mahdi Army and the Badr Organization. Conflict between these militias and the Sunni-dominated insurgency escalated following the February 2006 bombing of the al-Askari mosque in Samarra—a bombing some analysts attributed to foreign jihadis. In the month that followed, Sunnis launched hundreds of suicide and other bombing attacks against Shi'a civilian and religious targets, precipitating an equally dramatic escalation in the number of Shi'a militia raids on predominantly Sunni neighborhoods in Baghdad and elsewhere.

Those raids produced serious human rights abuses. Both the Mahdi Army and the Badr Organization routinely abduct, ransom, torture, and execute Sunnis based on their religious identity, as well as employ violence and the threat of violence to seize private property from Sunnis in an effort to drive Sunnis from Shi'a-majority neighborhoods. As the State Department has reported, "MOI-affiliated death squads targeted Sunnis and conducted kidnapping raids and killings in Baghdad and its environs, largely with impunity."<sup>22</sup> In turn, Sunni leaders and human rights monitors allege that Shi'a militias with ties to government ministries systematically target Sunni clerics and sheikhs for assassination.

These patterns of indiscriminate violence against Sunni civilians and community leaders add to mounting allegations that Shi'a militia counterparts are now pursuing "sectarian cleansing" strategies, with the object of further balkanizing the already divided country. The effects of that violence are clear. According to the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), the total estimate

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of Iraqis displaced by sectarian conflict since February 2006 is 707,000, or some 117,901 families. These numbers are in addition to the 1.6 million persons displaced prior to the al-Askari mosque bombing.<sup>23</sup>

Both the Mahdi Army and the Badr Organization have close ties to the United Iraqi Alliance (UIA), the dominant political faction within Iraq's ruling coalition.<sup>24</sup> The Badr Organization, for example, is the armed wing of the Supreme Council of the Islamic Revolution of Iraq (SCIRI), whose members now constitute the largest single party within the Council of Representatives, Iraq's lower parliamentary chamber. Like their former and allegedly current Iranian patrons, SCIRI and the Badr Organization favor the direct intervention of Shi'a clerics in Iraqi politics. Before quitting the government in April 2007, the political allies of Mahdi Army leader Moqtadeh al-Sadr also shared power in the national government with SCIRI under the UIA's auspices.

The Iraqi government's tolerance of severe and systematic human rights abuses committed by Shi'a militias is evident in connections between these militias and major government ministries. With power apportioned among governing coalition members, factions within these militia-linked Shi'a political parties effectively control most if not all of Iraq's key government ministries. Until recently, for example, allies of Moqtadeh al-Sadr controlled the Agriculture, Health, and Transportation ministries. Moreover, both the Mahdi Army and Badr Organization still maintain close ties with various MOI police units.<sup>25</sup> As one international human rights organization observed, these "militias have operated as quasi-independent security forces under the protection of the Ministry of Interior, abducting, torturing and killing hundreds of people every month and dumping mutilated corpses in public areas."<sup>26</sup>

Evidence for official Iraqi tolerance of such human rights abuses is further supported by the close relationship between Shi'a militias and the approximately 145,000 Iraqis currently employed by Iraq's Facilities Protection Services (FPS). Each government ministry maintains its own FPS to secure its buildings, assets, and other critical infrastructure. Many of "these units have questionable loyalties and capabilities."<sup>27</sup> FPS from the Agriculture, Health, and Transportation ministries, for example, fell under the control of Mahdi Army leader Moqtadeh al-Sadr. Under his direction, these forces became a *de facto* "source of funding and jobs for the Mahdi Army," with the result that there is now significant overlap between FPS employees and militia members.<sup>28</sup> As the State Department has noted, this "sectarian misappropriation of official authority within the security apparatus" consistently impedes "the right of citizens to worship freely."<sup>29</sup>

Iraqi Prime Minister Nouri al-Maliki's government has failed to exercise effective control over the various political factions in his coalition government, as well as affiliated Shi'a militias. This is due in part to al-Maliki's political alliance with SCIRI and, until recently, al-Sadr's movement. The result is minimal formal oversight of Iraq's security services by the elected political leadership. In some instances, human rights defenders report that the Iraqi government has failed to publish findings from internal government investigations of sectarian violence and other religiously-motivated abuses by these militias against Sunni civilians. In others, Shi'a government officials reportedly obstructed the criminal prosecution of human rights abuses against Sunnis by those same militias.<sup>30</sup>

Finally, as previously noted, the Iraqi government has, in the vast majority of cases, not held perpetrators to account for these actions, particularly in cases involving Sunnis. Even more troubling are credible allegations that Iraqi officials at the highest levels are protecting those who engage in such abuses. As recently as April 2007, for example, U.S. military sources reported that Iraqi Prime Minister al-Maliki's office was playing a leading role in the arrest of senior Iraqi army and police officials who had worked aggressively to combat violent Shi'a militias.<sup>31</sup>

There is also evidence indicating that Iraq's local and regional officials failed either to prevent or prosecute human rights abuses by government-linked militias. In 2005, for example, Mahdi Army militiamen attacked students at Basra University on the grounds that their dancing, singing and

Western-style dress violated Islamic principles. Local Interior Ministry police present at the incident failed to intervene, even when militants fired guns at students and beat them with sticks.<sup>32</sup> Such incidents underscore the Iraqi government's unwillingness to take action against Shi'a militias despite having the capability and opportunity to do so.

### Abuses Against Non-Muslims and Other Vulnerable Groups

Against the backdrop of sectarian violence and other particularly severe violations of religious freedom, human rights conditions in Iraq are deteriorating dramatically for non-Muslims, women, and other vulnerable groups. As previously stated, members of non-Muslim groups, including ChaldoAssyrian Christians, Yazidis, and Sabeian Mandaeans, appear to suffer a degree of attacks and other human rights abuses disproportionate to their numbers. As a result, thousands of members of Iraqi religious minorities have fled the country, seeking refuge in neighboring states and among growing diaspora communities in the West.

Some of these conditions approach the level of systematic, ongoing and egregious violations of religious freedom. Others flow from deficiencies in Iraqi law or discriminatory government action. Still others are the result of the Sunni-dominated insurgency and the concurrent sectarian violence. These abuses against minority groups further illustrate the diverse, pervasive and increasingly pernicious abuses and violations of freedom of religion or belief now evident in contemporary Iraq. As such, they merit heightened scrutiny and swift government action.

Violence against members of Iraq's Christian community remains a significant concern, particularly in Baghdad and the northern Kurdish regions. Reported abuses include the assassination of Christian religious leaders, the bombing and destruction of churches, and violent threats intended to force Christians from their homes. Reports also document targeted violence against liquor stores, hair salons, and other Christian businesses by extremists claiming that such trades violate Islamic principles. In some areas, ordinary Christians have reportedly ceased their participation in public religious services for fear of inviting further violence.

Attacks on Christian religious sites continue unabated. Between 2004 and 2006, some 27 ChaldoAssyrian churches were attacked or bombed in Baghdad and the Kurdish areas, often in simultaneous operations. In some areas, conditions are so grave that priests from the Catholic Assyrian Church of the East no longer wear clerical robes, lest they be targets and attacked by Islamic militants.<sup>33</sup> Official discrimination, harassment, and marginalization by KRG officials and other local and regional governments, as described above, exacerbate these conditions. Between the Sunni-dominated insurgency and the KRG's reported diversion of critical services and reconstruction assistance, the current confluence of events has forced tens of thousands of Iraqi Christians to flee during the last three years.<sup>34</sup> According to some reports, nearly 50 percent of Iraq's indigenous Christian population is now living outside the country.

Though smaller in number, Sabeian Mandaeans and Yazidis have suffered abuses similar to Christians. Foreign jihadis, Sunni insurgents, and Shi'a militias view members of these groups as infidels or outsiders. In addition, religious minority communities often lack the tribal base or militia structures that might otherwise provide security. As such, these groups are often targeted by both Sunni insurgents and Shi'a militias. The risks are particularly severe for isolated minority communities in areas where foreign jihadis and Sunni insurgents remain active. In April 2007, for example, unidentified gunmen killed 23 Yazidis in the Kurdish town of Bashika.<sup>35</sup> This incident represented one of the largest single attacks against the Yazidi community since the current Iraqi government came to power.

Some of this violence stems from the reported tendency of foreign jihadis and Sunni insurgents to associate Iraqi Christians and other non-Muslims with the United States and the U.S.-led military intervention. In other instances, however, religious minorities appear to be the victims of escalating intra-Muslim violence. In a meeting



Commission Vice Chair Nina Shea testifying on religious minorities in Iraq and other countries before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations, June 2006.

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with Commission staff, for example, a Mandaean delegation described how non-Muslims are often executed alongside Sunnis during attacks by Shi'a militants and alongside Shi'a during strikes by Sunni insurgents. This pervasive violence has had a devastating effect on this small community. According to the Mandaean Society of America, approximately 85 percent of Iraqi Mandaeans have fled their country since 2003.

The treatment of Iraq's dwindling Baha'i community is also at issue, as are Saddam-era laws that continue to mandate official discrimination against them. Law No. 105 of 1970, for example, expressly prohibits the practice of the Baha'i faith. Regulation 359 of 1975 prohibits the Iraqi government from issuing national identity cards to members of the Baha'i community.<sup>36</sup> Finally, adherence to the Baha'i faith is a capital offense under a decree passed in 1979 by Iraq's Revolutionary Command Council—a decree that was rescinded by the CPA, although the current legal status of Baha'is remains unclear. These laws are reportedly still enforced by some government ministries.<sup>37</sup>

Also significant is the apparent failure of Iraq's local and regional governments to protect those Muslims who reject clerical rule or challenge narrow, orthodox interpretations of sharia. The effects of that failure are particularly evident with respect to university professors, including legal and religious scholars. In one January 2007 incident documented by UNAMI, a group calling itself the Doctrine Battalion (*Saraya Nusrat al-Mathhab*) targeted a Basra University professor for intimidation and death threats based on his secular views and teachings. According to the Iraqi Ministry of Higher Education, there were 200 documented incidents of targeted assassinations and abductions of academic professionals between 2003 and March 2007. These incidents appear to have occurred along sectarian lines, or because of their allegedly secular views and teachings.<sup>38</sup>

Finally, religiously-motivated discrimination and targeted violence has undermined women's safety and their participation in political life, as well as their status within Iraqi society. As the Commission has previously reported,

some attackers spray or throw acid onto women, including their face and eyes, for being "immodestly" dressed. There is growing social and religious pressure to wear the *hijab*. The implementation of stricter customary and Islamic practices in some areas has made both Muslim and non-Muslim women fearful and feel compelled to wear headscarves or veils in order to protect themselves from violence.<sup>39</sup>

Human rights abuses against women are also evident in the high incidence of so-called "honor killings" and the growing number of female injuries and deaths due to immolation documented in some Kurdish regions.<sup>40</sup> There are also regular reports of inter-sectarian abductions, rape, forced conversions, and forced marriages, as well as *mut'a*, or temporary marriage contracts permitted in some Shi'a communities. In predominantly Arab areas, human rights monitors have observed an increase in *de jure* and *de facto* government discrimination against women in the areas of divorce, inheritance, and marriage.<sup>41</sup> Against this backdrop, the continuing failure of Iraqi government officials to enforce existing laws prohibiting violence, holding perpetrators to account, and mandating non-discrimination, as well as to amend other overtly discriminatory legislation, exacerbates deteriorating human rights conditions for many Iraqi women.



A mosque in northern Iraq where many displaced Arab families have fled. (UNHCR/K. Brooks)



## COMMISSION RECOMMENDATIONS

Sharply deteriorating conditions for freedom of religion or belief and other human rights in Iraq during the past year are evident in the growing scope and intensity of sectarian violence, a burgeoning refugee crisis and the possible imminent demise of religious communities that have lived in what is now Iraq for millennia. Many of these developments stem from the Sunni insurgency and the Sunni-Shi'a sectarian conflict, as well as from Iraqi government action or inaction. Although pervasive conditions of armed conflict provide a context for these violations and abuses, they do not absolve Iraqi government from the responsibility to take immediate, remedial action with respect to its own conduct and that of its constituent factions.

Nor does it absolve the U.S. government from pursuing a more active role. As the Commission has previously noted, the United States' direct and continuous involvement in Iraq's political reconstruction creates a special obligation to help remedy the circumstances that threaten religious freedom and other universal human rights.<sup>42</sup> In order to advance human rights protections for all Iraqis, including the freedom of thought, conscience, and religion or belief, the Commission urges the U.S. government to take the following steps:

### 1 U.S. Diplomacy

The U.S. government should:

- urge the Iraqi government at the highest levels to:
  - undertake transparent and effective investigations of human rights abuses, including those stemming from sectarian, religiously motivated, or other violence by Iraqi security forces, political factions, militias or any other para-state actors affiliated with or otherwise linked to the Iraqi government;
  - bring the perpetrators of such abuses to justice;
  - suspend immediately any MOI or FPS personnel charged with or known to have been engaged in sectarian violence and other human rights abuses;
  - ensure that Iraqi government revenues are neither directed to nor indirectly support the Mahdi Army, Badr Organization or any other organization complicit in severe human rights abuses;
  - halt immediately the practice of seizing and converting places of worship and other religious properties, and restore previously seized and converted properties to their rightful owners; and
  - establish, with U.S. support, effective Iraqi institutions to protect human rights in accordance with international standards, including the establishments of an independent and adequately financed
- national human rights commission;
- continue to speak out at the highest levels to condemn religiously-motivated violence, including violence targeting women and members of religious minorities, as well as efforts by local officials and extremist groups to enforce religious law in violation of the Iraqi constitution and international human rights standards;
- take steps, in cooperation with Iraqi law enforcement officials, (a) to enhance security at places of worship, particularly in areas where religious minorities are known to be at risk, and (b) to locate and close illegal courts unlawfully imposing extremist interpretations of Islamic law;
- appoint and immediately dispatch a senior Foreign Service Officer to Embassy Baghdad to report directly to the Ambassador and to serve as the United States' lead human rights official in Iraq, as repeatedly endorsed by the U.S. Congress;
- urge the Shi'a dominated Iraqi government and its Kurdish allies to accommodate the pressing need for more Sunni government officials, and for greater independence of government officials and ministries from their political patrons;
- appoint immediately one or more U.S. advisors under the Department of State's Iraq Reconstruction Management Office to serve as liaisons to the Iraqi Ministry of Human Rights;

- advocate constitutional amendments to strengthen human rights guarantees, including the specific recommendations formulated by the Commission in its analysis of the constitution; and<sup>43</sup>
- urge the Iraqi government to reconsider and revise a proposed new law regulating NGOs, drafted by the Ministry of Civil Society, which reportedly imposes harsh restrictions on both national and international NGOs; any such regulations should comport with international human rights standards.

## 2 U.S. Foreign Assistance

The U.S. government should:

- ensure that U.S. foreign assistance and security assistance programs do not directly or indirectly provide financial, material or other benefits to (1) government security units and/or para-governmental militias responsible for severe human rights abuses or otherwise engaged in sectarian violence; or (2) Iraqi political parties or other organizations that advocate or condone policies at odds with Iraq's international human rights obligations, or whose aims include the destruction of such international human rights guarantees;
- give clear directives to U.S. officials and recipients of U.S. democracy building grants to assign priority to projects that promote multi-religious and multi-ethnic efforts to address religious tolerance and understanding, that foster knowledge among Iraqis about universal human rights standards, and encourage the inclusion of effective human rights guarantees for every Iraqi in the permanent constitution and its implementing legislation; and
- re-allocate Iraq Relief and Reconstruction Fund<sup>44</sup> resources to support human rights by:
  - directing unobligated Iraq reconstruction funds to deploy a group of human rights experts for consultations with the Iraqi Council of Representatives and the constitutional amendment committee, and to assist with legal drafting and implementation matters related to strengthening human rights provisions, including freedom of thought, conscience, and religion or belief;
  - funding workshops and training sessions on religion/state issues for Iraqi officials, policymakers, legal professionals, representatives of non-governmental organizations (NGOs), religious leaders, and other members of key sectors of society who will have input on constitutional amendments and implementation; and
  - establishing an Iraqi visitors program through the State Department to focus on exchange and education opportunities in the United States related to freedom of religion and religious tolerance for Iraqi officials, policymakers, legal professionals, representatives of NGOs, religious leaders, and other members of key sectors of society.

## 3 Regional and Minority Issues

The U.S. government should:

- declare and establish a proportional allocation of foreign assistance funding for ChaldoAssyrian, Yazidi, Sabaen Mandeian, and other religious minority communities, ensure that the use of these funds

is determined by independent ChaldoAssyrian or other minority national and town representatives, and establish direct lines of communication by such independent structures into the allocation process of the Iraqi national government in Baghdad, separate from the KRG, in order to ensure that U.S. assistance benefits all religious and ethnic minority groups and is not being withheld by Kurdish officials or other local and regional governments;

- address with regional Kurdish authorities the reports of attacks on religious and other minorities and the expropriation of ChaldoAssyrian property, and seek the return of property or restitution, as well as assurances that there will be no official discrimination practiced against minority communities; and
- collaborate with Iraqi and KRG officials to establish an independent commission to examine and resolve outstanding land claims involving ChaldoAssyrian and other religious minorities in the Kurdish regions.



## THE PLIGHT OF IRAQI REFUGEES

**T**he confluence of sectarian violence, religious discrimination, and other serious human rights violations has driven millions of Iraqis from their homes to seek refuge in the Nineveh plains in northern Iraq, and in predominantly Kurdish regions, as well as in countries outside of Iraq. For the past few years, the Commission has drawn attention to the growing refugee crisis and continues to emphasize the plight of those fleeing religious persecution in Iraq.

According to the UN High Commissioner for Refugees (UNHCR), more than 2 million Iraqis have been forced to take refuge in neighboring countries. Of the 2 million refugees, 750,000 are in Jordan, 1.2 million are in Syria, 100,000 in Egypt, 54,000 in Iran, 40,000 in Lebanon, 10,000 in Turkey, and 200,000 in various Persian Gulf states. In March, UNHCR announced that Iraqis top the list of asylum seekers in Western industrialized countries and that the number of Iraqi asylum claims increased by 77 percent in 2006. There are also almost 2 million internally displaced persons (IDPs) within Iraq, including 480,000 in 2006, and UNHCR estimates that the number could climb to 2.3 million by the end of 2007.

In the sectarian strife that has engulfed Iraq, members of many religious communities, Muslim and non-Muslim, have suffered violent attacks. Among the most vulnerable are Chaldo-Assyrians, Sabean Mandaean, and Yazidis, who make up a disproportionately large number of refugees from Iraq and who do not have militia or tribal structures to provide some measure of protection. These non-Muslim religious minorities report that they are targeted because they do not conform to orthodox Muslim religious practices or are perceived as working for the U.S.-led coalition forces. As discussed elsewhere in this report, members of these communities have been targeted in violent attacks, including murder, torture, abductions for ransom, and reportedly for forced conversion, rape and destruction or seizure of community property.

According to the Iraqi Ministry for Migration and Displacement, nearly half the members of Iraq's non-Muslim minorities have fled abroad. UNHCR estimates that these minorities, who account for 3 percent of the population, comprise more than a third of the Iraqis who have sought sanctuary outside their country. According to a study by the International Organization for Migration, members of these minorities also make up almost 10 percent of IDPs in Iraq. This exodus has not only caused tragic hardships and uncertainty, but could mean the end of the presence in Iraq

of ancient Christian and other religious minority communities that have lived on that land for millennia.

Humanitarian and protection assistance remain of primary importance for the United States and international community for helping Iraqi refugees and IDPs. In neighboring countries, the initial welcome has been wearing increasingly thin, and refugees are currently faced with stricter border control policies and decreasing resources to support themselves and their families.

Neither Jordan, Lebanon, nor Syria is a signatory to the 1951 Refugee Convention, but all three countries work with UNHCR under a Memorandum of Understanding that requires UNHCR to resettle those it recognizes as refugees. Those who are not resettled within a year may be detained or deported to their country of origin. As the influx of refugees into neighboring countries increased in 2006, public service resources were strained and host countries implemented stricter border control policies that have led to the denial of entry of many of those seeking to flee. For example, in a report by the UN Office for the Coordination of Humanitarian Affairs, a Jordanian authority said that the new border control policies have led to denials for more than half who wished to enter the country. Those refugees already within Jordan who do not meet the entry requirements are subject to potential deportation and no longer receive renewed residency permits, forcing many to return to Iraq only to attempt re-entry into Jordan. The implementation of similar rigorous immigration policies in Syria has been relaxed following UNHCR appeals. Lebanon has stopped admitting Iraqi refugees altogether and some already within the country have been imprisoned or deported.

In addition to the fear of deportation from or imprisonment in their current country of residence, refugees are having difficulties supporting themselves and accessing basic social services. Refugees are not permitted to work in any of the countries in the region to which they have fled and are quickly running out of the money they brought with them from Iraq. For many, access to shelter and medical care remain serious problems. Finally, many children do not have access to education either due to state policies preventing Iraqis from attending public schools, or the inability of refugees to pay for supplies or private schools. Host countries are also facing resource shortages and are finding their basic service sectors overburdened and in need of assistance.

In the Commission's view, resettlement of the most vulnerable refugees needs to be a high priority for the U.S. government and the UNHCR. UNHCR has stated it is looking

## ENDNOTES

- <sup>1</sup> *President's Statement on Failure of the Senate Procedural Motion* (Washington, DC: The WhiteHouse, February 17, 2007).
- <sup>2</sup> Iraq ratified the International Covenant on Civil and Political Rights (ICCPR) in 1971. Successive governments are bound by this treaty obligation.
- <sup>3</sup> Preeti D. Bansal and Nina Shea, "Iraq Must Avoid a Rollback of Rights," *The Washington Post*, August 4, 2005.
- <sup>4</sup> Iraq Const. Art. 2(1).
- <sup>5</sup> Tad Stahnke and Robert C. Blitt, *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, 36 *Geo. J. Int'l L.* 947, 959 (2005).
- <sup>6</sup> *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 8.
- <sup>7</sup> "Iraq," *Country Reports on Human Rights Practices*, 2005 (Washington, DC: U.S. Department of State, March 8, 2006).
- <sup>8</sup> See Hashim, Ahmed S. Hashim, *Insurgency and Counter-Insurgency in Iraq* (London: Hurst, 2006).
- <sup>9</sup> *Id.*
- <sup>10</sup> *UNAMI Human Rights Report*, January-March 2007, 6.
- <sup>11</sup> Abu Musab al-Zarqawi, *February 2004 Coalition Provisional Authority English translation of terrorist Musab al Zarqawi letter obtained by United States Government in Iraq* (Washington, DC: U.S. Department of State, February 2004).
- <sup>12</sup> *Country Reports on Human Rights Practices*, 2005.
- <sup>13</sup> *Country Reports on Human Rights Practices*, 2005.
- <sup>14</sup> *The New Iraq? Torture and Ill-Treatment of Detainees in Iraqi Custody* (New York, NY: Human Rights Watch, January 2005).
- <sup>15</sup> *Ibid.*
- <sup>16</sup> "Iraq," *Country Reports on Human Rights Practices*, 2006 (Washington, DC: U.S. Department of State, March 6, 2007).
- <sup>17</sup> "Iraq police brigade suspected of aiding abductions pulled," *CNN* (October 4, 2006).
- <sup>18</sup> *UNAMI Human Rights Report*, January-March 2007, 23.
- <sup>19</sup> *Salafism* is a purist strain within Sunni Islam that seeks to reestablish the idealized Muslim community created by the Prophet Muhammad and his Companions through strict interpretation of Islamic practices. Commonly confused with *Wahhabism*, this tradition does not subscribe to any particular school of Islamic jurisprudence and is not connected to a particular state or national ideology. See Hashim, Ahmed S. Hashim, *Insurgency and Counter-Insurgency in Iraq* (London: Hurst, 2006), 116.
- <sup>20</sup> *International Religious Freedom Report*, 2006.
- <sup>21</sup> *Country Reports on Human Rights Practices*, 2005.
- <sup>22</sup> *Country Reports on Human Rights Practices*, 2006.
- <sup>23</sup> *UNAMI Human Rights Report*, January-March 2007, 19.
- <sup>24</sup> The Mahdi Army is a Shi'a Islamist movement with a nationalist orientation. Led by radical Shi'a Cleric Moqtadeh al-Sadr, the organization and its affiliates control Baghdad's sprawling Sadr City district while dominating districts in the southern regions of Basra, Kufa, Najaf, and Samarra. The Badr Organization, in turn, is a longstanding Shi'a militia whose members fought against the Saddam Hussein regime during the 1980-1988 Iran-Iraq war. Based in Iran for two decades, the organization maintains a base of operations in and around Karbala, as well as in other central and southern Shi'a districts.
- <sup>25</sup> *Country Reports on Human Rights Practices*, 2005.
- <sup>26</sup> *Iraq: U.S. Plan Must Reign In Death Squads* (New York, NY: Human Rights Watch, January 8, 2007). See also Edward Wong and Paul von Zielbauer, "Iraq stumbling in bid to purge its rogue police," *International Herald Tribune*, September 16, 2006; Christopher Allbritton, "Why Iraq's Police are a Menace," *Time*, March 20, 2006; *Country Reports on Human Rights Practices*, 2005, etc.
- <sup>27</sup> *The Iraq Study Group Report* (Washington, DC: December 2006), 14.
- <sup>28</sup> *Ibid.*
- <sup>29</sup> *International Religious Freedom Report*, 2006.
- <sup>30</sup> *Iraq: End Interior Ministry Death Squads* (New York, NY: Human Rights Watch, October 29, 2006).
- <sup>31</sup> Joshua Partlow, "Maliki's Office is Seen Behind Purge in Forces," *The Washington Post*, April 29, 2007.
- <sup>32</sup> *Country Reports on Human Rights Practices*, 2005.
- <sup>33</sup> *Testimony of Rosie Malek-Yonan before the House Committee on International Relations* (Washington, DC: U.S. House of Representatives, June 30, 2006).
- <sup>34</sup> *International Religious Freedom Report*, 2006.
- <sup>35</sup> "Iraq: Yazidi Community demands protection after killings," *IRIN News*, April 23, 2007.
- <sup>36</sup> *International Religious Freedom Report*, 2006.
- <sup>37</sup> *UNAMI Human Rights Report*, January-March 2007, 15.
- <sup>38</sup> *Ibid.*, 9, 10.
- <sup>39</sup> *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 11.
- <sup>40</sup> *UNAMI Human Rights Report*, January-March 2007, 17.
- <sup>41</sup> *The Status of Women in Iraq Update to the Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards* (Washington, DC: American Bar Association, 2007), 178-79.
- <sup>42</sup> *USCIRF 2006 Annual Report* (Washington, DC: U.S. Commission on International Religious Freedom, 2006), 8.
- <sup>43</sup> The analysis of the Iraq constitution and related recommendations, in English and Arabic, is available on the Commission's website, [www.uscirf.gov](http://www.uscirf.gov).
- <sup>44</sup> Pub. Law 108-106, 117 Stat. 1209 (November 6, 2003).

to refer 20,000 refugees in 2007. In February, the State Department agreed to accept 7,000 referrals from UNHCR for U.S. resettlement. Since 2003, the United States has admitted only 692 Iraqi refugees, including 202 in 2006. The State Department's Bureau of Population, Refugees, and Migration (PRM) is working with UNHCR to prioritize vulnerable groups, including religious minorities, for resettlement as a potential durable solution and is also continuing to request UNHCR referrals. Assistant Secretary of State for PRM Ellen Sauerbrey stated that if the Bureau receives its full budget request of \$20 million for Iraq in 2007, it can resettle more individuals. Nevertheless, the Commission has concluded that more needs to be done by the United States to provide direct access to the U.S. Refugee Program for vulnerable Iraqis, in addition to pressing UNHCR to make appropriate referrals.

In February, Secretary of State Condoleezza Rice announced that Under Secretary of State for Democracy and Global Affairs Paula Dobriansky will lead an Iraq Refugee and Internally Displaced Persons Task Force to coordinate assistance for refugees and IDPs as well as U.S. resettlement efforts. The Bureau's priority is to provide assistance (humanitarian relief) for the most vulnerable refugees and encourage open borders. In March, the United States announced it will contribute \$18 million to UNHCR's appeal for \$60 million to provide protection and assistance to Iraqi IDPs and refugees in Jordan, Syria, Egypt, Lebanon, and Turkey.

In 2004, the Commission first raised with President George W. Bush the drastic effect of escalating religious violence on Iraq's ancient Christian and other minorities. A Commission delegation met in Turkey last fall with representatives of Iraqi ChaldoAssyrian refugees in that country.

The Commission has since written to Secretary Rice and Under Secretary of State Paula Dobriansky about the urgent need to provide members of religious minorities who have fled Iraq with access to the U.S. Refugee Program. In December, the Commission published an op-ed on the subject in *The Washington Times*, which helped spur congressional hearings and led to the decision to establish the task force on Iraqi refugees.