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# **Iraq Democracy Watch Report:**

## **The Status of Rights and Freedoms in Iraq in 2006**

*Addressing Violence against civilians in Iraq, Individual Rights and Freedoms, The Situation of Iraqi Women, and Freedom of Opinion and Belief*

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## Preface

Iraq Democracy Watch (IDW) was formed in response to the needs of the transitional phase, which Iraq is going through. This is a phase during which Iraq is required to build a democratic system that would establish the Iraqi peoples' basic rights and freedoms. The Iraqi people deserve this right after years of suffering and wars inflicted by decades of a dictatorship that has lead Iraq to regress and impeded its development, especially in the sectors of economics, education and health. This dictatorship also caused an outbreak of negative values that has presented challenges to the reconstruction efforts in Iraq and to the building of the foundations of democracy.

IDW was formed by the Iraq Foundation with the support of Freedom House and is made of a group of leading Iraqi figures, including professors, researchers and pioneers of civil society, both men and women. Since it was created in 2005, IDW has held a variety of workshops, conferences and intellectual meetings across Iraq. The group's work tracked the political developments in Iraq, the electoral campaign and the process of drafting of and voting on the Constitution. The group also monitored the performance of the Iraqi government.

Furthermore, the group issued statements and reports on the work of the Parliament and the State, and criticized the prevailing atmosphere and practices that were seen as encouraging violence and corruption, and those threatening the establishment of democracy in the country.

The group was formed as an outcome of a colloquium, organized by the Iraq Foundation and Freedom House in Amman, Jordan from November 7-10 2005, entitled "Making Democracy a Reality in Iraq." Twenty prominent Iraqis from the fields of media, politics, academia and civil society activism participated in the workshop, along with a group of Arab and international experts of constitutional law, freedom of expression and assembly, and gender law. The goal of the colloquium was to form a civil society coalition to monitor and review the Constitution and the constitutional process, and to present its findings to the Iraqi people and government. The group used the findings to advocate for change in the Iraqi political reality and strengthen the development of democracy and social prosperity.

At the end of this colloquium, after days of lectures and conversations, the participants came up with a set of suggestions and recommendations. Among the most important of these recommendations was a statement announcing the formation of IDW and its adoption of the criteria developed during group discussions and through lessons learnt from countries that underwent the experiences similar to those Iraq is experiencing. It was agreed that these criteria would be based on the Iraqi Constitution and on international conventions, especially those related to human rights.

Furthermore, the participants stressed the need to focus on the rights and freedoms stipulated in the Constitution and to make these rights and freedoms the pillar on which the group will depend on to diagnose and rectify the mistakes and practices which could negatively impact the democratization process in Iraq.

Immediately after the group was formed, the Iraq Foundation organized a workshop for 60 academics, lawyers and civil society specialists in Baghdad in December 2005 on constitution education. The participants presented and discussed a number of papers and studies that dealt with clauses of the Constitution related to rights and freedoms. The workshop discussed these issues from a scientific point of view, and raised discussions on rights and freedoms in the Constitution, civil society and freedom of assembly and of the press.

In the second colloquium, which was held in Amman from 13-17 March 2006, the group undertook the study and examination of world methodologies and criteria, including that of Freedom House, to measure civil and political freedoms. The group adapted the criteria to the Iraqi context. The group established a system to monitor the Constitution's compliance with international criteria. IDW also put in place a strategy to monitor and establish dialogue with the purpose of reaching a consensus on the guarantees of civil freedoms and basic rights.

Additionally, a wide variety of activities across Iraq were organized following the above mentioned workshops, including:

- Holding workshops in 12 provinces on the constitutional education. These workshops were characterized by their richness and diversity and addressed important issues, providing a comprehensive overview of the constitutional priorities to different factions of society with backgrounds ranging from nationalist to tribal to religious. All workshops stressed the importance of establishing democratic values, spreading a culture of tolerant peaceful coexistence, which rejects violence. They also called for increasing attention to economic and social development that resulted from the Gulf wars, the sanctions, and decades of dictatorship.
- Producing and broadcasting 24 radio programs on constitution education. The programs were characterized by the diversity of the issues that were discussed by leading figures in society. Such issues included an overview of rights and freedoms in the Iraqi Constitution, human rights, and a range of comparative studies of other countries. The programs were broadcasted under the title of "Towards Hope" via the Iraqi official radio station, *al Iraqiya*, as well as on *al Naas* Radio station.
- Producing and broadcasting eight TV programs. These programs were broadcasted via Iraqi satellite TV and were entitled "Democracy under Monitoring." Members of the IDW discussed the status of rights and freedoms as stipulated in the Iraqi Constitution, freedom of expression, the problem of displacement, human rights, and the importance of having political opposition, participate in government, among other issues.
- Proposing recommendations on constitutional amendments based on a study of the draft Constitution, especially those related to rights and freedoms. Professors and academic specialists highlighted a number of potential legal and political problems that might arise from the language used in the constitution text, suggested amendments to help remedy these problems, and presented them to the committee in charge of writing the Constitution.
- Publishing a report on the electoral campaign and legal violations that were documented during that time. The report was based on the group's monitoring of the practices and statements made by the parties and the powers which

participated in the electoral process in different Iraqi provinces. The group also studied the election law and presented suggestions about some of the clauses which could interfere with the impartiality and autonomy of the elections.

- Issuing statements to the government and the press on different occasions to pay more attention to important matters which affect the democratic process and its advancement, including:
  1. Issuing a report on the political program of Prime Minister Nouri Al Maliki's government, and identifying the positive aspects which are in compliance with democratic standards and those that meet the criteria of IDW.
  2. Issuing a report on forced displacement, violations committed by the security forces, and the assassination of prominent Iraqi academics.
  3. Issuing a report on the status of rights and freedoms in Iraq in 2006.

## **Report of Democracy Watch in Iraq The Status of Rights and Freedoms in Iraq in 2006**

### **Introduction**

Any attempt to monitor the Iraqi scene is surrounded by many dangers, some of which are related to the act of monitoring itself, and others related to the extent of which one can describe it, and the analysis, therefore, is shadowed by national, religious, sectarian and social classes divisions. All of these factors make the monitoring task a difficult one.

Several factors influence the Iraqi reality, such as the presence of foreign forces, the nature of governance and political powers, and the presence and diversity of a number of militant groups. Together, these factors clearly contributed to the creation of phenomena and intertwined circumstances whose causes and motivations are politically and socially complicated.

Under these circumstances, the task of IDW was extremely challenging, since under the current polarization in Iraq, any word, expression, or analysis, can be interpreted as "biased" against one group or another. For this reason, the group has tried to rely on an impartial method founded on completely trustworthy information, without raising any issue without careful scrutiny and verification to ensure its accuracy.

After holding numerous meetings and discussions, the group decided to focus the report on four main issues: violence and its political uses, general rights and freedoms, women's rights and freedoms, and finally freedom of expression and religion. Some of these issues are intertwined with each other. Violence, for example, seems to be closely related to the issue of rights and freedoms. However, attempt is made to avoid repetition and overlap wherever it occurs.

At all times, the Iraqi Constitution and international conventions on human rights were used as reference points for observation, classification and analysis.

Finally, IDW is a group of impartial women and men, who are researchers and activists in the fields of human rights and matters of civil society. They worked on this report at the behest of the Iraq Foundation, as part of the Iraq Constitution Assistance Project, which contributed effectively to raising constitutional awareness in Iraq conferences, radio and television programs, and by publishing interim reports. This report is the product of the Iraq Foundation's work over a period of two years.

The report does not deal directly with Iraqi Kurdistan, which has its own specific and different issues than those of the rest of the regions of Iraq.

## **Violence**

Sociologists and psychologists propose a number of definitions for the terminology of "violence," which we will not discuss in full here because we are only concerned with distinguishing between the two kinds of violence. The first is "societal violence," which focuses on the social, economic, cultural and political factors that result in violence. This kind of violence focuses on what is known as "perpetrator acts of violence" or in other words, the violence between individuals or between individuals and the existing establishments that can take many different physical, non-physical, or even symbolic forms. The second kind of violence is "political violence," the use of violence for political objectives. This is the kind we will deal with in this section, since societal violence demands social studies and research which require specialized surveys and statistics that are not available at the present time. Nevertheless, the issue of freedom in general and that of the situation of Iraqi women cover this aspect to a large extent.

Objective monitoring of violence in the Iraqi arena requires us to differentiate between the following groups:

- foreign forces
- militant groups, which adopt various ideologies and resist the establishment of a new state on a democratic basis
- militant groups, which oppose the presence of foreign forces in Iraq
- militant groups associated with political powers and parties participating in the political process
- the Iraqi security forces
- Organized criminal gangs, whether local or international, which are taking advantage of the weakness of the rule of law in Iraq.

### Foreign Forces

The entry of foreign forces to Iraq (during the period of legal occupation and thereafter) was accompanied by many violent incidents in the form of military operations. It is not known exactly how many civilians or soldiers were killed, wounded or lost during the war, since no official Iraqi or foreign authority kept a count of the Iraqi victims.

This violence can be attributed to the use of excessive force and overuse of firearms of various kinds. In most cases there was no proportionality between the action and the reaction, there was no distinguishing between civilian and military targets, and there were no attempts to avoid injury to civilians and their property. Quite to the contrary, in many cases we found these forces intentionally turned to direct physical violence, humiliating civilians, without any justification or on the basis of mere suspicion. These incidents took place under public view, without any fear of accountability or punishment.

In many cases, there were extremely violent operations without justification. For example, civilian cars were demolished in public streets even when there may have been people inside them, or struck from different sides, even when it was impossible that the civilian car could open way to the military vehicles of the foreign forces.

However, the type of violence which had the greatest effect on the lives of Iraqi civilians was random gunfire with the intention of killing anyone in the area from which foreign forces were fired at or attacked. Furthermore, the forces opened fire randomly using a variety of weapons and with the intention of killing on the basis of mere suspicion, without any attempt to investigate. This practice condemned innocent civilians to death for simply happening to be in the area where the firing was taking place.

Moreover, these forces put up the phrase "forces are entitled to kill," without explaining the source of this authority or its limitations. More importantly, they did not explain exactly who had this legal right.

### Militant Groups

Any attempt to describe these groups is very complicated. This is results from the fact that these groups have many orientations, including Salafists, Jihadists, and Baathists, as well as other orientations which are unclear.

The most prominent characteristic of such groups is their rejection of the American occupation of Iraq, the radical changes which followed it in the course of state-building, and their unequivocal rejection of the political process. Their main goal is to "resist" the occupiers, "punish" Iraqis who are participating in the political process, who are accepting the government, and who work in its various establishments, especially the security forces. These groups issue extremist Islamist statements, described by some sociological studies as "sword declarations," with the goal of terrorizing society.

Violence was the principal method that these groups used to follow their "religious duty." These groups found the religious justifications in "fatwas", which permit killing on the basis of difference and allow the killings of bystanders accidentally.

The violence escalated greatly in frequency and severity after the blowing up of the Golden Mosque in Samara. The attacks took on a clear sectarian dimension, concentrated in areas described as being completely homogenous, in which most of the people are Shiite or Sunni. Also there was an obvious increase in retaliatory operations of various kinds. These operations are embodied by the daily rise in the number of unknown corpses, especially in Baghdad. The most tragic kinds of violence are the car bombs and suicide operations, which target ordinary people in their workplaces or in the places where they gather for work. These attacks kill large numbers of victims, leaving their families without a breadwinner, leading to generations of orphans and homeless people who are left with no support at all. This tragedy is threatening to create an appalling social disaster whose consequences can not be comprehended at the present time.

### Militias

Militias are described as militant groups that are associated with a party or political group from the Iraqi opposition which subsequently joined the political process. These groups are represented by the nine militias mentioned in Decision no. 91 that was issued by the Coalition Provisional Authority under the leadership of the

American Administrator Ambassador Paul Bremer.

There are other militant groups which were formed after the beginning of the occupation of Iraq (UN Security Council Resolution 1483). These groups are associated with political groups which were formed after the fall of the former regime. Most of these groups participated in the political process, but insisted on developing their armed wings at the same time.

The fundamental characteristic of these militant entities is their use of violence to achieve political and sectarian objectives. It is important to point out that in IDW's July 2006 report, the following was clearly stated in the fourth paragraph: "in principle, the formation of sectarian and ethnic militias are the underlying foundation of civil war." At that time, most official statements continued to deny the risk of civil war, a matter that has only recently been almost acknowledged. The report explained that improving the problem of the armed militias should begin with the Constitution, specifically by revising article 9. The report offered suggestions for solving the militia question constitutionally and politically.

With the rise in daily violence in Iraq, Iraqi and international officials reiterated the need to address the issue of the militias in order to prevent the outbreak of civil war. Prime Minister Nouri Al Maliki repeatedly stressed the need for dissolving the militias and restricting the possession of weapons to the hands of the Iraqi state only. UN Secretary General Kofi Annan clearly warned of the possibility of the eruption of a regional conflict in the Middle East if the situation in Iraq continued to deteriorate to the level of a "sectarian civil war." As stated in the quarterly report to the international Security Council on the functions and activities of the United Nations Assistance Mission in Iraq ( UNAMI) during the last three months of the year: "the potential for massive civil war or even an outbreak of regional conflict has become much more realistic than ever..."

#### The Iraqi Security Forces

The monitoring of these forces, particularly in relation to violence, requires analysis of a number of premises:

First: The training of these forces has been mostly at the hands of the foreign forces, led by America, and the basic goal of these forces was to support the new state and to support the military operations carried out by the foreign forces. In both cases, the citizen and his protection were secondary issues in the training.

Second: After the announcement of Iraq as a vital front in the war against terrorism, the military doctrine that ruled these forces was summarized as follows: "Terrorism is the principal enemy." This resulted in a lack of clarity in dealing with the patterns of violence which emerged and developed alongside the continuing war against terrorism.

Third: Many of the militant groups, with their various affiliations, have found political and legal cover by entering the security forces without abandoning their former loyalties. Some of these groups were associated with political parties, and even with powers opposed to the state.

These three facts must be borne in mind in any monitoring or analysis of the performance of these forces. Violence has been practiced almost methodically. In particular, in many cases it has seemed to imitate the practices of foreign forces.

The violence perpetrated by the Iraqi security forces is exemplified by excessive use of force, from random shooting without obvious reason, to the use of gunfire to replace police sirens.

This phenomenon constitutes a violation of the principles and laws practiced all over the world. According to the principles of the UN (7/9/1990) on the use of force and firearms by law enforcement officers, firearms may not be used except in cases of extreme necessity (principle number 4), of self-defense or the defense of others from imminent danger. Furthermore, these principles consider those responsible for these officers to be jointly responsible for their behavior. However, monitoring reveals that while there are repeated statements from security officials forbidding such practices, there are no actual changes observed on the ground. Moreover, and contrary to these statements, monitoring reveals that even the special forces who are charged with protecting government officials practice such behaviors. In practice, we are facing massive violation of UN principles, especially since the excessive use of weapons often leads to death and injury, or damage to funds and property. This represents a violation of the right to the non-arbitrary deprivation of life and the right to personal safety.

Another behavior related to this phenomenon is the pointing of weapons towards citizens in a provocative and intermediating way. This behavior can be described as threatening since a weapon is used to harm people, making it fall within the category of unwarranted use of violence.

Other manifestations of violence is in the way in which these forces are conducting searches, especially searches of houses. Often, this is accompanied by verbal and physical violence and includes damaging property. House searches are usually accompanied by breaking down doors and smashing furniture, scattering drawers and safes; actions that exceed the requirements of the situation.

Furthermore, there are many indications that these practices are part of the political attitude, especially in regions described as "hot zones," and in many cases it is even considered to be a punishment for the local residents. However, the issue which raises the most controversy is the use of various forms of torture against Iraqi detainees. Such practices were revealed by international reports, including the reports of international human rights organizations. This has provoked the government to announce the formation of investigative committees, but there has not been any follow-up, and no reports on their work or findings were issued.

### Organized Criminal Gangs

In light of the complexities of the Iraqi reality and the spread of violence in all its forms, it is difficult to distinguish completely between the kidnappings and killings without political or sectarian motives and those which are based on politics or sectarianism. However, it is clear that the weakness of the state's authority and of the

rule of law have paved the way for many of the organized criminal gangs, whether local or international. These gangs practice all kinds of crimes and trafficking of Iraqi women and children for inhumane practices in a clear exploitation of the deteriorating economic situation and the ineffectiveness and complicity in some cases of the executive apparatus in fighting crime. Unfortunately, all of this is undocumented by real studies, save for some reports from UNICEF on the status of displaced children in Iraq, and from some international organizations on the trafficking of Iraqi women and girls as white slaves. This will be dealt with in the section on the situation of Iraqi women.

### **Individual Rights and Freedoms**

The process of monitoring individual rights and freedoms in Iraq highlights various violations with increasing intensity in different parts of Iraq, especially since there is a real problem in dealing with the "multinational forces" in Iraq. This designation was given by the UN Security Council to the American, British and coalition forces, and also includes the private security companies contracted by the foreign forces. Iraqis do not know what rules govern the work of these forces. There were explicit indications of a lack of commitment to the Geneva Conventions and the Additional Protocols "for the duration of occupation" rules from many American politicians, led by former Defense Minister Donald Rumsfeld. This was reflected in their behavior towards prisoners and detainees in Abu Ghraib prison and in other detention centers, as well as towards the units and medical facilities and their employees, and towards civilians in general. Article 33 talks about the inadmissibility of punishing protected persons for a violation which he did not himself commit, and prohibits all kinds of intimidation and terrorism, robbery and hostage-taking. However, these forces breached the Additional Protocol I, part IV of the Geneva Convention of the protection of civilians in time of war, including:

- prohibiting attacking civilians and civilian property;
- prohibiting indiscriminate attacks;
- prohibiting the commitment of any hostile acts against historic monuments, works of art or places of worship;
- the requirement to make every possible effort to verify that the targets to be attacked are military targets;
- prohibiting killings, all forms of physical or mental torture, the violation of personal dignity, especially humiliating and degrading treatment, collective punishments, and threats to commit any of these acts;
- prohibiting looting;
- prohibiting changing the status of any public officials or judges in the occupied territories, inflicting punishments on them or taking any arbitrary actions against them.

Occupying forces are bound by these rules in accordance with the International Law, which should also apply to the multinational forces, but we have not found any legal form enabling us to know whether these forces are responsible towards the host state or its citizens. The rules of military engagement seem to be a mystery, which permit the killings of unarmed civilians inside places of worship, as happened in "the Fallujah mosque incident" and in many other incidents which have affected civilians and their property even though they were in their own homes. These incidents are all

the more serious, given the decision to prevent Iraqis from filing a complaint against these forces, and even to prevent the application of international law on war crimes and crimes of genocide and gross violations of human rights. Order number 17 of 2004 granted the occupation forces immunity from any Iraqi legal action.

Surprisingly, this order which was issued by Bremer remained in force even after the end of "the occupation," when the status of these forces had changed from that of occupation forces to that of multilateral forces, and when the Iraqi Constitution had come into effect. Even today, the following text is written on the papers of any litigation made by an Iraqi against these forces: "The court has decided to suspend these legal proceedings completely and to halt the investigation, on the grounds of the immunity from any legal action granted to the 'multinational' forces under Order No. 17 of 2004." In practice, we are facing legal violations committed by the Iraqi judiciary without any justification. The Order No. 17 of 2004 was put into effect on 27 June 2003, and was signed by Paul Bremer, the Managing Director of the Coalition Provisional Authority and thus it is related to the occupation forces. So what gave the Iraqi judiciary the right to interpret that this order is applicable to the multinational forces? Were they given "instructions" permitting this without our knowledge? If so, we will certainly face much greater problems regarding the independence of the judiciary from the executive and legislative branches.

As for the Iraqi government, there are signs which seem to suggest in general that the government is unable to prevent the violation of individual rights and freedoms. Furthermore, there are signs that the government is involved in such violations, which breach many human rights. These include the right to life, the right to freedom and personal security, the right to freedom from kidnapping and from arbitrary arrest, the right to humane detention conditions and the freedom not to be subjected to torture, to degrading and cruel treatment and to extra-judicial killings, among other things. Although there is no longer any doubt that official bodies are involved in such violations, only recently Prime Minister and the Ministry of Interior started to acknowledge the involvement of the security forces in acts of violence against citizens. These acknowledgements, however, have not stopped or reduced the frequency of these violations. Even in cases where those involved were sent to court, neither the existence of investigations nor the results of any such investigations has been revealed. Similarly, those responsible for the security forces were not held accountable, making it clear that the impunity of the security forces has become systemic. This is confirmed by the announcement of the Ministry of the Interior of the firing of 3000 Interior Ministry employees for involvement in corruption or human rights violations without referring them to justice. The Commission on Public Integrity also pointed out that 164 arrest warrants and more than 100 summons were issued by the judiciary against agents, officers, managers and associates in the Interior Ministry. The ministry has not acted on them yet.

UN reports, especially the periodic reports of the UN Assistance Mission in Iraq (UNAMI) during 2006, clearly show the rise in the number of deaths of Iraqis as victims of sectarian violence. More than three thousand corpses arrived at the mortuary during the month of October, causing such a huge uproar that the Prime Minister issued a decision preventing the Ministry of Health from providing any information regarding the number of people recorded by the mortuary in Baghdad.

### Murder and Extra judiciary Killings

The right to life is still being violated on a daily basis in Iraq, whether by militant groups which reject the political process, or explosions in shops and the public street which kill unarmed civilians, or as a result of military operations undertaken by the foreign forces and security companies spread out around Iraq, or by the Iraqi security forces, or by the special security forces of government officials. Likewise, the prevalence of kidnapping affects men and women alike, from every sect and tribe. Moreover, their bodies are discovered showing clear signs of torture. People are kidnapped from their workplaces, from the streets, and from their homes at the hands of unknown gunmen, and sometimes at the hands of people wearing police uniforms traveling in cars belonging to the security forces. It is important to point out here the spread of what could be called "organized crime" and its entrance into these operations, usually under the cover of politics. Many kidnappings, killings and grand larcenies are carried out by groups using political cover to perform their operations. For example, during the first battle of Fallujah in April 2004, thieves had a particular place in the city in which to hold up passing cars. Most of the other powers in the city, most of which had an Islamist or ethnic orientation, had no choice but to accept this situation, due to their need for such a force in the battle. Similarly, many of the kidnappings which took place after the Samara attack were different from the kidnappings which took place before it, since these kidnappings did not promise to end, as is usual in the paying of a ransom and the release of the hostage. Rather, they ended in the paying of a ransom in exchange for the release of the hostage's body, after it had been subjected to hideous torture under sectarian or political pretexts. There are many other indications that these operations took place with the connivance of some political factions.

These two examples reflect what could be called political employment of organized crime. In summary, it has become a vital threat to the right to life, and therefore it is not important today whether the number of victims among the Iraqi civilians has reached half a million or a hundred and fifty thousand. Either way, the right to life is still under threat in Iraq, and there is not even a distant hope that this right will be restored. This is reflected clearly in the reality on the ground, which shows that the enjoyment of human rights in Iraq is dangerously vulnerable to demolition as a result of the increasing lack of security, the rise in violence, and the lack of law and order. This situation in turn is a result of the acts of the militias, gangs and militant groups. The right to life is still subject to violation because of the violence of all kinds which prevails in Iraq continuously and daily, with all of its varied sources and agendas.

### Arbitrary Extra judiciary Execution

Arbitrary execution is understood to be the killing of a person at the hands of a state agent or at the hands of any other person acting under the government's control. The government may conspire with the killer, accept or condone his actions, but does not subject him to any appropriate judicial process. However, this definition does not cover the phenomenon of arbitrary killing in Iraq because we are faced with arbitrary killing which is perpetrated by groups which were never under the control of the state, and indeed which reject the state's basic legitimacy.

So in both of these cases we are faced with arbitrary executions which fall outside the

framework of the law, even if those who perpetrate them claim that the executions are rulings issued by "religious courts" or fatwas. These courts are illegitimate and illegal since we are talking about a "modern state" which is governed by laws and foundations.

### Forced Disappearance

There are no accurate statistics about the number of missing persons in Iraq since the beginning of the American occupation, save for the reports issued by international and local organizations, which indicate that most abductees are divided between American detention centers in Iraq and the prisons of the Iraqi Interior Ministry. Some of the reports suggest the existence of more than forty secret prisons outside the legal framework, belonging to the militias and the parties. The medical examiner's morgue now receives an average of one hundred bodies a day in Baghdad, especially in recent months, and often, when the victims of kidnapping or forced disappearance are found there, in many cases families do not dare to retrieve the body, so as not to become victims of murder themselves. So the bodies are buried without being identified and without any way for relatives to identify them in cases when the corpses are disfigured or when they are found far from the victim's place of origin.

### The right to personal safety

The right to personal safety is one of the most basic human rights. It must not be violated by the state or by any other official body, even by its acquiescence or connivance, or by non-official groups (such as militias and armed groups). This right is violated by torture and by cruel and inhumane treatment which causes either physical or mental suffering.

The available information indicates that most arrests are accompanied by mistreatment which degrades human dignity, and which is usually accompanied by verbal abuse. It has become common practice for the police to break into a house, arrest the men and imprison them without offering reasons or showing an order or arrest warrant.

According to international agreements against torture, torture is defined as any act which causes pain or great suffering, whether physical or mental, and which is inflicted intentionally with the purpose of obtaining information, extracting a confession, inflicting punishment or fear, or for any other reason founded on sectarian differences.

Following the observing situation of the prisoners in Interior Ministry prisons, massive violations in this regard is clearly shown. There are tens of examples of the subjection of detainees to severe torture in these prisons, and it is clear that [many] have had no involvement with illegal acts since they are subsequently released without charges. It seems that these actors have no desire to hide their crimes, since many of those who are released have marks of torture on their bodies. Sometimes the torture victims are even taken to prison and left there; some are subsequently kidnapped or killed. Even if we suppose that it were possible to pursue and take to court those who perform torture, the fear of vengeance and the feeling of futility would stand as an obstacle. The crime of torture is not supposed to have a statue of

limitations, and we cannot overlook the responsibility of those in charge of the detention centers to investigate these crimes. Articles 12 and 13 of the Convention Against Torture requires that the state guarantees that it will investigate any complaints about acts of torture, mistreatment, cruel or inhumane punishment, while Article 4 requires that the state shall ensure that all acts of torture are offenses under its criminal law. Article 14 guarantees and enforces the victim's right to fair and adequate compensation. The permanent Iraqi Constitution says, in Article 37c, that "all kinds of psychological and physical torture and inhumane treatment are to be prohibited by law, and nor is any confession to be extracted under duress or threats of torture, and the victim shall have the legal right to demand compensation for the physical and mental injury to which he was subjected," but despite this, no law talks about this article. Furthermore, the Iraqi state did not sign the Convention Against Torture neither before or after 9 April, 2003.

The penal code in effect, especially Articles 332 and 333 of the penal law number 111 of 1969 and its amendments, states that any state employee or civil servant who uses torture or cruelty, or who orders others to torture, is to be punished by imprisonment, but this prescribed punishment is much too light. Furthermore, these two articles are non-functional, since their wording implies that the responsibility for the entire process is in the hands of the state. There is no article giving the torture victim the right to sue for retribution from the people who tortured him or from their superiors, and nor does he have the right to demand compensation. These omissions void the constitutional articles of their substance. Similarly, the law seems here not to be in agreement with the constitutional clauses, which draws our attention to the importance of appending a paragraph implementing all this into law.

All of the above assumes that the state, as it is classically defined, has the ultimate monopoly on the use of force, but the situation in Iraq is completely different. Since the state does not have a monopoly on the use of force, other bodies have contended for the right to this monopoly. The militias, political parties, and armed groups have begun to share in the exercise of force as if they had a legitimate right to participate in the state or to contend with the state for this right.

This attempt by the political parties, militias and armed groups to contend with the state in its governance has pushed these parties into an attempt to impose their own system of intellectual hegemony and ideology on others. Since most of these groups are religiously-based, they believe that the propagation of virtue and the prevention of vice are religious duties which a person must abide by. What concerns us here is that sectors of society which have adopted different ways of thinking become "outsiders" from the public discourse. They then become potential victims of a variety of practices, which have affected people's most personal freedoms, like their clothes and food, forbidding them to listen to music or watch films. Men have been required to shave in a certain way while hair salons for women have been forbidden. There are hundreds of incidents in which women and men have received direct threats after deviating from this system.

#### The Right to Migration, Housing and Travel

International laws and treaties have codified the right of individuals to live and travel within or outside of the borders of the country, but in Iraq, these rights do not seem to

conform to international standards on a number of levels. The Iraqi Constitution codified these rights in a way which violates the international covenants and conventions. Article 13a of the Universal Declaration of Human Rights states, "every individual has the right to freedom of movement and freedom to choose a place of residence" inside the borders of the state, while Article 12 of the International Covenant on Civil and Political Rights ensures that "everyone lawfully within the territory of the state has the right to freedom of movement and freedom to choose his residence."

Article 44 of the Iraqi Constitution stipulates, "an Iraqi has the freedom to move, travel and live inside and outside of Iraq, and that "an Iraqi may not be prevented from returning to the homeland." However, these rights are revoked by another clause which restricts these freedoms. Article 23/III-b stipulates that "ownership for the purposes of population change is prohibited," and Article 24 states that "the state shall guarantee the freedom of movement of labor between regions and provinces, and shall regulate this freedom by law."

To begin with, it is necessary to pause at the use of the masculine singular term, "an Iraqi," which is open to interpretation, especially given that there is no provision in the Constitution defining the term "Iraqi" and whether it also includes women. For example, a single or divorced woman cannot get a residency card in her own name, and must officially register with a man related to her in the first or second degree. This right is a general right of human beings, based simply on the grounds that they are human.

Other passages also came to repeal this right. The ban on ownership for the purpose of population change means in practice that Iraqis are not free to choose their place of residence, especially in the light of the sorting of the population along ethnic, sectarian and religious lines. Any Iraqi persons attempt to own a residence will be governed by interpretation that depends on the power relationships on the ground. Baghdad, for example, is witnessing an overt struggle over sectarian identity, as is reflected in the statements of the political elites. Thus the attempt of any Iraqi to own a residence in Baghdad is open to being construed as a violation of the demographic balance. This applies to many Iraqi provinces.

Article 24, whose text was presented above, implies that the freedom of movement of labor (and therefore of Iraqis generally) between regions and governorates is not a fundamental right, but rather a right "granted by the law." It will be within the current presumed rights of the regional governments and provinces to prevent or restrict the freedom to travel and reside, and therefore the freedom to work as well.

### Forced Displacement

Forced displacement is the most serious violation of the right to property and housing in Iraq. It has been observed that systematic and organized operations exist to force displacement on the basis of sectarian and ethnic identity. In short, the organized and systematic forced displacement involves an attempt to manufacture ethnic and sectarian lines segregating Iraqis on the basis of their sectarian or ethnic identities within specific regions. This has become an effective factor for creating a climate of sectarian civil strife.

This ethnic and sectarian cleansing inevitably leads to disruption of the social fabric of coexistence and turns it into a situation of social conflict, turning Iraq's national and sectarian diversity into a curse rather than a blessing. This reality cannot be disregarded or ignored in the building of democratic governance, which should be based on the principle of citizenship regardless of religion, race, or sex, etc. As a result, the operations associated with the policy of organized, political, forced displacement are in clear violation of international law and of constitutional rights and freedoms, especially freedoms and rights related to housing, residence, and movement.

The numbers which are often mentioned by various sources only represent those living in camps run by the Red Crescent, and do not include those displaced people who have fled to relatives or moved from one neighborhood to another within their town. Thus, it is not possible to know the exact figures, save to say that they are much higher than those already published. The displacements forced almost everybody without exception to live in camps of a sectarian nature. However, it should be noted here that the worsening of this phenomenon has led to the issuance of official figures by the Ministry of Displacement and Migration in July of this year and at irregular intervals thereafter, culminating in the latest statement by the Ministry indicating that nearly 320,000 Iraqi families have been displaced. An official of the UN in Iraq said in a statement in November that 1000 Iraqis are displaced each day.

The process of obtaining travel documents has become much more complicated than it was before April 9, forcing many citizens to pay bribes as high as \$700 or more. At the Iraqi-Jordanian border crossing in particular, many citizens are turned back by the authorities of the country they are traveling to, which claim that their passports are not correct. Sometimes reasons are not provided. From time to time, centers that issue passports are closed, for one reason or another, thus forfeiting the citizen's right to obtain his passport and to travel in a time of his own choosing rather than that chosen by the passport authority. This is a clear violation of the right to freedom of movement, as is the failure to withdraw the law that prevents the issue of travel documents to women under forty years of age, unless they are accompanied by a male relative of the first or second degree.

### **The Situation of Iraqi Women**

The monitoring of civil rights of Iraqi women highlights the fears of women's organizations and of some secular forces regarding some of the articles in the Iraqi Constitution and of the laws and regulations which will be based on these articles. They fear that such laws will repeal many of the rights and privileges which they have fought for decades, and fear the revoke of their rights and freedoms.

Article 41 of the Iraqi Constitution raised a lot of anxiety, concern and controversy in conferences, symposia and panel discussions inside and outside Iraq, attracting the attention of more women's organizations, civil society organizations and political parties than any other article.

Article 41 states, "Iraqis are free to observe their personal status in accordance with their religion, sect, beliefs or choices as regulated by the law."

This article remains important, but it suggests the possibility of a return to the first Iraqi Constitution of 1925. It does not conceal the danger threatening the situation of women in Iraq. In light of the constitutional protection for temporary marriage, "misyar" marriage- in which the wife is not entitled to normal marital rights such as maintenance and domicile - customary marriage, early marriage, and polygamy, as well as the article's disruption of the property of legal unity in a way which impedes the building of a state of law. It makes sects and creed, rather than citizenship, the basis of the status of Iraqi women. Another danger inherent in Article 41 is that it contradicts, indeed completely suspends, Article 14, which relates to equality before the law. Under Article 41, Iraqi women would not enjoy specific legal equality, since their rights would depend on their religion and sect.

Article 45-ii also causes concern, since it returns society to the days prior to civil society. It states, "the State shall ensure the advancement of the Iraqi tribes and clans and take an interest in their affairs in a way which is in harmony with religion and law. It will promote their noble, humanitarian values in a way that contributes to the development of society, and prevent tribal customs that are contrary to human rights." Such a positive description of the tribes makes it all too easy to imagine what could happen to the situation of women with the blessing of the Constitution. It permits great exploitation of the word "their choices" in Article 41 to justify these practices.

Just as the presence of some of the provisions in the Constitution excited concern and anxiety, so too did the absence of others. The Iraqi Constitution did not include any reference to the recognition of international covenants and treaties, even though Iraq was one of the first Arab countries to sign – with some reservations – the Convention on the Elimination of All Forms of Discrimination Against Women. This could allow various kinds of violence against women to occur. Violence can not be addressed merely by the text in the Constitution, which refers to the prevention of violence in vague and general terms. Article 29-IV reads, "prevent all forms of violence and abuse in the family, in school and in society," avoiding reference to women specifically. Moreover, the Iraqi Constitution does not mention the economic, cultural or social rights of women.

The controversial provisions in the articles of the Constitution relating to women's rights and freedoms are alarming and worrisome, in which personal status law, international instruments and conventions are absent, and in which tribalism, sectarianism and Islamic law prevail. In this scenario, women seem to be the major losers in an Iraq which is seen as "new" and "democratic."

### In Iraqi Kurdistan

In contrast to this bleak picture, the legislative and legal situation in the Kurdish area has fared better. The Personal Status Law no. 188 of 1959 applies in the Kurdistan region, and in regard to the drafting of amendments to the Personal Status Law, the Commission for Women's Affairs in the Kurdish Parliament has imposed additional conditions on the cases of polygamy, the prevention of female circumcision, and other procedures related to divorce.

The committee is moving to advance legislation in favor of women's rights in the

Kurdish area, and is working to ensure that women fully enjoy their rights. It has succeeded in changing some laws so as to make "honor killings," a crime which was previously held to be among the least serious of offences, to be considered among the worst of them today.

### Women in Decision-Making Positions

The Iraqi Constitution guaranteed that the representation of women in the Council of Representatives shall be no less than 25% of the total number of members. Article 49-iv states, "the purpose of the election law is to achieve representation of women of at least one quarter of the number of members in the Council of Representatives." Women's organizations have objected to these figures, as they aspire to a proportion of no less than 40%. But the most important objection is that this proportion (one fourth the number of seats) was limited to the parliament, and did not include the governing bodies (the Presidency, the Council of Ministers and the Speaker of Parliament). As a result, women obtained 70 out of the 275 seats in the parliament, without having any share in the three governing bodies, in the Presidency or Vice Presidencies. This percentage also does not apply to the State's executive or judicial branches.

The Parliamentary committee responsible for the submission of reports on the performance of the executive branch of government, which puts forward projects and proposals to improve the work of this body, did not include any women. It has been noted that out of 22 committees, which were chosen on 21 June 2006, the most powerful, sensitive and important committees either include no female members or a much smaller percentage of them. The percentage of women is noticeably higher in the committees related to ideology, such as education and nursing.

The following are some examples:

- The Committee for Security and Defense has 15 members, none of whom are women;
- The Committee for Oil and Gas has 9 members, none of whom are women;
- The Legal Committee has 13 members, only one of whom is a woman;
- The Financial Committee has 7 members, only one of whom is a woman;
- The Committee on Foreign Relations has 15 members, only two of whom are women;
- The Committee for the Economy, Investment and Reconstruction has 12 members, only two of whom are women;
- The Committee for Health and the Environment has 12 members, four of whom are women;
- The Committee for Education has 15 members, 7 of whom are women;
- The Committee for Women and the Family has 7 members, all of whom are women.

It should be noted that the majority of the women belonging to the Islamic bloc during the drafting of the new Personal Status Law stated their opposition to the more liberal Personal Status Law no. 188 of 1959, which was in force at the time, even though the Iraqi judiciary, civil society organizations and the women's movement were prepared to accept it.

Going back to the seventy seats, the presence of women in parliament was mostly a quantitative matter of attendance.

The first issue is that men monopolized the political and decision-making process and the role of women was completely lost in the formation of the government and of all the vital political organizations during the year. The most recent example is the absence of women in the National Reconciliation Conference, even though there has been great numbers of female civil peace-makers in countries which have suffered from war and violence. The second issue is one which women inflicted upon themselves. The female delegates did not take a unified opinion or common agenda regarding women, so their stances varied and were based on personal convictions or partisan pressure. They did not think of forming a pressure-group or lobby, despite the fact that they numerically constitute the second largest bloc in parliament after the United Iraqi Alliance bloc.

The situation is not any better in the executive branch. In addition to the absence of women in the three governing bodies, the number of ministries obtained by women this year witnessed a decline from the year 2005. There were six female ministers in the government last year, but only four this year. The number of women in decision-making positions last year and this year approached 342, including at the levels of general manager, assistant, director, advisor, inspector general and deputy minister. It should be noted that the four female-led ministries did not include any powerful ministry, and also that the Ministry of State for Women's Affairs was not allocated any budget. This hindered or prevented it from serving women's issues effectively.

The Ministry's shortcomings included its lack of interaction with initiatives and the many demands of women, rendering it vulnerable to criticism by the Iraqi women's movement. In a statement issued by the movement in October of this year, the movement criticized the Ministry's negative attitude towards women's organizations working in Iraq. The ministry was criticized particularly in regards to its failure to invite women groups to a national reconciliation conference convened by the Ministry.

In its meeting on 26 October, 2006, the women's movement submitted a set of proposals, among them a call for the establishment of a Commission for Women similar to the High Commission for Human Rights. The commission would develop a strategy to advance the situation of women in Iraq and to eliminate discrimination against them, with the caveat that it must avoid the pitfalls of sectarianism and partisanship and must stress the importance of efficiency and experience in the field of women's affairs both locally and nationally.

### Violence Against Women

Women in all parts of Iraq suffer from various types of violence on a daily basis, given the political situation and the armed conflicts in the country, as well as the high prevalence of public violence, especially after the bombing of the Golden Mosque in Samara in February 2006. This has a negative impact on their lives, and violates their rights. The marginalization of this already marginalized group has increased significantly, and women have become susceptible to many dangers at home, in the street, and at work. This has happened at a time when the government is unable to

protect female victims of violence. There is a lack of statistical surveys of the number of women who are subjected to the various forms of domestic violence, because of the lack of state institutions capable of carrying out such work, and because battered women are subjected to social mores which prevent them from requesting protection or even from reporting abuse. It is also due to the weakness of the application of the law and loss of confidence in the security services, not to mention the legal loopholes that protect some types of domestic violence, such as wife beating. Despite the lack of proper statistics, a mere glance at the social conditions within the Iraqi family clearly shows the increasing vulnerability of Iraqi women to domestic violence from the husbands, fathers or brothers who now determine the pattern of the women's lives on the pretext of the turbulent situation. The number of cases of battered, abandoned and divorced women has increased significantly, as confirmed to IDW by the lawyers in the personal status courts in various areas of Baghdad and Iraq.

In addition to domestic violence, women are subjected to violence at the hands of various individuals and groups. The religious radicalism<sub>2</sub> which has become a phenomenon since 2003<sub>2</sub> has also helped to restrict the freedoms of women, particularly with regard to the veil. Women are subjected to threats from Sunni and Shiite groups in various governorates of Iraq if they do not wear the veil in the streets, at work, or at the market. Wearing the veil is no longer a choice, but rather a means to avoid being targeted, defamed or even murdered.

Reports indicate that in some suburbs of Baghdad, it is prohibited for women to go to the market alone, and female students in university campuses come under pressure. Some are directly threatened, and others are beaten, showered with threat letters or harassed via mobile phone messages.

There is also increasing harassment of women who do not wear the veil or who wear trousers, and because these women are few in number they attract remarkable attention. The police take no action to prevent such harassment, and women do not request the police's assistance in such situations due to the loss of confidence in the security forces as mentioned above. Furthermore, in many cases women have confirmed to IDW that the security forces themselves carry out such harassments. It should be noted that the terrorism, which forces women to wear the veil, affects even high-level employees in some ministries. One veiled female clerk in a ministry controlled by one of the sects was drawn aside by the guards while passing the ministry's gate and asked to warn her female colleagues who are not veiled.

This tyranny has reached the universities especially in the south of Iraq, where some female students were subjected to humiliation by the so-called Committees for the Promotion of Virtue and Prevention of Vice which roam the city with all of their weapons. In the month of Ramadan, armed groups published posters and banners hung in the city center of Ashar near the central post office, warning against not wearing the veil. A 50-year-old teacher in the Al Menawi district was subjected to severe beatings because she did not respond to threats to wear the Islamic dress code. These threats and tyranny have even reached ~~WZ RP HQURP UHOL IRXP IQRUWV~~ ~~WHLKDEHQDHP DNEEQFUHDHIQWXP EHRI &KUNWQDQG~~ "Saabia" women in Basra who wear the veil. A Christian seamstress in the Ma'aqal region told IDW that she is unable to leave her house because she doesn't wear the veil.

In some institutions of State, a special elevator is allocated for men and another for women. One employee in the offices of the Ministry of Human Rights was forced to wear the veil because of harassment from her manager. She said that this manager insisted that female employees stay in their rooms and not mix with male employees after gender-segregation had been implemented.

Besides the violation of personal freedoms with respect to clothing, women have also been forbidden from driving cars in some areas of Baghdad. This was accomplished through the posting of terrifying notices threatening to cut off the hands of female drivers, which forced many women in those areas to stop driving. Any observer of the Iraqi street will easily observe the small number of women who drive cars.

This gender-based violence, which has become a daily phenomenon, restricts the movement of women outside their homes, their access to health services and education, and their participation in public life.

Furthermore, many parents are reluctant to send their daughters to schools and universities because girls are particularly vulnerable to harassment and abduction. For example, a middle-school student in Al Dawra was abducted by the driver of her bus after all the other students had been delivered on 11 October 2006. The school hushed up the subject and settled for returning the remaining students to their homes the following day. In Mosul, an armed group kidnapped an elementary school teacher on the first day of the academic year on 20 September, 2006, when she got into a taxi after finishing work. The police found her body, cut into pieces, in a plastic bag and dumped near the school the following day. In another dangerous incident, a female student who had graduated from a university in Baghdad was kidnapped when she returned to the university to begin graduate studies in August 2006. The female custodian responsible for inspecting women at the university gate informed members of a militia that the girl was carrying an ID entitling her to enter the Green Zone, from which they inferred she was working with the coalition forces. The girl's close friend reported that the girl was released later that day after having been escorted to an area controlled by the militia, and subjected to interrogation, psychological torture and death threats until she convinced the militia that she does not work with the coalition forces and that she belongs to the same sect as the militia. Since the beginning of the 2006-2007 academic year, reports of the kidnapping of female students in schools, institutes, and colleges have repeatedly appeared, but the news has always been hushed.

Because of the spread of such news and because of increasing rumors, many families decided to delay their daughters' return to school during the new academic year, particularly at colleges and institutes of higher education. In some cases, they were withdrawn from the school entirely. In the town of Heet, leaflets were distributed by an unknown group on 10 October 2006, warning girls against attending schools and institutes until further notice. The leaflets did not specify the motives of those who published them or their reasons for preventing girls from attending school.

These threats have become more prevalent since October 2006. Militant groups have distributed leaflets demanding that women do not go out to work, while threats against female teachers increased dramatically. A group of female professors at Baghdad University were subjected to threats from a masked man who gave them

threatening leaflets while they were waiting for a car in the Saydia region. One of the women told IDW that he demanded that they stop going to work. He informed them that he and his group knew exactly where they lived, and that they would be killed in their homes if they did not submit to these demands.

It is not only militant and extremist groups, gangs and individuals which commit violence and tyrannical practices against Iraqi women. The facts indicate that members of the Iraqi security forces, too, subject them to violence. Many individuals and civil society organizations have submitted reports on such incidents to the United Nations Mission in Iraq, pointing to the security forces' use of women as a means to put pressure on their male family members to turn themselves in. For example, one of these reports spoke of a raid on a family in Amiriya during which an officer grabbed a woman by her hair and banged her head against the wall several times, in order to compel her brother, who was armed and hiding upstairs, to surrender. In another case, the victim reported that the officer tried to force her to have sex with him in return for the release of her husband and her son.

The presence of the multinational forces in Iraq also contributes to the violation of the rights and freedoms of Iraqi women, since Iraqi women have been subjected to rape, threat and reprisal by these forces. In a famous incident this year, the American soldier Stephen Green was sentenced to life imprisonment beginning in November, after being formally charged with rape and murder of an Iraqi girl named Abir and with killing three members of her family in the Mahmoudiyah region south of Baghdad on 12 March 2006. This incident created a sensation in the public opinion, and Iraqi women's organizations, non-governmental organizations, political parties and human rights groups in Iraq demanded that the American soldier be tried as a war criminal. The statement issued by women's organizations also demanded the immediate lifting of the immunity of the occupation forces and their officers, and that the lifting of immunity be retroactive in cases where unjustified violations have been proven.

The American army announced that they formally indicted five other soldiers, as part of the investigation, indicating that three of the four soldiers are accused of rape and murder. The fourth soldier is accused of transgression. The army added in a statement that the five soldiers are accused of conspiring with former soldier Stephen Green in the commitment of these crimes.

The soldiers of the multinational forces sometimes use women to put pressure on their relatives. The American Civil Liberties Union has confirmed that US forces are detaining the wives of suspected members of militant groups in Iraq in an attempt to pressure the men to give themselves up. The military operations launched by the multinational forces lead to the deaths of many civilians, often including women and children.

A government poll carried out by the Central Government Statistics Office in the Ministry of Planning showed that 52 percent of Iraqi women consider that criminals and US occupation forces constitute a real danger to their lives, and are the principal source of threat towards them. Forty six percent of poll respondents did not mention any immediate risk.

At the provincial level, 85 percent of women in the governorates of Sulaymaniyah, Irbil and Dohuk (in the north) and Muthanna (in the South) said that they were not exposed to any direct threat. Ninety one percent of the women in the province of Maysan (in the South) said that criminals are the only source of threat for women in Iraq, compared with 73 percent in Dhi Qar and 65 percent in the capital, Baghdad.

More than 40 percent of women in Waset and Karbala (in central Iraq) said that those criminals threaten them, and more than half of the women in Anbar province (in the west) and Salah Eddin (in the North) considered occupation forces the greatest source of danger to them.

With the growing number of civilian casualties, the number of women victims has increased this year. It is difficult to obtain accurate statistics from all of Iraq's provinces about the number of female victims of explosions or random attacks in big markets, military operations, and extra-judiciary killings, but it is safe to say that about five or six women are killed in Iraq every day. If we take into account the statistics of the Ministry of Health and the mortuary for six months of this year, 181 women were killed during January and February, 55 of whom were shot to death. The others were victims of bombings and military operations. In the months of May and June, 124 women were killed, with the number increasing to 377 women in July and August. Note that these figures are estimates of the Ministry of Health and the mortuary, and the real numbers are in fact higher.

All groups of women have been killed, including professionals and activists, journalists, the relatives of political officials, the wives of professors, and the former wives of officers in the Iraqi army. This has had a negative effect on women's participation in political and public life. In one example of the targeting of professional women, an armed group of unknown affiliation killed Ms. Nadia Mohamed Hassan, the Public Notary Director General in the Department of Justice, along with her driver and her two bodyguards on 30 August, 2006.

This year also witnessed the killing of female Iraqi news correspondents, including Atwar Bahjat, correspondent of the *Al Arabiyya* channel, while she was covering the events in Samara on 22 February 2006. She was killed after being kidnapped by an armed group. Naqsheen Hammu Rashid, a journalist for the sports station *Al Atyaf*, a subsidiary of the Iraqi satellite channel, was killed in the sports arena in the center of the capital, Baghdad, on her way to work on the morning of 29 October 2006.

This year we have also witnessed the killing or kidnapping of female relatives of Iraqi state officials, in cases when gunmen fail to gain access to the officials directly. Ms. Maysoon Ahmed Al Hashimi – the sister of Mr. Tariq Al Hashemi, Secretary-General of the Islamic Party and appointed Vice President – was killed along with her driver in the Alaam neighborhood in the Saydia region of Baghdad. Elsewhere in this report we have mentioned the abduction of the sister of Baqir Jabr Solagh, a member of the Supreme Council for Islamic Revolution in Iraq, who was working as the Iraqi Interior Minister at the time.

A number of the wives of men targeted by militant groups have also been killed. For example, Professor Mays Mohamed, in the English department in Diyala University, was killed when gunmen opened fire on her on 19 April 2004. She was with her

husband, who was the target of the attack, at the time. Her husband, Dr. Moshhan Hardan Al Dalaimi, was the Secretary-General of Diyala University, and the head of its Arabic department. They were returning from the college with two of her husband's colleagues, and all of them were killed. The wife of the Dean of the College of Business and Economics, who also worked at the college herself, was killed on 1 November 2006, on her way to work with her husband, Dr. Jasim Al Dhahabi. Her husband was the target of the attack. The wife of a former Iraqi officer was killed in Mosul on 13 November 2003, along with her husband, the target, in full view of their children while the family was eating breakfast.

Recently, the wife of a Leader of the Supreme Council for Islamic Revolution in Iraq, Ali Al Addad, was killed with her husband, the target of the attack, in the Al Mamoun region at the hands of an unidentified militant group of unknown affiliation on 18 November 2006. The wives of both Al Dulaimi and Al Addad were pregnant.

Many women active in civil society have also been exposed to the threat of murder, which impacts women's participation in political and public life. An armed group opened fire on Halima Ahmed Al Jabouri, President of the group "Women and Children Without Borders," in the district of Al Huwayjah in Kirkuk governorate on 1 November 2006. Unknown gunmen riding in a car fired several rounds at her in front of her house, killing her instantly, in full view of her children. The Ministry of Human Rights reported that female civil activists are subject to attacks, citing an example in which the Director of a Women's Cultural Center was shot by unknown gunmen. She was hit by five bullets almost at the cost of her life, and this incident caused her to withdraw from the organization.

The same report also refers to the Chairwoman of the Association of Widows in Amarah province, who was threatened more than once by militant groups operating under different religious names. They demanded that she close down the Association, and bombed its headquarters.

In Basra, IDW reported threats and targeting of women's organizations on discriminatory grounds. For example, the women's organization *Al Azraa*, which was founded by a Christian woman, was targeted on the pretext that it is an evangelical organization. In response, those who worked in the organization decided to close it.

### Kidnapping of Women in Iraq

The abduction of women in Iraq is one of the biggest issues which sows terror in the hearts of Iraqi families and impedes the participation of women in various walks of life. Kidnapping is often perpetrated by gangs with the purpose of getting ransom money. They know that families will not hesitate to pay the ransom because this issue affects the whole family's honor. In several places in Iraq, gangs specializing in the kidnapping of women have emerged. Kidnapping is also used by extremist groups of one kind or another, whose motives vary depending on the group. Some kidnappings also have political motivations. The absence of accurate statistics on the number of women who have been kidnapped this year is due to the failure of the families of the victims to report the crime to the police or the security services. They prefer to deal directly with the kidnappers because of the weakness or absence of the application of the law, and because they do not trust the security services.

Some unverifiable statistics offered by the Organization for the Freedom of Women indicate that more than 2000 women have been abducted during the three years after the fall of the former regime on 9 April 2003, explaining that some of them were sold as objects inside and outside Iraq.

In Kirkuk, an Iraqi police source said that on 1 August 2006, a police unit arrested a gang composed of six people belonging to one family. They had been kidnapping women and children and selling them to gangs for the purpose of entertainment services. During the investigation, members of the gang admitted carrying out several kidnappings in Kirkuk and selling the victims to gypsies. In early August 2006 alone, Kirkuk witnessed the kidnapping of four Turkomen and Kurdish women. In Najaf, an Iraqi police source said that a gang specialized in kidnapping women was arrested on November 13.

IDW obtained a copy of a report of the Iraqi Ministry of Human Rights, which discussed the abduction of a female tax official in Babel by a gang specialized in abducting women as she went to work one morning. Two months after the kidnapping, the gang contacted the victim's family and demanded ransom money in return for her release. She was released four months after the date of her kidnapping. According to the ministry report, she had been seized along with thirty other girls from various provinces, who had been transported in refrigerated vehicles used for the transport of meat. They had been subjected to torture and starvation at the hands of the gang behind the kidnapping.

While ordinary Iraqi women are at risk of abduction by gangs, extremist groups or militias due to a lack of protection, even women who do have such protection are at risk of abduction as a means of realizing political demands. According to a statement of which Al Jazeera received a copy, the sister of Baqir Jabr Solagh, the Iraqi Interior Minister and leader of the Supreme Council for Islamic Revolution, was abducted in an early-morning strike on 3 January 2006 by an unknown militant group calling itself the Revenge Battalion.

In June 2006, unidentified gunmen intercepted the convoy of parliamentary delegate Tayseer Nijah Al Mushadani of the Iraqi National Accord Front. They kidnapped her and eight of her bodyguards, and released them three months later.

### Trade of Iraqi Women

In addition to the threats, kidnappings, assassinations and violations of rights to which Iraqi women are subjected, there are many indications that there is an active white slave trade which exploits the misery and unemployment in Iraq. Information shows that these traders lure uneducated, slightly educated or even college-educated women with fake offers of work as housekeepers. The master-stroke of such groups is the technique of asking the female applicants to pay relatively large dollar amounts supposedly for employment contracts to work in Gulf states, where they are then forced to sell their bodies in hotels and nightclubs. The United Regional News Network, "IRIN" reports that it has tracked the smuggling of thousands of Iraqi women and girls, among them 1,500 women registered as being missing in Iraq. The main destination of these women, according to the report, is the UAE, particularly

Dubai, where the women are exploited in the sex trade sector. The report indicated that Syria is also becoming a common destination for the smuggling of Iraqi women, and sources have told Democracy Watch in Basra that Kuwait, too, is on the list. The security situation in Iraq makes it almost impossible to stop this white slave trade, and the traders still have freedom of action and movement.

### Honor Crimes

Honor crimes, which primarily affect women, are still part of Iraqi society, whether in the countryside or the cities. Women are accused and sentenced to death by their relatives, without recourse to the law, legislation or a judge, or even without making sure that they deserve this end to their lives. The frequency of these crimes has increased in recent years, without any regard for the existence of a law which prescribes light penalties for the offender/murderer. Women whose sexual behavior has aroused suspicion, who are held in occupation detention camps, or who are kidnapped by gangs and released for ransom are being killed without the state or the law having any role in protecting them before they become victims and another number in the death-record.

The Office of Human Rights of UNAMI in Iraq reports that an increasing number of women are being subjected to death-threats and threats to their physical dignity when they are accused or suspected of committing acts which might affect the "honor" of their families. News about honor crimes is rare, as is judicial follow-up. This is not only because of sympathy which the police and the judges have for the perpetrators of the crime, but also because lawyers have become reluctant to accept cases of honor killing for fear of being targeted by fanatic or extremist groups in the community. The UN report noted that the lawyer Salah Abd Al Qadir, who was known for his work with honor crimes and guardianship of children, was killed on 29 July 2006 in his office in Baghdad. His family reported that they found near his body a piece of paper with the words, "This is the price paid by everyone who does not follow the teachings of Islam and who defends all that is dirty and evil."

### The Social and Health Situation

The proliferation of armed conflict and the escalating wave of violence in Iraq has led to an increase in the number of widows and wives of missing persons. This heavily impacts their lives, changes their social and economic roles, and requires them to endure difficulties such as displacement after the family's breadwinner is killed, in addition to undermining their safety and personal identity.

There are conflicting statistics about the number of widows in Iraq. Based on one study undertaken by Baghdad University, at least nine women are becoming widows every day, whereas many other statistical estimates place the number of Iraqi women who become widows every day as high as one hundred.

Regardless of the number of widows, the results of a survey carried out by the government's Central Statistics Office and the national manpower planning service of the Ministry of Planning showed that 11 percent of Iraqi families are headed by women, and that 73 percent of these families are headed by widows. The poll showed that the average age of the breadwinner of female-headed families is ten years older

than the average age of the breadwinner of male-headed families, and that 28 percent of these families receive a lower level of income compared to men. Forty percent of these families are unable to earn 100,000 Iraqi dinars (US\$65) during a week, compared with 26% of families headed by men. Many widows suffer from the refusal of their husband's family to take responsibility for the children, and many women have told IDW that sometimes even their own families are willing to take responsibility only for the mother, especially during the period immediately after the breadwinner's death. The family's pension is not equal to the cost of living in any case, and furthermore a large number of widows and children whose providers were killed and who do not work in any formal sector are left for a long time without any source of income.

Iraqi women lack health care in light of the prevailing circumstances. Meanwhile, the deteriorating security situation often prevents women from reaching health centers. In addition, the services of these centers are often poor, and many gynecologists have closed their private clinics and emigrated from Iraq. Issues regarding the reproductive health of poor and displaced women who have been left homeless are becoming particularly complicated. Society gives priority to males so that the family could be sustained. Even women themselves care more about the health of the males in the family than their own health. Fifty seven percent of Iraqi women lacked health care according to two surveys in 2004-2005, and the number has increased this year with the increasing deterioration in all aspects of life.

All of the burdens of daily family life fall upon Iraqi women in the absence or lack of basic services. Meanwhile, social mores expose her to the fatigue, anger, and violence of men who in turn are under the pressures of unemployment or the danger of death. She may bear the horror of losing her husband or her children, or the horror of a daughter being kidnapped, and the loss of the basic comforts of normal life. All of this and more makes Iraqi women some of the most abused in the world in the year 2006. Violence has impeded their enjoyment of basic rights and freedoms. This constitutes a clear breach of certain articles of the Constitution and violations of international law and human rights conventions.

### **The Situation of Freedom of Opinion and Belief**

Successive Iraqi constitutions have recognized the right to adopt opinions and to express them. This is also stipulated by Article 39 of the most recent constitution issued in 2005, which also noted the limits of public order and its protection, public morality and its maintenance, and not infringing upon the rights of others. The criminal law (Penal Code) also contains numerous articles on different crimes relating to publication. However, they were not implemented in daily life, and the former circumstances of authoritarian rule and emergency law which often prevailed in the history of Iraq often meant that the mere adoption of an opinion, never mind its expression or publication, could result in a citizen being arrested, imprisoned or even executed.

During the current period (meaning the year 2006), after the American occupation of Iraq and the fall of the former totalitarian regime, Iraq faced a phase of direct rule by the occupation, then of temporary rule by the interim government, followed by the enactment of a new constitution, and currently the election of a parliament and the

formation of a constitutional executive authority. This is the period we wish to report on the situation of freedom of expression and belief. In summary, we can say that there are some positive points in support of the right to express opinions, but that the negative points are dominant, limiting the extent of freedom especially with respect to belief.

Some of the most positive points that were in favor of freedom of expression in Iraq in 2006 have prompted global organizations such as Reporters Without Borders to give Iraq a better classification for freedom of expression than that of nearby states such as Syria, Iran and Libya. This organization has adopted standards and measures which are globally accepted. We can summarize these positive points in the introduction of our report as follows:

- 1) Freedom of the press, publications, radio and television broadcasting, both local and satellite, without the need for authorization of any kind, either before or afterwards. This is unprecedented in the history of Iraq and the region, and is a major concession by the ruling authorities and even by the judiciary, which has required that cases be recorded to facilitate the follow-up of public and personal cases against publication. Other positive points include the provision on freedom of expression in Article 38 of the 2005 Constitution, taking into account the limits of public order and public morals. Order no.7 of 2003 is also still in force, which prevents taking newspapers or journalists to court without the approval of the Chief Executive.
- 2) The absence of advance supervision by the government, and its lenient responses to published opinions, as well as steps by the government to take administrative action against the media or to raise complaints against it in the courts rather than taking its own action.
- 3) The government's continuing official policy against establishing a Ministry of Information or imposing indirect hegemony over the media.
- 4) The large number of newspapers and publications which have been issued since the change in 2003, the continuation of this phenomenon even in 2006, and the rise in the number of Iraqi radio and television stations, both local and satellite. This has been particularly evident this year. This means that many different intellectual and political views and social and cultural conditions in society are represented.
- 5) A steady increase in the number of Iraqi websites belonging to Iraqi groups or websites both inside and outside Iraq, and an increase in the number of people who participate and interact with them. This provides broader opportunities for people to express their views more freely, since it does not require approval from the Department of Information, and opinions can be expressed with complete anonymity.
- 6) Despite the increasing hegemony of religious groups on the Iraqi streets, there is still some opportunity for the declaration of new religious or sectarian trends and jurisprudence. Such groups have some freedom to practice and express their religious beliefs. In the town of Khalis in Diyala governorate, a new kind of Islamic jurisprudence emerged, new religious authorities from the Jaafari school of Islamic jurisprudence emerged in the towns of Karbala and Al Diwaniya, as well as new Sunni scholars. They all express their dissenting views quite widely in public.
- 7) Although it has started to decline somewhat, the relative flexibility which began

in 2003 still persists among the government, political forces, and influential social forces with respect to accepting criticism and controversy from individuals or groups via the media.

- 8) The institutions of civil society are still active, and the activities of human rights organizations are continuing. Such activities started immediately after the fall of the previous regime. Licensing of these groups was completed despite some complexities introduced by the government regarding registration, licensing and the freezing of assets. Some of these organizations have worked to reveal the violations and criticize the practices of the multinational forces, of the Iraqi government, and of national political and social forces. This has had an obvious effect on public opinion both domestically and internationally, and has put some of these forces on the defensive, having to justify actions which had aroused public condemnation after being exposed by these civil groups and organizations. It is worth mentioning that the parties and political forces involved in government have formed many non-governmental organizations in order to respond to and break up pressure campaigns.

In order to give a clear and realistic picture of the state of freedom of expression and belief, these positive points must be recorded before beginning to list the many serious negatives regarding these freedoms. A prime example is the killing of more than 100 journalists and writers in Iraq between April 2003 and mid-2006, as reported by several organizations, which focus on human rights and the freedom of the press, including IDW. It is worth noting that although some groups have recorded only about 67 victims, these are reporting on journalists only and excluding professionals such as photographers and directors. Other groups, which include all those who work in the media industry, raise the figure to more than 150.

#### a) The case of the official media and its impact

Freedom of expression and of publication in Iraq, and the freedom of the press in particular, have suffered first from semi-direct and direct domination of the official government press. This influence arises from the history of the modern state, including the despotic, totalitarian hegemony during the era of the ousted regime. The newspapers loyal to the government are the most widely distributed because of the government support they receive in terms of information, news and announcements, which reduces the area of distribution for other opinions. The emergence of radio and television was previously limited to the state, government policy and administration. The first ministry charged with controlling information was clearly designated the "Ministry of Guidance." Under the former totalitarian regime, the publication of newspapers, and, naturally, the broadcasting of radio and television, was limited to institutions of the state which were completely controlled by the regime, the government and the ruling party, which was the only party permitted to exist. It must be noted that citizens were prohibited from receiving satellite channels or using the internet, so generations of Iraqis lived without a practical and realistic understanding of freedom of expression and of the press. Even oral communication was controlled by the abusive system and could undermine a citizen's freedom or threaten his/her life.

When the former regime fell, the occupation administration began dismantling the official media from the beginning of the process, having also abolished the Ministry of Information and closed official and semi-official newspapers. Freedom was granted

to publishers, newspapers, radio and television stations. Citizens were allowed to receive satellite television and to use the internet. However, the occupation administration felt the need for an official channel to broadcast the voice of the administration and its intentions, so it opened several experimental FM radio stations. They did not succeed, and the circulation of an experimental newspaper never picked up, halting this experiment.

The conditions of anarchy, in which there was a flood of newspaper publications and proliferation of partisan radio and television stations, resorted in the rebuilding of the official media, with the support of the Governing Council of Iraq and the parties involved in it. An official media committee was established, along with a committee to direct state radio, television, and some newspapers and magazines, foremost among them the daily newspaper *Al Sabah*. The stated intentions of these committees was to make the media organizations part of the state and not part of the government and its policies, using the experience of the British Broadcasting Company (BBC) as an example. However, the daily realities of life and politics were not appropriate for such a goal or experiment. There were many criticisms of the Iraqi channels and of *Al Sabah* newspaper from parliamentarians, politicians, journalists and writers who accused them of giving in to the habits of government bureaucracy. For example, the editor of *Al Sabah* first replaced his deputy and then eliminated the position entirely, without giving sufficient explanation of this move to the readers. The newspaper had a strong connection to the executive power and its instruments. *Al Iraqiya*, TV station, was also criticized for its support for existing government policies, for changing their stances according to the changes within the government, and sometimes for a tendency to favor one political faction over another. Critics alleged that these media outlets leaned towards secularism during the era of the Allawi government, and then started supporting religious politics during the Jaafari and Maliki eras. Some people defended this experiment, but only in the pages of *Al Sabah*, on the screens of *Al Iraqiya* and on the Republic of Iraq radio station.

#### b) The constitutional and legal situation

Article 39 of the new Iraqi Constitution in 2005 endorsed freedom of expression, but limits it with elastic conditions which are not clear, such as "public order" and "public morality." These terms have no legal definition, and different judges grant them different levels of importance. Neither the press law nor the articles of the Penal Code relating to publications were invalidated or amended, and it should be noted that what the Constitution says about freedom of expression fails to fulfill the requirements contained in Article 19 of the Universal Declaration of Human Rights (1948) and Article 19 of the International Covenant on Civil and Political Rights (1966). The article of the Constitution does not state the right to seek and disseminate information, the right to contact the media, and the right to access information.

#### c) The administrative penalties of the Iraqi government

Like the governments of many other states, the Iraqi government usually resorts to administrative procedures through some of its ministries to impose penalties on publications, publishers, newspapers and other media. This damages the right to freedom of expression and its practice. Such actions include preventing publication or distribution, temporarily banning the mass media for specified periods, preventing

them from doing their work by closing their offices for unspecified periods of time, and arresting and detaining journalists and correspondents for relatively long periods without any specific charges and without bringing them before the courts. Note that Order 7 of 2003 preventing officials from taking newspapers and journalists to court without the consent of the American Administrator, who turned his powers over to the Prime Minister by Order 100 of 2004, is no longer observed. Cases are referred to court by officials without obtaining the approval of the Prime Minister.

While these actions curtailed and limited freedom of expression, penalized those who held or published certain opinions, and were sometimes practiced against newspapers, radio and television stations and the offices of correspondents during the period between 2003 and 2005, they did not escalate beyond a certain level. Nor have they increased during 2006, despite the escalating armed political conflict between political and social forces. This may be because the frequency of attacks on newspapers and journalists by political forces involved in the conflict makes it unnecessary for the government to use administrative punishments against them.

The most prominent forms of administrative penalties applied by the government against freedom of expression and the press during 2006 include:

- 1) Imposing a state of emergency in a variety of different ways, as well as implementing the Anti-Terrorism Law. These give the government and its security institutions wide scope to clamp down on freedom of expression and the media whenever they want, to any degree they want. The manner in which it performs these clamp-downs enables it to impose penalties on the holder of an opinion as well as on the media which broadcasts it, without resort to the judiciary. This is considered part of the government's administrative powers.
- 2) The number of cases of journalists being taken to court at the behest of government officials has increased in 2006, particularly in Kurdistan, where press investigations have revealed some of the rampant corruption in government institutions. Some journalists were arrested without trial, such as the reporter Dashti Anwar in Sulaymaniya, and Kilshan Al Bayati in Tikrit, a correspondent for the London-based *Al Hayat* newspaper who criticized the behavior of some units of the Iraqi army.
- 3) The imposition of a limited curfew on Fridays which prevents the gathering of cultural luminaries in Al Sarai Market, thus having a very detrimental effect on Iraqi cultural life. The intellectuals protested by a symbolic burning of books on 1 September 2006, without achieving any change or response.
- 4) In the month of October, the satellite channel *Al Arabiyya* broadcasted something which some deputies considered to be abuse of the Iraqi government and the parliament. They did not hesitate to call on the government to close the offices of *Al Arabiyya*, and in this they were supported by some ministers and by the semi-official media (*Al Sabah* newspaper, *Al Iraqiyya* television and *Republic of Iraq* radio). The Editor in Chief of *Al Sabah* even demanded, in a front-page article on 19 October 2006, shutting *Al Arabiyya*'s Iraqi channel and offices, on the grounds that it was inciting violence in Iraq. One of the members of the Information Committee of the House of Representatives announced that the Committee was on the verge of putting controls and limitations on the media on Iraq, saying that it has expanded and therefore should be codified. The Council of Representatives is undertaking an accountability study of a satellite channel and one local

newspaper, without explaining how it envisions the House taking newspapers and satellite channels to account. The Minister of the Interior, Jawad Bulani, immediately announced that the Anti-Terrorism Act gives the security apparatus the right to combat the incitement of violence and sectarianism by any means necessary. Soon afterwards, these threats were actually implemented, when on 4 November, the government ordered two satellite channels, Al Zawra and Saladin, to stop broadcasting and to close their offices, in accordance with the Anti-Terrorism Act. The Minister of the Interior claimed that they were inciting sectarianism.

#### d) Practices of the official armed forces (multinational and Iraqi)

What is meant by “official armed forces” is the multinational forces and the armed forces of the Iraqi government, including the army and the police under whatever designation. These forces have many practices which are harmful to freedom of expression and access to information. Journalists are harassed, intimidated and prevented from accessing or being present at the scene of events. The headquarters of newspapers, radio and television stations are raided, and their contents tampered with, destroyed or confiscated. The homes of journalists, writers and reporters are likewise raided, their papers tampered with, and their property destroyed. They are arrested without specific charges and sent to detention camps inaccessible to their families, colleagues and lawyers. The number of detained journalists and writers has reached 100 people. Some are even killed while being transported, or during the raids on their headquarters and homes.

Seventeen Iraqi journalists have been killed between the beginning of the invasion and the end of 2005 as a direct consequence of the abusive practices of the multinational or American forces. Two were also killed by Iraqi forces, not to mention those injured whose health may be adversely affected for the rest of their lives. In 2006, the number of incidents involving assassination or injury of journalists by the armed forces decreased, but the number of journalists detained by these forces rose. This is perhaps caused by the excessive caution now used by journalists on the ground, since they know that American and Iraqi forces will certainly be deployed at the scene of events. This sowing of terror among the journalists has a detrimental effect on their work, their quest to reach the scene of events and their access to information sources, which in turn hinders freedom of expression in general by creating a lack of accurate and detailed information. Examples of such incidents include the killing of a Baghdad TV correspondent, Mahmoud Zaal, by US forces on 14 January 2006, in a direct and intentional manner, as testified by witnesses. He was covering a clash in Ramadi between these forces and a group of armed opponents to its presence in Iraq. On 19 March, American and Iraqi forces killed the journalist and researcher Kamal Munahi Anbar and the journalist Ali Hamid Al Miyahi, a correspondent for *Al Da'wa* newspaper, during [the forces'] attack on Husseiniya Al Mustafa in Baghdad. On 3 September, Iraqi forces attacked journalist Amir Al Obkashi from Sayfa Al Mada while he was covering the Prime Minister's visit to the city of Najaf.

At the beginning of 2006, a number of journalists were detained in American prisons in Iraq, without specific charges and without being referred to the courts. These included the television correspondent Omar Ibrahim Al Mushahdani, who was

arrested at his home in Ramadi, detained, and deported to Boca, south of Basra. The Reuters correspondent Majid Hamid, arrested a few months ago, was released on 16 January. Prisoners remaining in American prisons include CBS correspondent Abd Al Amir Hussein, and Samir Mohammed. In April, American forces arrested the press photographer Bilal Hussein. Bilal had won the Pulitzer Prize for his picture of the American attack on the city of Fallujah in late 2004. In the city of Fallujah, American forces arrested Reuters correspondent Fadil Al Badrani and Iraqi News Agency correspondent Ali Al Badrani. They were released after one week because of pressure from international organizations, according to the American investigators. In July, American forces arrested the writer Dr. Qais Kadhim Al Janabi and deported him to Boca prison located south of Basra. Sadiq Naeem Saadoon Al Sagheer, editor in chief of the newspaper *Al Khat Al Sakhin*, was arrested on 28 August.

Many branches of the police have arrested opinion-makers, including writers and human rights activists, without subsequently disclosing their whereabouts or the charges against them. One such was Dr. Ahmed Al Musawi, president of the Iraqi Human Rights Association, who was arrested from the headquarters of his organization on 28 February.

On 3 April, Kurdish authorities in Arbil released Kamal Sayyed Qadir, a writer of Austrian citizenship and Kurdish-Iraqi origin, because of international pressure. The writer had been arrested at the end of 2005 when he arrived in Kirkuk to visit his family. A Kurdish court in Arbil sentenced him to 30 years in prison for his criticism of the Kurdish authorities on the internet.

#### e) Practices of the political and social forces

Although the last three years in Iraq have not been without practices of repressed freedom of expression and attacks on journalists, writers and media headquarters by various political and social forces, such incidents have increased in 2006 along with the rise in political, ethnic and sectarian tension, and the escalation of acts of violent armed conflict between the opposing parties. Freedom of expression has been greatly restricted among intellectuals, writers, journalists and the media due to their terror of assassination, or of being abducted and detained in poor conditions, to be released only after their families pay a cash ransom which media organization they are working for might not contribute to.

Many headquarters and offices of newspapers, radio stations and television stations were subjected to armed terrorist attacks by rockets, bullets or car and explosive devices, which often kill and wound journalists and workers, to boot material damage to their buildings and the contents thereof. This is in addition to sowing terror among those working in the media, pushing them to leave their jobs or emigrate. These attacks increased in 2006 and are usually carried out by conflicting political and social forces seeking to silence the media representing the voice of the force which opposes their ideology or opinions. It is clear that these practices narrow the margin of freedom of expression in society.

The list of violent practices carried out by political and social forces, which repress the freedom of expression, is long and varied; we will only include here the most important and influential of them.

On 7 September 2006, the American correspondent Jill Carroll was abducted, and her interpreter, the journalist Allan Enwiyah, was killed. She was released months later after pretending to convert to Islam. On 14 January, Mohammed Zaal, a correspondent for a Baghdad TV channel affiliated with the ruling Iraqi Islamic Party, was assassinated, and on 16 January, Luay Salman Radif, a correspondent for another Baghdad channel, was assassinated. On 23 January, *Al Diyar* correspondent Hamza Hussein was assassinated, and on 23 February, Atwal Bagat, correspondent for *Al Arabiyya*, was assassinated along with her colleagues Khalid Mohammed Al Falahi and Adnan Khairallah. On 7 March, Baghdad channel correspondent Monsef Al Khalidi was assassinated, and on 11 March, two *Al Iraqiya* correspondents were assassinated, Amgad Hamid and Anwar Turki. On 13 March, Mohsen Khadir, the editor of the magazine *Alif Ba*, was assassinated in front of his house.

On February 1st, an *Al Sumeria* channel correspondent Reem Zayd, was abducted along with her colleague Marwan Khaz'al. Abdullah Fayyad, editor of the newspaper *Al Safeer* was abducted on March 21, while *Al Akhbar* reporter Seif Abd Al Rahman, was abducted in April. On April 4, the journalist Muzahim Masoud Al Shamri was found dead. A native of Haditha, he worked for the Egypt-based channel *Al Baghdadiyya*. Al Shamri was killed in Baghdad after being kidnapped about one month earlier, and his family and colleagues accused the police of arresting and killing him. On May 8<sup>th</sup>, Leith Al Dulaimi, a correspondent of the channel *Al Nahrayn*, was assassinated while working for the channel near the Diyala Bridge area. Like Al Shamri, he was first detained at a police checkpoint.

Paul Douglas and James Brolan, correspondents for CBS News, were killed on 29 May 2006 by a car bomb, as they were accompanying an American patrol in the Al Alawiya area of Baghdad. Their colleague Kimberly Dozier was also seriously injured. In Baghdad, gunmen assassinated the television correspondent Adil Naji Al Mansouri, who worked for the Iranian satellite channel *Al Aalem* on July 29th.

On August 7th, Mohammed Abbas Mohammed, editor of the Shiite Islamist newspaper *Al Binaya Al Jadida*, was killed in the Al Adl neighborhood of Baghdad. On the same day, Ismail Amin Ali, editor of the newspaper *Al Qarar*, was killed in Sadr City in Baghdad. On 9 August, Abd Al Karim Al Rabee'i, who worked for the widely-read semi-official newspaper *Al Sabah*, was killed in the center of Baghdad. There was a large explosion in the plaza in front of *Al Sabah* on the morning of August 27<sup>th</sup>, which seems to have been the result of a car bomb. It resulted in the collapse of part of the premises, the burning of many cars, the killing of two guards and the wounding of 25 workers there. A car bomb also destroyed the offices of satellite channel *Al Rada'iyya* on October 1st.

On September 12th, the journalist Hadi Anaad Al Jabouri was killed on the road between the cities of Baaquba and Al Khalis. On September 18th, the journalist Ahmed Riyadh Al Barbouli, correspondent for the pro-Sunni satellite channel *Baghdad*, was killed in Ramadi. Additionally, on September 18th, host Ahmed Abd Al Rahman Al Aamil of Radio Tigris was abducted from the Al Mansour neighborhood of Baghdad. On October 3rd, Azad Mohammed Hassan, a correspondent for *Dar Al Salaam* radio, was abducted in Al Shaab city in Baghdad, and his body was found a week later showing clear signs of torture.

At 10:00am on the morning of October 6th, armed gunmen in six cars stormed the building of the Iraqi *Al Shaabiya* channel in the Ziyouna neighborhood, and killed six reporters and wounded two, in addition to killing five guards. Witnesses reported that some of the cars had official markings and that some of the gunmen were wearing police uniforms. The journalists killed were: Abd Al Rahim Nasrallah Al Shamari, director of the channel; Noufel Al Shamari, Hussein Ali, Zaker Al Shouili, Ahmed Sha'baan, and Sami Nasrallah Al Shamari. Mushtaq Al Maamouri and Mohammed Kathem were wounded. On September 10<sup>th</sup>, gunmen attacked and burned down the home of the Al Samawa-based writer and human rights activist Yasir Abd Al Amir. The writer had left his home in Bahrez in Diyala province with his family five months earlier.

#### f) Persecution in academia

In 2006, the hindering of freedom of expression in the cultural and academic milieu increased, along with the rise in persecution of academics and professors. This drew widespread condemnation both locally and internationally, and many civil society and human rights organizations throughout the world condemned this phenomenon. A large number of Iraqi university professors were subjected to arrest, abduction, killing, threats and forced displacement. By June 2006, the number of university professors killed had reached 168, along with 75 university lecturers. This prompted hundreds of those remaining, who were now living in constant fear, to neglect or abandon their work, or to flee to seek refuge abroad. They paid no attention to access to jobs in their destination countries, so many of them are now living in Syria, Egypt and Jordan and are unemployed.

It is natural that such attacks on professors are carried out by political and social forces as a punishment for the professor's ideas or opinions, while others are carried out for reasons to do with the professor's sect, a matter in which he or she has no choice. Others are implemented by organized terrorist gangs, in order to create chaos, to deprive the country of the mind or experience of the professor, or for personal reasons. This has very bad consequences for university education and scientific research in Iraq, and thus for freedom of expression. One of the most prominent attacks in 2006 was the assassination of Dr. Abd Al Razaq Al Naas, professor of media in Baghdad University, in front of his college building and in front of his students on February 28th. He was one of the analysts who shared their opinion on satellite television channels. Only a few days earlier, Professor Mu'ayd Al Khafaf was beaten inside his room in the college of media in an attack by people who had secretly broken into the college building. As a result, the professor left the country. On May 12<sup>th</sup>, Dr. Widad Al Shamari was assassinated in Baaquba. Dr. Jasim Mohammed Al Eisawi, professor of politics in Baghdad University and a writer for *Al Siyada* newspaper, was assassinated on June 22<sup>nd</sup>. In Basra University, Dr. Ahmed Abd Wadir, Professor of Science, and the lecturer Qasim Youssef Yaacoub, were assassinated. In Mosul University, Dr. Mozhar Zayed Al Dibagh was assassinated. The professors of Al Mustansiriyya University were subjected to many attacks during 2006. Dr. Jasim Al Shamari and Dr. Zaki Fakir Al Aani were assassinated at the beginning of the year, followed by Dr. Kathem Bateen Zahir and Dr. Mohamed Abd Al Rahim Al Aani, who were assassinated in May. Dr. Mohammed Darwish was killed in June, and Dr. Yahya Al Mashhadani in July. Finally, Dr. Saad Mahdi

Shallash and his wife were killed inside his house on October 28th. He was a history professor and an editor in the Arab nationalist newspaper *Rai' Al Arab*. Some Al Mustansiriyya University professors were abducted in front of the gates of the university during 2006, including Dr. Mohammed Hoobi at the beginning of the year, followed by Dr. Alaa Jasim Al Harbi, a history professor who expressed his opinion on satellite TV. Three professors of Quranic sciences were abducted in front of the main gate of the university in September, and Dr. Najdat Al Salihi, Secretary of the University Council and of the Ministry of Higher Education, was abducted in early October. His body was found discarded despite payment of a large ransom to the kidnappers. Dr. Jasim Al Dhahabi, Dean of the College of Administration and the most prominent internationally-recognized Iraqi specialist in administrative corruption, was assassinated in early November with his wife and son.

g) Increasing power of administrative censorship and self-censorship

The power of administrative censorship on newspapers and the media, as represented by the owners of newspapers or institutions, editors, sub-editors or department heads, was ongoing through the recent history of Iraq, under the pretext of newspaper policy or of upholding the best interests of the press. Its influence on journalists, writers and freedom of expression waxed and waned depending on the political circumstances, their crises and abatements. The same applies to self-censorship, or the "censorship of fear," inside the mind of the journalist and writer. This strikes a balance between expressing an opinion and suppressing it in favor of retaining jobs and sources of livelihood, and avoiding punishments from the political and social powers active in the community.

The power of administrative censorship and of self-censorship abated during the first months after the fall of the regime, and freedom of expression expanded. The large number of newspapers, radio stations and television stations, along with Iraqi, Arab, regional and international organizations helped an increasing number of Iraqis at home and abroad to express their opinions loud and clear through the media and through publishing. However, the circle began to shrink and narrow as time passed, with increasing acts of violence, intensification of political, sectarian and social conflict, arrests, kidnapping and killing of journalists and writers, and attacks on the offices of media companies. The decision to return to refusing publication, altering opinions and deleting lines was taken by most Iraqi newspapers, and the audio and visual media were instructed to abstain from expressing opinions, whether in full or in part, under the pretext of fear of attacks on the headquarters or on those working there. It is only natural that all of this affects journalists and the writers, who in turn increase self-censorship on the desire to express opinions. This is constrained by the fear of losing their source of livelihood, the possibility of being fired from their job at any moment, and by the potential risks of arrest, abduction, abuse or murder.

The state of ongoing and increasing terror in 2006 has made many journalists, thinkers and writers afraid of writing, expressing opinions in statements or interviews, or even of appearing on television screens. Many intellectuals, thinkers and writers have disappeared from the public arena and the media. Some do not express their true opinions, but rather content themselves with expressing the prevailing, ordinary views, in order to avoid drawing attention to themselves and suffering punishment from people who hold opposing views.

It may not be necessary to give specific examples of this point, since many journalists, intellectuals and writers have already pointed it out more than once in some of their writings and their conversations in the media. The Journalists' syndicate and the Union of Writers also mentioned this in conferences and debates. The incidents of armed attacks and bombings of the headquarters of the media, as well as the arrest, kidnapping and murder of writers, illustrates the increasing influence of administrative and self-censorship on freedom of expression, as a means of self-defense. The most prominent of these indicators may be the assassinations of writers and thinkers following the publication of their opinions or their making them known on satellite channels directly.

#### h) Threats to and displacement of opinion makers

The migration, or rather the displacement, of journalists, writers, intellectuals and opinion makers from their home regions to other areas, or from Iraq to other countries, has taken place. This forced displacement has been for a variety of reasons, some of them direct, such as an attack on a person or a member of the family, or the arrival of a verbal or written threat asking him or her to leave. The reasons can also be indirect, such as the prevailing atmosphere of fear and terror in the country, which is directed towards opinion makers in particular. Some have been forced to migrate to villages and small cities to live in isolation. Others migrate to Kurdistan or to neighboring or distant countries and refrain from giving opinions. All of this greatly reduces their opportunities to disseminate their ideas and opinions.

It is noteworthy that the vast majority of Iraqi journalists, writers, thinkers and intellectuals do not wish to immigrate or travel abroad during this stage, as they had during the era of the former totalitarian regimes. On the contrary, most of them wish to take this opportunity to utilize the margin inside Iraq which, since 2003, allows change, in order to advocate for their ideals and opinions, and to establish themselves locally in their society as intellectuals, thinkers, innovators and writers, and so on. It is known that establishing oneself locally is the best passport to establishing oneself in the world media. There is no need to prove this issue (immigration), since facts and names can be obtained from the Press Syndicate and the Union of Writers as well as newspapers, books, and websites, in order to know how many are still in Iraq, and how many are sitting in cafés in Amman, Damascus, Beirut, Cairo, Paris, London, and elsewhere. It should be noted that the statistics issued by the Ministry of Displaced Persons and Migrants at the end of October 2006 states that almost 54 families were displaced, and it is well known that the number of unregistered displaced families is at least twice that of the registered ones. This certainly includes a number of families of writers, journalists and opinion makers.

#### i) Attacks on places of worship and people of different religions and creeds

Armed attacks and bombings directed against places of worship and against members of the clergy from different religions and sects have escalated with the escalation of armed actions in Iraq after the occupation in 2003. This has been followed by explosions in front of Christian churches, arrests, attacks, kidnappings and assassinations of some religious figures. The matter was further complicated by incidents involving attacks on members of religious and ethnic minorities, such as

Christians, Sabians, Yazidis and Shabaks in Basra, Kut, Baghdad, Diyala and Mosul. They were subjected to beatings, insults, threats, displacement, kidnapping and murder. Women were forced to wear the hijab, and some of their property was looted. There was also discrimination against minorities in the awarding of managerial positions in governmental organizations, all of which led to the imposition of a general state of fear in the non-Muslim communities, prompting many of them to migrate to Kurdistan or abroad. The problems increase with the increasing level of sectarian tension between Shiite and Sunni communities, which compose more than 90% of the Iraqi population.

This situation led to the closure of many houses of worship, and caused citizens and communities to be afraid to exercise their religious rituals and prayers, since many houses of worship were struck, blown up or attacked while ceremonies were under way. This resulted in the loss of many innocent lives and caused great damage to and constraints on the freedom of expression and belief.

Among the most prominent attacks on houses of worship, religious ceremonies and clergy during 2006 was the famous incident of the bombing on 22 February of the Golden Mosque in Samara, which is one of the most important Shiite pilgrimage destinations. This incident led to the eruption of open and violent sectarian conflict, as certain extremist elements burned or seized several Sunni mosques in Baghdad, and killed some Sunni clergy, particularly in Basra. On 7 April, 85 people at prayer were killed and 160 wounded in the bombing of the Shiite Baratha mosque in Baghdad. In May, a number of Sunni clerics were killed in Basra, including Sheikh Yusuf Al Hassan, Imam of the Basra Mosque, and Sheikh Wafiq Al Hamadani. In the same month, Shiite mosques in Diyala province were attacked. In July, there was an exchange of sectarian killings in the Jihad district of Baghdad, which also resulted in tens of people being wounded. On 20 August, a Shiite religious procession going to visit the tomb of Al Kathimi in a Baghdad suburb was attacked, resulting in the killing of 20 people and the wounding of dozens.

#### j) Revocation of freedoms of assembly, demonstration and parties

Following the overthrow of the totalitarian regime and its restrictions on rights and freedoms after the war and the American occupation of Iraq in 2003, many rights and freedoms begin to be exercised. These included the right of assembly and of freedom of movement, as well as the right to form political parties and to form political, cultural, social and civic associations. These groups have also adopted several ways of disseminating their ideas or of announcing their rejection and criticism of the policies and procedures of the ruling authorities. One of these methods is holding demonstrations in the squares and streets of the major cities, particularly in the capital, Baghdad, which witnessed marches and demonstrations in front of the home of the American administration and of Iraqi ruling authorities in the "Green Zone," and in Paradise Square, site of the toppling of the infamous statue of Saddam Hussein. This square is overlooked by major hotels usually inhabited by correspondents of newspapers, news agencies, and international radio and television stations. Iraq has also witnessed protests and disturbances of political, social, and sometimes even professional organizations.

However, some of these demonstrations and strikes were subjected to armed attacks

or bombings, while others sometimes clashed with American or Iraqi forces, or with other hostile political forces. This has led to the decline in the use of these methods of exercising freedom of expression, almost resulting in its disappearance from Baghdad in 2006. Some smaller demonstrations and strikes are still happening in the smaller cities, but even in these cities the authorities sometimes respond to demonstrations with bullets, as witnessed in Nasiriya, Basra, Diwaniya, Karbala, Irbil, Sulaymaniya, Kuisanjiq, and others.

Police opened fire on a demonstration on 28 August in the city of Samawa, the capital of Al Muthna province, which was protesting alleged manipulation of access to opportunities to volunteer for the army; several people were injured. In Basra on 16 August, there was a demonstration and the closing of some streets to protest poor services and the high price of food. In mid-August, there were demonstrations lasting more than a week to protest poor services, the high cost of living and administrative corruption in Sulaymaniya, Kalar, Darbandghan, and Jamjamal in Kurdistan. The demonstrations were cruelly suppressed, some demonstrators were killed, and more than 30 were injured. About 200 demonstrators were arrested, including nine journalists who were covering the events for the media.

#### k) Non-recognition of the right of access to information

Early in the era of change in 2003, many promises were made by the occupation administration and by the new parties participating in the political process, and then by the institutions of the new state, about "openness, clarity and transparency," and the lack of concealment of information from the citizens and the people. Perhaps some of these promises were implemented to some extent at the beginning, but the retreat from them is accelerating rapidly as citizens and even specialists know very little about many events and issues, or even about the formation of the new government. Policies and investigations are announced and then forgotten, without their results ever becoming known. In 2006, the situation has become even darker, and the term "transparency" has become the subject of jokes in different settings. It is not known which government decisions have already been implemented and which have been frozen, and it is not known whether the work commissioned by the government's new constitution, such as the formation of the Supreme Council of Justice and the Federal Court, has been completed. The government, its ministers and its institutions are no longer willing to receive and answer questions, and citizens and journalists now hesitate to ask questions of government, parliamentary or party officials. They fear that their question will embarrass the official and anger his party or the faction with whom he is affiliated, because of embarrassment or because of the content of the question. This contributes people refraining from asking questions and waiving their right to access information for fear of punishment in its various forms.

In 2006, the right of access to information as a basis for the formation of opinion has been obscured packed with red lines and taboos. Many government bodies have issued orders and instructions preventing their employees from giving information not only to citizens, but even to the press, academic researchers and employees of other government departments. Furthermore, some government bodies, official and semi-official institutions have forbidden journalists from entering their buildings and from asking their employees any questions. These institutions include the Ministries of Defense, Interior, and Health, among others. They also include the universities, which

have forbidden journalists and their cameras from entering their campuses, and forbidden them to ask questions or conduct opinion polls of students and professors.

There are many examples of this matter which leads to the restriction of the right of access to information, and therefore restricts freedom of expression. Among them is the unusual resolution issued by the council of Basra province in the month of August. The resolution provides the right to sue the members of the media and the media itself for disseminating information without first getting the approval of the Council and the security authorities, even if the media was an eyewitness to the event or incident it is reporting. The administrations of the governorates of Diyala, Karbala, Najaf and Irbil have given journalists sets of guidelines and prohibitions, but these are informal and undeclared. Perhaps the most prominent example of denial of access to information was the complaint by Ashraf Qazi, a representative of the Secretary-General of the United Nations that since mid-October, the Iraqi Prime Minister has forbidden the Iraqi Ministry of Health from providing the numbers of dead in Iraq to anybody except him. Some analysts believe that this order stems from the Prime Minister's desire to politicize this information.