



‘PUNISHED FOR DAESH’S CRIMES’

DISPLACED IRAQIS ABUSED BY MILITIAS AND GOVERNMENT FORCES

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Cover photo: *Girl at a camp for the internally displaced in Khaldiya, Anbar governorate.*
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EXECUTIVE SUMMARY

The armed conflict in Iraq has had a devastating impact on civilians. The armed group calling itself the Islamic State (IS) has committed crimes under international law including war crimes and crimes against humanity in territories under its control and launched deadly bombings and other attacks elsewhere in Iraq. Government forces and paramilitary militias have also compounded the suffering of civilians by committing war crimes and other serious human rights violations in their battle to reclaim territory from IS and eradicate its ability to carry out deadly violence.

The authorities face grave security threats and have the right and duty to protect the lives and physical security of all civilians on their territory or subject to their jurisdiction. However, Amnesty International's research shows that security forces and paramilitary militias have consistently committed serious human rights violations and violations of international humanitarian law with impunity in the name of countering these threats. They have subjected Sunni Arabs who have fled territories controlled by IS to arbitrary detention, torture, enforced disappearance and unlawful killing after capturing them or placing them in custody, most recently in the course of the main military operations of 2016, namely in the context of the successful battles to retake Falluja and surrounding areas in Anbar governorate in May and June 2016, clashes to push IS out of al-Sharqat in Salah al-Din governorate between June and late September 2016, and the ongoing conflict in Hawija in Kirkuk governorate and in Mosul and surrounding areas in Ninewa governorate.

Amnesty International's conclusions are primarily based on findings gathered during a visit to Iraq between 27 July and 18 August 2016, in the course of which the organization's researchers interviewed over 470 former detainees, witnesses and relatives of those killed, detained or disappeared, as well as dozens of officials, lawyers, activists and others in the governorates of Anbar, Baghdad, Diyala, Dohuk, Erbil, Kirkuk, Salah al-Din and Sulaymaniya. When available and relevant, Amnesty International also reviewed official documents such as medical and forensic reports and court verdicts. Findings also draw on the organization's long-standing work documenting violations of international human rights law and international humanitarian law in Iraq in previous years. Amnesty International's findings have been communicated to authorities in meetings and in writing, most recently in two separate memorandums sent to Iraqi Prime Minister Haydar al-Abadi and the Chancellor of the semi-autonomous Kurdistan Regional Government (KRG), Masrour Barzani, on 21 September 2016. The memorandum sent to the central Iraqi authorities outlined details of 105 cases of victims who had been forcibly disappeared, calling on the authorities to take concrete steps to reveal their fate and whereabouts. No response had been received from the central Iraqi authorities by 11 October. The KRG did reply and its response, received on 4 October, is reflected in the report. While it provided useful statistics on the number of detainees held in the semi-autonomous Kurdistan Region of Iraq (KR-I) on accusations of involvement in terrorism, it largely rejected Amnesty International's findings and did not provide any information on whether any members of security forces had been held accountable for violations.

IS atrocities, armed conflict and insecurity have led to the exodus of some 4.2 million civilians from their homes, with some 3.4 million still displaced. Many have fled with little more than the clothes on their backs, setting off at night to avoid detection and walking for hours along treacherous paths. Not all those escaping have made it to safety. Fleeing civilians have been shot at by IS, while others have stepped on mines or other unexploded remnants of war.



 [↑] Woman displaced from a village in Imam Gharbi to Dibaga camp shows Amnesty International her bruised leg, following a fall during her escape from the armed group calling itself the Islamic State. © Amnesty International

The plight of internally displaced persons (IDPs) does not end once they reach territories outside of IS control. Hundreds of thousands continue to live in dire conditions with insufficient or no access to essential services and medical care. Thousands of men and boys, fleeing IS territory, have been rounded up by security forces or militias on suspicion of links to IS. Some have been extrajudicially executed, while the fate of others remains unknown amid concerns for their lives and safety. Thousands more have been locked up, and remain at the mercy of a deeply flawed criminal justice system. Suspects are apprehended without warrant, denied contact with families for weeks or even months, and remain in prolonged detention without referral to judicial authorities for months or even years. Many are tortured, otherwise ill-treated and coerced into “confessions” used as the basis of their convictions in proceedings falling far short of international standards for fair trial. Tens of thousands have been forcibly displaced by central Iraqi forces, forces of the KR-I and militias who continue to prevent them from returning to their towns and villages. Others displaced by conflict more recently are subjected to arbitrary restrictions on movement, making it even harder for them to access basic necessities and essential services.

A 29-year-old woman who fled the Jolan neighbourhood of Falluja on 16 June 2016 and was living in a camp in Khalidiya in Anbar governorate told Amnesty International that she lost her seven-year-old son on 14 August 2015 in air strikes that hit the obstetrics and children’s hospital in Falluja:

“We lived in a prison under Daesh [Arabic acronym for IS] and risked our life to reach this camp... I lost my child, my home, my whole life... Our suffering is continuing. Now we have no documents, no money, no possibility for my husband to find work. My father-in-law and my husband’s 17-year-old brother are detained on suspicion of being Daesh and we are not even allowed to see them in prison. How much more pain can one family endure?”

The widespread abuses documented by Amnesty International are taking place against the backdrop of the growing power and influence exercised by predominantly Shi’a militias since June 2014. Some militias can be traced back to armed groups that formed in opposition to the rule of Saddam Hussein or in the aftermath of the 2003 US-led invasion and occupation of the country. However, their ranks have swelled since calls made, in the wake of the IS’s grab of Iraqi territory in mid-2014, by then Prime Minister Nouri al-Maliki and Grand Ayatollah al-Sistani, the country’s highest Shi’a religious authority, for able-bodied men to join the fight against IS. These militias were brought under the umbrella of the Popular Mobilization Units (PMU) in June 2014 and officially designated as part of the Iraqi armed forces in February 2016, but even before that had enjoyed government support and backing. PMU militias have operated independently, as well as alongside regular government forces, on battlefields, at checkpoints and at facilities to screen or detain suspects. They have taken part in joint operations, in some instances under the overall command of regular military officers. They have also shared military bases with Iraqi armed and security forces. PMU militias have been responsible for a pattern of cases of enforced disappearance, abductions, torture and unlawful killings of

captured and detained individuals in a climate of impunity. Iraqi government forces have also directly committed violations including arbitrary detention, torture, unlawful killings and enforced disappearances.

Ahead of military operations to retake Falluja and surrounding areas in May 2016, Prime Minister Haydar al-Abadi and Grand Ayatollah Ali al-Sistani urged that civilians be protected in the course of operations. The Prime Minister announced that operations were to be jointly carried out by Iraqi armed forces, the Counter-Terrorism Service, the Federal Police, the Falluja provincial police, the PMU and Sunni fighters from Anbar. A number of Sunni politicians and tribal leaders expressed reservations about the participation of PMU militias in the battle for Falluja, pointing to violations perpetrated by the PMU in previous operations to recapture territories with sizable Sunni populations, including Tikrit in April 2015, and warning against a further flare-up of inter-communal tensions.

Their concerns proved to be well founded as, in the course of operations, PMU militias committed war crimes and gross human rights violations including extrajudicial executions and other unlawful killings, torture and enforced disappearances against IDPs fleeing Saqlawiya and al-Sijir, in the north of the city of Falluja. On 30 May, at least 12 men and four boys from the Jumaila tribe were extrajudicially executed. The victims had fled fighting in al-Sijir together with their families on 24 May and were temporarily sheltering with relatives in a rural area near Abu Sdira. According to survivors, after they handed themselves over to a mixed force of armed men in different military and Federal Police uniforms, men and older boys were separated from the women and younger children, told to line up and march forward, before being shot dead. At least 73 other men and boys from the Jumaila tribe seized from the area of al-Sijir on 27 May remain unaccounted for. Witnesses reported that the disappearances took place after a large group of al-Sijir residents handed themselves over to an armed force composed of men in military uniform, whom they assumed to belong to the PMU based on uniform insignia and coloured flags they were carrying.

PMU militias also abducted, tortured and killed men and boys from the Mehemda tribe from Saqlawiya. On 3 June, thousands of IDPs fleeing from Saqlawiya were intercepted by a large PMU force, identified based on emblems on their uniforms and coloured flags, who took away some 1,300 men and older boys. Three days later, 605 of the abducted men were transferred to the custody of local Anbar officials bearing marks of torture, after being held by PMU militias at what appeared to be an abandoned farmhouse, beaten with various objects including shovels and denied food and water. According to findings published on 11 June by an investigative committee established by the Governor of Anbar, 49 others were killed, while a further 643 remain missing amid fears for their lives and safety. A survivor originally from Saqlawiya, since displaced to a camp in Amariyat al-Falluja, told Amnesty International that 17 of his relatives remained missing, including his 17-year-old nephew. Another relative had died apparently as a result of torture. He described his ordeal:

“They hit me and the others with anything they could lay their hands on, metal rods, shovels, pipes, cables... They walked on top of us with their boots. They insulted us, and said that this was payback for the Speicher massacre [in which some 1,700 captured Shi’a cadets were summarily killed by IS]... I saw two people die in front of my eyes... Others were taken out and then I could hear gunshots. Later I could also smell burning.”

As reports of the crimes began to emerge and pressure mounted, Iraqi Prime Minister Haydar al-Abadi established, on 5 June, a committee to investigate crimes in the context of the battle of Falluja, vowed to punish those responsible and announced the arrest of an unspecified number of individuals who had committed “infractions”. However, he publicly maintained that abuses were “individual cases” and not part of a systematic pattern, and warned against exaggerating the scale of these “infractions” so as not to overshadow the successes on the battlefield and the heroic assistance provided by Iraqi forces to fleeing IDPs.

The committee’s membership included bodies possibly implicated in violations such as the PMU and the Federal Police, casting serious doubts as to its impartiality and independence. Amnesty International wrote to the Iraqi authorities on 16 June and 21 September 2016 requesting detailed information on the working methods, composition and mandate of the committee, urging them to ensure its impartiality and calling for its findings to be made public. The organization has not received a response. Investigative committees are no substitute for judicial investigations by bodies empowered to compel the co-operation of officials – including militia commanders – with a view to prosecuting suspected perpetrators in fair trials. Investigations by such committees into past abuses failed to provide a remedy for victims or prevent their repetition. For instance, findings of announced investigations into unlawful killings and other abuses by PMU militias in Barwana village and Muqdadiya city in Diyala governorate that took place on 26 January 2015 and on 11 January 2016, respectively, have neither been made public nor led to any members of PMU militias being

held accountable. This impunity emboldens PMU militias to continue acting above the law, without any fear of consequences.

The enforced disappearance of hundreds of men and boys in Saqlawiya and al-Sijir in May and June 2016 are not isolated incidents. Since the emergence of IS, al-Qa'ida, and other armed groups in Iraq, thousands of Sunni men and boys, including IDPs, have been subjected to enforced disappearance by Iraqi security forces and militias against the backdrop of ongoing armed conflict, insecurity and rising sectarian tensions. Some victims went missing after handing themselves over to pro-government forces or after having fled territories controlled by IS, while others were picked up from IDP camps and other settlements, checkpoints, homes, workplaces, streets and other public places. At al-Razzaza checkpoint alone, since late 2014, members of the Kata'ib Hizbullah (Hizbullah Brigades) have abducted and forcibly disappeared hundreds of men and boys. Despite the mounting evidence of the scale of enforced disappearances, the government has failed to take any real steps to put an end to widespread disappearances or hold those responsible to account. Amnesty International has documented dozens of enforced disappearances since 2014 in the governorates of Anbar, Baghdad, Diyala and Salah al-Din.

All male IDPs considered of fighting age, roughly 15-65, who managed to flee territories under IS control to safety are subjected to opaque and flawed security procedures, applied by both the Iraqi and Kurdish authorities. These procedures are carried out by Iraqi security forces and PMU militias, for those entering territories controlled by the central government, or by the Asayish (the Kurdish security agency), for those entering territories controlled by the KRG. Security screenings take place at temporary holding facilities or makeshift detention centres. Typically this involves checking names against computer databases and basic questioning. While some detainees are released within days, others remain in limbo for weeks or even months. Detainees are frequently held in inhuman and squalid conditions, characterized by severe overcrowding, shortages of latrines and other sanitation facilities, and a lack of basic necessities including personal hygiene items.

Following initial screenings, detainees suspected of involvement with IS are generally transferred into the custody of the Anti-Terrorism or Anti-Crime Directorates of the Ministry of Interior in the cases of Anbar and Salah al-Din governorates. In the KRG-controlled areas, they are transferred to detention facilities of the Asayish or, less frequently, of the Anti-Terrorism Directorate. Little or no attempt is made to inform relatives of the whereabouts of detainees or to provide detainees with means of communicating with the outside world. There are severe delays in referring suspects to judicial authorities, denying them the right to challenge the legality of their detention. In pre-arraignment detention, which can last weeks or even months in contravention of Iraqi law and Iraq's international obligations, suspects are interrogated by members of security forces without the presence of lawyers and are frequently denied family visits. In such situations, detainees are most vulnerable to torture and other ill-treatment, and may be forced to sign or thumb-print statements.

Iraqi security forces and members of the PMU routinely torture or otherwise ill-treat detainees with impunity. Amnesty International has documented cases of torture of IDPs apprehended by PMU militias at checkpoints and screening facilities, and kept in unofficial places of detention, as well as torture and other ill-treatment committed in facilities controlled by the Ministries of Defence and Interior in the governorates of Anbar, Baghdad, Diyala and Salah al-Din. According to accounts of released detainees, relatives, lawyers and human rights activists, detainees are most vulnerable to torture and other ill-treatment when held incommunicado and interrogated by security officials. Most frequently reported methods of torture include suspension in stress positions, the use of electric shocks, beatings with various objects including metal bars and pipes and threats of rape directed against their female relatives. Testimonies suggest that torture is used to compel suspects to "confess" or provide information on IS and other armed groups and to degrade and punish detainees for crimes committed by IS. Amnesty International has also documented cases of torture and other ill-treatment perpetrated at some facilities controlled by the Asayish, including in Makhmur, Dibis and Dohuk.

Concerns regarding torture and other abuses in detention are compounded by Iraqi courts' history of relying on coerced "confessions" to convict defendants of serious charges in flagrantly unfair trials, and often handing down death sentences. Even once brought in front of investigative judges and referred to trial, mainly on terrorism-related charges and following severe delays, defendants' rights to a fair trial, most notably the right to adequate defence, the right not to incriminate oneself or confess guilt and the right to cross-examine prosecution witnesses have been routinely flouted. Even those defendants who, despite well-founded fears of reprisals, complained to judges about torture during pre-arraignment and pre-trial detention and recanted their "confessions" found themselves convicted and in some cases sentenced to death.

The plight of Sunni Arab IDPs extends outside the context of detention, as many find themselves confined to camps with little prospect of earning a livelihood or returning home. Sunni Arab male IDPs in territories

controlled by both the central Iraqi and Kurdish authorities face arbitrary and discriminatory restrictions to their freedom of movement even after having been cleared by security screenings. IDPs have to navigate frequently changing and opaque bureaucratic procedures to access the capital and major cities, and generally require local sponsorship to obtain entry permits. Many frequently complain of corruption and the need to pay bribes to be allowed passage into cities.

Other IDPs have also been prevented from returning to their towns and villages even though these have long been recaptured from IS and secured by forces loyal to the Iraqi government or the Peshmerga, the armed forces of the KRG. For instance, Sunni Arab IDPs from parts of the governorates of Salah al-Din and Diyala cannot go back as militias explicitly bar them from returning under the pretext that they co-operated with IS; while others fear revenge attacks by militias who are firmly in control and have committed gross human rights violations in recent years with impunity. Families of suspected IS members are also explicitly barred from returning. Peshmerga forces are also preventing residents of Arab villages and Arab residents of mixed Arab-Kurdish towns from returning to their homes and, in some cases, have destroyed or permitted the destruction of their homes and property – seemingly as a way to prevent their return in the future.

To end this cycle of abuse and pave the way for rebuilding the country on the foundation of the rule of law and human rights, the Iraqi authorities must rein in militias and bring them under the effective control and oversight of civilian bodies. They must take steps to reveal the fate and whereabouts of those forcibly disappeared, and ensure that militias no longer arrest and detain suspects. They must also take real steps to reform the criminal justice system, ensuring that suspects in terrorism-related cases are not held for prolonged periods of time without referral to the judiciary and are not tortured or otherwise coerced into making “confessions”, that statements made under duress are considered inadmissible and that, more broadly, defendants’ fair trial rights are fully respected. They must desist from punishing Sunni Arabs for crimes committed by IS, and facilitate the safe and dignified voluntary return of IDPs to their homes to areas that have been retaken from IS.

The KRG authorities must also live up to their obligations under international human rights law and international humanitarian law by ending their discriminatory restrictions on the freedom of movement of Sunni Arab IDPs and allowing their return to areas recaptured from IS. Detainees against whom there is sufficient admissible evidence should be prosecuted in fair trials without recourse to the death penalty; otherwise they should be released and not subjected to any undue restrictions in the name of security. They should be protected from torture and other ill-treatment.

The USA, EU member states and others providing military assistance to the Iraqi and Kurdish authorities should make that assistance contingent upon the authorities undertaking concrete and demonstrable steps towards combatting impunity, preventing future abuse and fully adhering to their international obligations. They must urge their counterparts to fully respect human rights and humanitarian law and prevent revenge attacks and discrimination against Sunni Arabs. In particular, they must urge Iraqi authorities to immediately implement effective command and control over paramilitary militias, and establish effective oversight and accountability mechanisms by civilian bodies.

1. METHODOLOGY

This report is mainly based on information gathered during Amnesty International's research visit to central and northern Iraq between 27 July and 18 August. In the course of the visit, Amnesty International researchers interviewed IDPs sheltering in camps, mosques, unfinished buildings and other informal settlements in the governorates of Anbar, Baghdad, Diyala, Dohuk, Erbil, Kirkuk, Salah al-Din and Sulaymaniya. The organization's researchers interviewed over 470 former detainees, witnesses and relatives of those killed, detained or disappeared and obtained information from over 70 others including local officials, parliamentarians, members of government-established investigative committees, investigative judges, public prosecutors, lawyers, tribal and community leaders, security officials, humanitarian workers, human rights defenders and other civil society actors. The organization discussed its preliminary findings with Chief Prosecutor Mohamed al-Janabi on 4 August in Baghdad. In the Kurdistan Region of Iraq (KR-I), the organization also met with representatives of the General Security Directorate (Asayish Gishti) and the Anti-Terrorism Directorate, as well as Judge Bengreen Qassem Mohamed Kattany, the acting head of the High Judicial Council of the KR-I. Amnesty International researchers discussed their preliminary findings with the Kurdistan Regional Government's (KRG's) High Committee to Evaluate and Respond to International Reports on 18 August in Erbil.

Following their visit, Amnesty International researchers remained in contact with families of detainees and the disappeared and other relevant sources via telephone or the internet to monitor any developments in individual cases of detention and enforced disappearance highlighted in the report.

Where relevant and available, Amnesty International also reviewed official documents including complaints filed by relatives of those detained or disappeared, missing person's reports, forensic and medical reports and court verdicts.

Amnesty International was not able to visit detention facilities in the course of its visit. The head of investigations at the Anti-Terrorism Directorate denied Amnesty International's request to access detainees held at a facility the Directorate controls in Erbil. Local Anbar officials also told Amnesty International that it would not be possible to visit the makeshift detention facility in Amariyat al-Falluja, jointly controlled by a number of security bodies including the Anti-Terrorism and Anti-Crime Directorates of the Ministry of Interior.

On 21 September, Amnesty International communicated the findings detailed in this report in two separate memorandums: one addressed to Iraqi Prime Minister Haydar al-Abadi focusing on abuses committed by central Iraqi security forces and the Popular Mobilization Units, and the other to Masrour Barzani, the Chancellor of the Kurdistan Region Security Council of the KRG, focusing on abuses taking place in the KR-I, as well as territories under the de facto control of the KRG including Kirkuk. The memorandums included a number of requests for clarification and questions, such as requests for statistical information on the number of individuals held on terrorism-related or other security-related accusations, as well as the number of security officials referred to investigations or trial for committing human rights abuses. The response of the KRG's High Committee to Evaluate and Respond to International Reports, received on 4 October, is reflected in this report. No response had been received from the central Iraqi authorities by 11 October.

Amnesty International wishes to express its gratitude to all those who contributed information to this report, in particular survivors of human rights abuses and relatives of those detained or missing who shared their stories with the organization. Names and other identifying information of most individuals whose cases are featured in this report are withheld upon request and/or to protect their and their families' personal safety in a context where impunity for abuses is rampant and paramilitary militias exercise tremendous influence and

control in large parts of central Iraq.¹ Amnesty International would also like to thank all individual activists and lawyers, as well as human rights and humanitarian organizations, who facilitated the organization's work through the provision of expert knowledge and access to key locations and information, including the Sufuh Organization for Human Rights, the Iraqi Organization for Human Rights and the Haraa Humanitarian Organization, and others who preferred for their organizations' names to be omitted to avoid reprisals.

¹ In some instances the person's name is omitted altogether, while in others a pseudonym is used and placed in quotation marks to indicate that it is not the person's real name.

2. BACKGROUND

2.1 THE CONFLICT AGAINST THE ARMED GROUP CALLING ITSELF ISLAMIC STATE

Armed conflict flared up in December 2013 in Anbar governorate between Iraqi security forces, local residents and armed groups. This violence erupted against the backdrop of anti-government protests and sit-ins, ongoing since late 2012, in governorates with sizeable Sunni populations including Anbar, Ninewa and Salah al-Din. Protesters expressed a number of grievances including the perceived marginalization of Sunni Iraqis in political processes, the misuse of the Anti-Terrorism Law (Law 13 of 2005) and other abuses in the criminal justice system targeting members of their community. Exploiting the violence and widespread discontent with the central government, the armed group calling itself the Islamic State (IS), seized Falluja, the second largest city in Anbar governorate, by January 2014. In June 2014, the conflict spread to other areas to the north, north-west and north-east of the capital. By mid-2014, IS gained control of large swathes of Iraqi territory in the governorates of Anbar, Diyala, Ninewa and Salah al-Din, including the country's second largest city, Mosul. As the Iraqi armed and security forces abandoned the north of the country, areas which had not yet been captured by IS came under the de facto control of the Peshmerga, armed forces of the KRG of the semi-autonomous KR-I. In early August 2014, IS seized control of yet more territory, including parts the Makhmur district in Erbil governorate and Sinjar district in Ninewa governorate, as Peshmerga forces withdrew from the latter.

In response to IS's advance and its capture of Mosul on 10 June 2014, then Prime Minister Nouri al-Maliki called on 11 June on volunteers to fight alongside the Iraqi army.² His call was followed by a religious edict (fatwa) on 13 June by Iraq's supreme Shi'a religious leader, Grand Ayatollah Ali al-Husseini al-Sistani, also urging men of fighting age to take up arms against IS.³ Volunteer fighters joined existing and new Shi'a militias, which were grouped under the umbrella of the newly established Popular Mobilization Units (PMU) and which have grown in power and influence as the fight against IS has progressed. From the onset, the PMU enjoyed the blessing, support and backing of the Iraqi central authorities and has operated with varying degrees of co-operation from government forces – ranging from tacit consent to co-ordinated, and increasingly, joint operations.

Meanwhile, the KRG responded to the IS advance by strengthening the defences of the KR-I territory and taking effective control of the so-called "disputed areas", including Kirkuk. These territories, south of the KR-I, have been subject to sole ownership claims by the Iraqi central government and the KRG for decades. The Iraqi Constitution of 2005 stipulated that their fate should be determined by 2007 through a referendum, but this has not taken place.

² See for instance, press conference by Nouri al-Maliki, 10 June 2014, available at www.youtube.com/watch?v=NAVO7nbVJVw. Also see Security Council, Third report submitted by the Secretary General pursuant to paragraph 6 of resolution 2110 of 2013 (S/2014/48), 14 July 2014, available at www.un.org/ga/search/view_doc.asp?symbol=S/2014/485

³ Ayatollah al-Sistani's Office, "Marja' al-Sistani calls on citizens able to carry arms and kill terrorists to volunteer with security forces in protection for their country, people and religion", 13 June 2014, available at www.sistani.org/arabic/in-news/24908/


STATUS OF THE POPULAR MOBILIZATION UNITS

In February 2016, Iraqi Prime Minister Haydar al-Abadi issued Order 91 designating the Popular Mobilization Units (PMU) as “an independent military formation and part of the Iraqi Armed Forces and linked to the Commander-in-Chief of the Armed Forces”. The Order specified that the PMU was subject to military legislation, and organizationally similar to the Counter-Terrorism Service, which is independent of both the Ministry of Defence and the Ministry of Interior. The PMU was first brought under the nominal control of the Prime Minister as the Commander-in-Chief of the Armed Forces in a Council of Ministers vote on 7 April 2015.⁴ However, even before these efforts to institutionalize the PMU, it enjoyed wide government legitimacy and support. For instance, in November 2014, the General Secretariat of the Cabinet ordered the allotment of funds to the Ministry of Defence for salaries for PMU fighters, while then Prime Minister Nouri al-Maliki issued an order on 19 June 2014 to pay PMU volunteers salaries and to treat them on a par with staff of the Ministries of Defence or Interior in cases of injury or death.⁵ On 30 September 2014, the Council of Ministers issued a decision to provide the PMU with weapons, other military equipment and salaries.⁶ The Popular Mobilization Commission (PMC) was established by the Council of Ministers in 2014 as the sole government body responsible for the administration of the PMU.⁷

While nominally under the umbrella of the PMU, militias are not monolithic and frequently have different and at times opposing interests and party or ideological affiliations. Some are closer to Iran, while others espouse a more nationalistic, anti-Iran message.

This report features cases involving the largest and most influential PMU militias, namely Munathammat Badr (the Badr Brigades or the Badr Organization), Saraya al-Salam (the Peace Brigades, formerly the Mahdi Army), ‘Asa’ib Ahl al-Haq (the League of the Righteous) and Kata’ib Hizbullah (the Hizbullah Brigades). Some of these groups took up arms against Saddam Hussein, while others emerged in opposition to the presence of US forces since 2003, but have grown in power and influence since the start of the fight against IS in 2014.



 [↑] PMU militias have grown in power and influence since mid-2014. This poster in Tikrit depicts two leading figures: Hadi al-Amiri, head of the Badr Brigades and Abu Mahdi al-Muhandis, leader in Hizbullah Brigades. © Amnesty International

Since mid-2014, the central Iraqi authorities and the KRG have engaged in military operations to recover territory from IS. By late 2014, IS began to lose territory in the Sinjar district of Ninewa governorate as well as in Diyala and Salah al-Din governorates in counter-offensives launched by Iraqi armed forces, the PMU, the

⁴ General Secretariat for the Council of Ministers, “Decisions of Council of Ministers in session number 14”, 7 April 2015, available at cabinet.iq/ArticleShow.aspx?ID=6040

⁵ General Secretariat for the Council of Ministers, “Allocation of funds for public mobilization salaries”, 26 November 2014, available at cabinet.iq/ArticleShow.aspx?ID=5475 and General Secretariat of the Council of Ministers, “PM releases divan order concerning volunteers”, 14 June 2014, available at <http://cabinet.iq/ArticleShow.aspx?ID=4888>

⁶ General Secretariat for the Council of Ministers, “Decisions of Council of Ministers for session number 4 in 30/9/2014”, 30 September 2014, available at www.cabinet.iq/ArticleShow.aspx?ID=5294

⁷ General Secretariat for the Council of Ministers, GSCOM determines the side authorized to run Popular Mobilization, 21 December 2014, available at cabinet.iq/ArticleShow.aspx?ID=5582

Peshmerga and the Tribal Mobilization (al-Hashd al-Ashairi, militias composed of fighters from Sunni tribes). By April 2015, Jalawla, in Diyala governorate, and Tikrit, the capital of Salah al-Din governorate, had been recaptured. By the end of the year, the city of Sinjar in the Ninewa governorate and Ramadi in Anbar governorate had also been retaken. Further territorial gains were made in 2016 as Iraqi armed forces, the PMU and Tribal Mobilization fighters retook Falluja, an IS stronghold in Anbar. Repeated offensives since March 2016 led to advances by Peshmerga and Iraqi forces that reclaimed territory in Salah al-Din and Ninewa governorates, including the recapture of the strategic air force base in al-Qayyara in August 2016 and the town of al-Sharqat in September 2016. In mid-October 2016, battles continued to rage south and south-east of the IS stronghold of Mosul, paving the way for an assault on the city and its surroundings.

In their conflict against IS, the Iraqi and Kurdish authorities have enjoyed considerable international support. On 8 August 2014, the USA began air strikes against IS positions in Iraq, following requests by Iraqi authorities. In September 2014, an international coalition to fight IS was established, with partners providing training and military equipment to the central Iraqi authorities and the KRG, as well as carrying out air strikes against IS positions. As of 27 September 2016, the international coalition had carried out 9,973 strikes in Iraq, 6,761 of which were carried out by the USA and the remainder by eight other countries, namely Australia, Belgium, Canada, Denmark, France, Jordan, the Netherlands and the United Kingdom.⁸

2.2 IS CRIMES

Amnesty International and other organizations have documented crimes under international law committed by IS in territories under its control, including war crimes and crimes against humanity.⁹ IS has carried out deliberate attacks against civilians and civilian infrastructure, mass summary killings and other unlawful killings, torture, abductions, rape and other sexual violence, enslavement, the recruitment and use of children, pillage, looting and the deliberate destruction of civilian homes and other infrastructure. The group has deliberately targeted minority communities including Christians, Yezidis, Shi'a Shabak and Shi'a Turkmen. IS destroyed and/or desecrated their places of worship and other sites of religious or cultural significance. It compelled members of these communities to either convert or face summary killings or, in the case of Christians, pay a tax historically levied on non-Muslims known as the *jizya*. IS has also systematically targeted Shi'a Muslims, whose beliefs it considers heretical. In one of its most notorious massacres in Iraq, IS fighters summarily killed up to 1,700 Shi'a cadets who had been captured after they fled the Speicher training camp near Tikrit in Salah al-Din governorate in June 2014.

IS atrocities have not been limited to members of religious minorities or Shi'a Muslims, as Sunni Muslims, particularly civil servants and members of security and armed forces and the Sahawat,¹⁰ who refused to pledge allegiance to the group and "repent" were systematically targeted. In general, Sunni Muslims who do not support IS in territories it controls live under a regime of fear and deprivation, particularly as military pressure on IS has increased and financial resources have dwindled. IS imposes a code of conduct on all civilians living under its control. Those who stray from the group's interpretation of religious edicts are tortured, including by flogging, for "offences" such as smoking or not wearing IS-sanctioned attire. Those suspected of any form of dissent or of co-operating with Iraqi armed and security forces or of providing coordinates and other intelligence are killed. Women's freedom of movement is severely restricted. Restrictions on the use of telephones and the internet has become more rigid and brutally enforced as IS has increasingly lost territory. Since early 2015, residents have been prevented from leaving IS-controlled areas, and those attempting to flee risk being killed or flogged and face attacks targeting their remaining relatives and property.

In addition to committing atrocities in territories directly under its control, IS has claimed responsibility for bomb attacks and other violence elsewhere in Iraq, with Baghdad particularly frequently hit. For instance, a series of attacks in May 2016 in Baghdad – primarily targeting Shi'a neighbourhoods and busy markets – claimed at least 150 lives and left over 214 more injured, according to officials and media sources.¹¹ IS has

⁸ See US Department of Defense, "Operation Inherent Resolve. Targeted operations against ISIL terrorists", available at www.defense.gov/News/Special-Reports/0814_Inherent-Resolve


⁹ See Amnesty International, *Escape from hell: Torture and sexual slavery in Islamic State captivity in Iraq* (Index: MDE 14/021/2014), December 2014, available at www.amnesty.org/en/documents/mde14/021/2014/en/, Amnesty International, *Iraq: Ethnic cleansing on a historic scale* (Index: MDE 14/011/2014), September 2014, available at www.amnesty.org/en/documents/mde14/011/2014/en/ and Amnesty International, "Iraq: Yezidi survivors of horrific abuse in IS captivity neglected by international community", 10 October 2016, available at <https://www.amnesty.org/en/latest/news/2016/10/iraq-yezidi-survivors-of-horrific-abuse-in-is-captivity-neglected-by-international-community/>

¹⁰ Sahawat (Awakenings) are Sunni militias established with US support in 2005-2006 to fight al-Qa'ida. They were never formally integrated into Iraqi armed or security forces. By the time IS emerged in Iraq, they had ceased to operate.

¹¹ See for example Amnesty International, "Iraq: Deadly bomb attacks show disgraceful disregard for human life", 17 May 2016, available at www.amnesty.org/en/latest/news/2016/05/iraq-deadly-bomb-attacks-show-disgraceful-disregard-for-human-life/

frequently targeted predominantly Shi'a neighbourhoods and religious shrines including during busy times of the day in an apparent attempt to cause maximum civilian damage, further enflaming sectarian tensions.



 ↑ *The bombing of the busy neighborhood of Karrada on 2 July claimed some 300 lives. Following the tragedy, the Iraqi authorities came under increased pressure to execute those convicted of terrorism-related offences. © Amnesty International*

The authorities in Baghdad have come under criticism for failing to avert attacks as well as political and public pressure to address the volatile security situation, punish perpetrators of deadly attacks and execute “terrorists”. Following a bomb attack in the Baghdad neighbourhood of Karrada on 2 July 2016, which took the lives of nearly 300 people and was claimed by IS, calls for swift executions grew louder and more belligerent.¹² For instance, on 12 July, Awas al-Khafaji, commander of the Fadl Abu Abbas militia, threatened to execute prisoners at the al-Nasriya prison, where death row prisoners are held following convictions under the Anti-Terrorism Law, if the government failed to act.¹³ Bowing to pressure, in July, President Fuad Massoun ratified a law passed by parliament limiting the possibility of retrials for those convicted. The number of executions carried out by Iraqi authorities increased sharply as the President ratified executions in July and August – a pre-condition for the implementation of the sentence. Most notably, in August 2016, Iraq carried out a mass execution of 36 men convicted of abducting and killing cadets at Speicher training camp, despite concerns that their trial had been marred by allegations of “confessions” extracted under torture and procedural flaws.¹⁴

IS crimes have further exacerbated inter-communal tensions in Iraq with sectarian attacks rising to a level unseen since 2006-2007, the worst period of sectarian violence in the country’s recent history. While Sunni armed groups including IS have been targeting Shi’a civilians, government-backed predominantly Shi’a militias of the PMU have carried out revenge attacks against Sunni civilians, frequently perceived as complicit in IS crimes.


¹² See Amnesty International, “Iraq: Executions will not deter further attacks”, 5 July 2016, available at www.amnesty.org/en/latest/news/2016/07/iraq-executions-will-not-deter-further-deadly-attacks/

¹³ See for instance, Sky Arabic, “PMU threatens to carry out executions in Iraq”, 7 July 2016, available at bit.ly/2e3CEWN

¹⁴ Amnesty International, “Iraq: Executions will not eliminate security threats”, 22 August 2016, available at www.amnesty.org/en/latest/news/2016/08/iraq-executions-will-not-eliminate-security-threats/

2.3 MASS DISPLACEMENT



 ↑ Some 3.4 million Iraqis continue to be displaced and are currently sheltering with host communities as well as in camps for internally displaced persons, schools, mosques and unfinished buildings. Some 87,000 people fled fighting in Falluja and surrounding areas in May and June 2016, sheltering in sprawling camps in Amariyat al-Falluja. © Amnesty International

IS crimes and the ongoing armed conflict have led to mass internal displacement. Though repeated bouts of sectarian strife since 2003 have forced many civilians from Iraq's diverse ethnic and religious communities from their homes,¹⁵ the scale of the displacement since the 2014 takeover by IS of large parts of the country is unprecedented. Over 4.2 million Iraqis have been forced to flee their homes since January 2014,¹⁶ and some 3.4 million continue to be displaced and are currently sheltering with host communities as well as in camps for internally displaced persons (IDPs), schools, mosques and unfinished buildings. Many live in dire conditions, and have little or no access to essential services and medical care.¹⁷ Thousands of residents of Mosul and surrounding areas have also fled across the border to Syria and are living in the Hol Camp.¹⁸

Many of the displaced cannot return home because their towns and villages are under IS control or in front line areas, and others have nothing to go back to because their homes have been destroyed by IS or in fighting or by the parties who recaptured the areas. Others have been unable to return to homes in or near areas recaptured from IS and the prospect of a safe return remains distant for many. The recapture of territory from IS has been accompanied by revenge attacks against Sunni communities, often perceived as having collectively supported or collaborated with IS. PMU militias, and in some instances security forces, have killed, forcibly disappeared and tortured hundreds of Sunni men with utter impunity, in apparent acts of revenge for the heinous crimes committed by IS, and have used such crimes as a pretext to forcibly displace Sunni communities or prevent Sunni IDPs who had fled conflict from returning home.¹⁹

Sunni Arab IDPs from parts of the Salah al-Din and Diyala governorates cannot go back home as militias explicitly bar them from returning, claiming that they co-operated with IS, while others rightly fear revenge attacks by militias who are firmly in control and have committed gross human rights abuses in recent years with impunity. Others cannot go back as their homes and livelihoods have been destroyed, or they await clearance of mines and other explosive remnants of war. Those who return have to go through elaborate and

¹⁵ "Since February 2006, almost 1,204,000 Iraqis have been displaced", in International Organisation for Migration, Iraq Displacement 2007 Year in Review, available at reliefweb.int/sites/reliefweb.int/files/resources/5573D660E30F564BC12573CC00510738-Full_Report.pdf

¹⁶ According to the Displacement Tracking Matrix of the International Organisation for Migration, available at iraqdtm.iom.int/ (DTM tab).

¹⁷ Amnesty International, "Iraq: Hundreds of thousands more risk displacement sparking fresh humanitarian crisis", 16 August 2016, available at www.amnesty.org/en/latest/news/2016/08/iraq-hundreds-of-thousands-more-risk-displacement-sparking-fresh-humanitarian-crisis/

¹⁸ UNHCR, "Syrian Arab Republic: Countries of Origin of Refugee Population (as of 30 June)", 30 June 2016, available at reliefweb.int/map/syrian-arab-republic/syrian-arab-republic-countries-origin-refugee-population-30-june

¹⁹ For more details see: Amnesty International, *Absolute impunity: Militia rule in Iraq* (Index: 14/015/2014), October 2014, available at www.amnesty.org/en/documents/MDE14/015/2014/en/ and Human Rights Watch, "After Liberation Came Destruction: Iraqi Militias and the Aftermath of Amerli", 18 March 2015, available at features.hrw.org/features/HRW_2015_reports/Iraq_Amerli/index.html

onerous bureaucratic and security procedures, which lack transparency and are often arbitrary and beset by corruption.

Sunni Arab IDPs are also barred from returning to many areas controlled by the KR-I. After consolidating territorial gains against IS, Peshmerga forces have deliberately destroyed civilian property of Sunni Arabs in towns and villages in the “disputed areas” in the Diyala, Kirkuk, Erbil and Ninewa governorates and continue to prevent their residents’ return, in what appears to be a campaign to reverse the Arabization policies implemented under Saddam Hussein and to consolidate control over disputed territory the KRG has long claimed.²⁰

KRG SECURITY FORCES

The Kurdistan Region Security Council was established in June 2011 by Law 4 of 2011 to co-ordinate the main security policy in the KR-I. Its tasks include ensuring stability, gathering intelligence, countering terrorism and “following up” on the affairs of refugees, the displaced and foreigners. It appears that the creation of the Security Council was partially motivated by an attempt to co-ordinate efforts by the two leading Kurdish parties – which run their own security and intelligence agencies in the areas under their spheres of influence, namely Erbil and Dohuk governorates in the case of the Kurdistan Democratic Party (KDP) and Sulaymaniya governorate and parts of Kirkuk in the case of the Patriotic Union of Kurdistan (PUK).²¹ The Security Council is headed by Chancellor Masrour Barzani and composed of six divisions, of which the Asayish (security agency) and the Anti-Terrorism Directorate appear to be most involved in the arrest, detention and interrogation of terrorism suspects, including IDPs fleeing areas under the control of IS.

Law 5 of 2011 sets out the long list of the Asayish’s responsibilities, which include the protection of public and private liberties in accordance with the principles of democracy and human rights; the security of official institutions and individuals; the security of airports, borders, dams and oil establishments; gathering information on and confronting threats to internal security; countering organized crime, terrorism and drug trafficking; and “following up” on cases of refugees, residents and foreign visitors in the KR-

Organizationally, the Asayish is composed of several directorates including the General Security Directorate (Asayish Gishti), which has its headquarters in Erbil. Asayish branches can be found in all KR-I governorates, in both the capital cities of governorates and smaller towns and villages. The Asayish operates detention facilities used to hold suspects in terrorism and security-related cases, as well as those accused of drug crimes and other serious offences.

The Anti-Terrorism Directorate is mandated with preventing and investigating terrorism-related crimes. In a meeting on 15 August 2016, the head of investigations at the Directorate explained to Amnesty International that while there is some overlap and co-operation with the Asayish Gishti, the Directorate is specialized in intelligence gathering on terrorist cells, averting planned terrorist attacks, and investigating explosions that have taken place in the KR-I. The Directorate also controls detention facilities to hold detainees under investigation, prior to their transfer to judicial authorities and prisons under the Ministry of Labour and Social Affairs.

²⁰ For further details, see Amnesty International, *Iraq: Banished and dispossessed: Forced displacement and deliberate destruction in northern Iraq* (Index: MDE 14/3229/2016), January 2016, available at www.amnesty.org/en/documents/mde14/3229/2016/en/

²¹ In mid-1994, fighting broke out between forces of the KDP and the PUK. It lasted until September 1998, when the two sides signed a peace agreement aimed at normalizing relations and paving the way for the reestablishment of a unified administration. Despite this, both sides have continued to maintain separate security institutions in areas under their effective control.

3. ABUSES IN THE BATTLE FOR FALLUJA AND SURROUNDING AREAS



 ↑ *Tens of thousands of refugees from Anbar are sheltering in sprawling camps in Amariyat al-Falluja, Anbar governorate. © Amnesty International*

Ahead of military operations to retake Falluja and surrounding areas in Anbar governorate in May 2016, the Prime Minister and Grand Ayatollah Ali al-Sistani urged pro-government forces to protect civilians in the course of operations.²² The Prime Minister announced that operations would be jointly carried out by Iraqi armed forces, the Counter-Terrorism Service, an independent ministerial level security force,²³ the Federal

²² See Prime Minister's Office, "Prime Minister General Commander of the Armed Forces Haydar al-Abadi oversees operation to liberate Falluja", 23 May 2016, available at pmo.iq/press2016/23-5-20161.htm, and Ayatollah al-Sistani's Office, "Marja' al-Sistani renews his call to fighters to protect civilians", 27 May 2016, available at www.sistani.org/arabic/in-news/25336/

²³ The Iraq Special Operation Forces, including the Golden Brigade, are under the command of the Counter-Terrorism Service, a quasi-ministerial level force, separate from the Ministries of Defence and Interior, which was set up by Coalition forces following the 2003 invasion. For more information see www.isof-iq.com

Police of the Ministry of Interior,²⁴ the Falluja provincial police, the PMU and Sunni fighters from Anbar.²⁵ A number of Sunni politicians and tribal leaders expressed reservations about the participation of PMU militias in the battle for Falluja, pointing to violations perpetrated in previous operations to recapture territories with sizeable Sunni populations, including Tikrit in April 2015, and warning against a further flare-up of sectarian tensions.²⁶ Such concerns proved to be well-founded.

Amnesty International has documented war crimes and gross human rights violations including extrajudicial executions and other unlawful killings, torture and enforced disappearances committed by PMU militias, and possibly members of Iraqi security forces, against residents fleeing Saqlawiya and al-Sijir – areas to the north of the city of Falluja. The fate of hundreds of men seized by PMU militias on 27 May and 3 June 2016 remains unknown amid concerns for their life and safety. According to the testimonies of some survivors, Iraqi security forces might have been involved in or at least present during the commission of these acts. Iraqi forces were stationed near the sites of crimes in Tarek’s Military Camp (Mu’askar Tarek), located along the old Baghdad-Falluja road.

4.1 AL-SIJIR

On 30 May, at least 12 men and four boys from the Jumaila tribe were extrajudicially executed. The victims had fled fighting in al-Sijir together with their families on 24 May and were temporarily sheltering with relatives in a rural area near Abu Sdira. According to testimonies gathered by Amnesty International, on 30 May, nine families crammed into farmhouses saw uniformed, armed men approaching them from some 400m away. After the patriarch of the group raised a white flag through the window, occupants of the farmhouses stepped out and walked in the direction of the armed men. A witness said:

“We had suffered a lot under Daesh [Arabic acronym for IS]. We had nothing left there; whatever little food was left was expensive. There was no petrol, no electricity, no schools, just deprivation and fear. When [military operations] started, Daesh ordered us to leave our homes in al-Sijir; so we walked about 4km in the direction of Abu Sdira, and stayed with relatives. There was fighting nearby, we could hear rockets and air strikes. When we saw armed men walking towards us, we were so happy to see them. We assumed it was the Iraqi army coming to our rescue... But when we approached, we were shocked by how they received us; they said that they were not our brothers because we were Sunnis and supported Daesh.”²⁷

Survivors described seeing tens of armed men at the scene wearing uniforms of different colours, namely olive, blue and khaki. Some were in Federal Police uniforms. At least one man apparently had a shoulder band which read “Unit 5 – Sniper Regiment”. At this stage, the armed men ordered the separation of males of fighting age from women and younger children, searched the former and collected their identity cards and telephones. The 19 men and older boys were then instructed to form a line and march forward. After about 250m of walking through rural terrain towards the west, the group was ordered to stop. Survivors said that an armed man led the first three men in the line away from the group, and ordered them to keep their heads down. Survivors then heard a quick succession of gun shots, initially fired from one weapon. A second weapon may have been used towards the end of the shooting. When survivors looked up, they saw piles of bodies and the two alleged shooters: a man in olive uniform, addressed as “Hawari”, and another man dressed in a Federal Police uniform.

Survivors believe the perpetrators to be members of the PMU as they identified themselves as Shi’a, used sectarian slurs insulting Sunnis and told captives: “You refused the participation of the Hashd [PMU], so we wore Federal Police clothes”²⁸. The location of the incident was identified as Jassem Mohamed Abdallah’s farm in the village of Abu Sdira, not far from the Sharhabil Ben Hasna School. The three survivors were subsequently taken to the nearby headquarters of the armed forces in Tarek’s Military Camp. Officials who visited the area in the middle of July confirmed that bodies were still there in a mass grave.

At least 73 other men and boys from the Jumaila tribe, seized from the area of al-Sijir on 27 May, remain unaccounted for. Some of those missing were originally from the al-Sijir area, while others had been displaced to al-Sijir from al-Karma and other surrounding areas. Witnesses reported walking from the area of

²⁴ The Federal Police has long been involved in counter-insurgency efforts.

²⁵ See video of al-Abadi’s announcement of Falluja military operations on 23 May 2016, available at www.youtube.com/watch?v=S2h1SMczwYk

²⁶ See for instance Sky News Arabia, “Rejection of PMU participation in recapture of Falluja”, 23 May 2016, available at bit.ly/2dWvD9X. and Akhbar al-An, “Arabic tribes condemn participation of PMU in battle for Falluja”, 24 May 2016, available at www.akhbaralaan.net/news/arabs/2016/5/24/arab-tribes-condemns-participation-popular-crowd-battle-fallujah

²⁷ Interview, 1 August 2016. The location of the interview is withheld upon request.

²⁸ Interview, 1 August 2016. The location of the interview is withheld upon request.

Abu Sdira at about 7.30am and handing themselves over to a large force of armed men in military uniform, whom they assumed to belong to the PMU based on uniform insignia and coloured flags. Males considered of fighting age were then separated from women and younger children and led away a few hours later blindfolded with their hands tied behind their backs.

A mother-of-eight, originally from Karma, who currently is displaced in an IDP camp in Amariyat al-Falluja, told Amnesty International through tears:

“My husband, four brothers and two nephews were among those taken by the Hashd [PMU]. We all handed ourselves over to them, and they took our men away. We saw them being led away in one line blindfolded and with their hands tied behind their backs... I don’t know where they are; we don’t know if they are alive or dead.”²⁹

Another woman from al-Sijir told Amnesty International:

“The Hashd [PMU] took away my husband and two sons; the youngest was just 17. I am here in the camp with my daughters and have nothing left. I have no way to feed them. We were farmers, I don’t know what will become of us. What have we done to deserve this?”³⁰

4.2 SAQLAWIYA

PMU militias also abducted, tortured and killed men and boys from the al-Mehemda tribe from Saqlawiya. At least 643 men remain missing, according to findings published on 11 June by an investigative committee established by the Governor of Anbar, amid fears for their lives and safety.³¹

Local officials told Amnesty International that military operations started in the Azraqiya area of Saqlawiya on 2 June, prompting the exodus of around 6,000 people on 2 and 3 June 2016. According to testimonies gathered by Amnesty International from former abductees, witnesses and relatives of those forcibly disappeared, thousands of men, women and children fleeing from the area of Albu Akash in Saqlawiya were met by individuals they identified as members of the PMU, based on emblems on their uniforms and coloured flags, near the area of Shuhada al-Oula, specifically at a location referred to as “Beit al-Ilwani” or “al-Athar” (the Ruins) at around 9.30am on 3 June. Witnesses described the force as composed of armed men in military uniforms carrying machine-guns and assault rifles and recounted seeing a number of pick-up trucks with rocket launchers mounted on the back and four-wheel-drive vehicles.

At this stage, the armed men separated women and younger children from the estimated 1,300 men and older boys considered to be of fighting age and initially took the latter to buildings in the area of Shuhada including a garage nearby. Other survivors described being kept in abandoned shops and buildings used to store farm equipment. Armed men confiscated their identity documents, phones, rings and other valuables. A few hours later, by about 4pm, armed men bound their hands behind their backs, generally with the use of plastic cuffs. At sunset, buses arrived and, together with a large truck already stationed there, were used to transport a portion of the detainees. The fate of those who boarded these vehicles remains unknown.

A truck returned at about 10pm and another batch of men were loaded onto it. Some detainees recounted being beaten with cables and sticks before being transported. The remaining men were taken away at around 4am, also in a truck. Survivors among the groups transported at 10pm and 4am recounted being crammed inside the truck with some 250 other victims, as insults, punches and kicks rained down on them. They said they were driven for an estimated two hours, describing the journey as torturous with detainees falling over each other and experiencing suffocating conditions due to the intense heat, lack of water and inadequate ventilation.

The detainees were held at a location they described as the “yellow house” (*al-beit al-asfar*), where they said they were subjected to torture and other ill-treatment and deprived of food, water and the use of sanitation facilities. Survivors described being beaten all over their bodies and heads with metal cables, metal pipes, shovels, wooden sticks, large metal taps used outdoors in farms and other farm equipment. They recalled that the militiamen accused them of belonging to IS and committing crimes including the Speicher massacre in June 2014 and the summary killing of soldier Mustafa al-Athari in Falluja in May 2015.³² Former

²⁹ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

³⁰ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016


³¹ Soheib al-Rawi’s website, “Soheib al-Rawi Governor of Anbar announced recommendations of committee established by the Governorate”, 11 June 2016, available at bit.ly/2e0megD

³² Iraqi soldier captured and summarily killed by IS. His body was hung from a bridge in the city on display.

detainees reported being beaten inside the “yellow house”, in the rooms, kitchen, hallways and sitting area, as well as inside the vehicles. Some recounted being taken out at night, forced into the vehicles, and driven around. Former detainees say that they were denied the use of toilets and sanitation facilities throughout their incarceration, and that those who asked to use the toilet were beaten more severely. A farmer from Saqlawiya, whose four brothers remain uncounted for, told Amnesty International:

“We were nine brothers separated from our families and initially taken to a garage in Shuhada. Five of us came out alive, and four have since disappeared... My missing brothers [aged between 22 and 46] were taken away in the first transports... I try to be strong for their families and tell them not to lose hope and keep praying, but I am afraid, especially after what happened to us in the ‘yellow house’. People died from beatings; others were shot; and some died from thirst.”³³



 [↑] Survivor shows Amnesty International the marks left on his wrist after armed men bound his hands behind his back with a plastic cuff following his abduction on 3 June in Saqlawiya. He told Amnesty International that he was hit with cables, shovels and metal bars and witnessed other detainees die under torture. © Amnesty International

Survivors recounted witnessing other detainees dying as a result of torture in front of them as well as seeing others being taken away at night and not returning. Several former detainees recalled hearing a tractor digging during nights, and assumed that it was used to dig graves to bury the dead.

An IDP in Amariyat al-Falluja, originally from Saqlawiya, told Amnesty International that 17 of his relatives remained missing, including a 17-year-old nephew. Another relative had died apparently as a result of torture at the “yellow house”. He described his ordeal:

“I was driven to the ‘yellow house’ at night and put in a room of about 4m x 5m with tens of others. There was blood on the walls. Torture started immediately. They hit us with anything they could lay their hands on, metal rods, shovels, pipes, cables. They walked on top of us with their boots. They insulted us, and said that this was payback for Speicher massacre...³⁴ I saw two people die before my eyes. On the second day, I saw [relative, name and relationship removed upon request] die; he was hit with a shovel on his head several times. Others died from the conditions. They didn’t give us anything to drink for the first day; on the second they brought a small bottle for 10 people. They took about 300 of us to the truck; it was dirty and smelled repulsive. I think it was used to transport farm animals before us. They handcuffed us two by two. One man died right there, I think from thirst and suffocation... Others were taken out and then I could hear gunshots. Later I could also smell burning.”³⁵

During the night of 5 June, 605 men and boys were transported out of the “yellow house” by the Federal Police to Tarek’s Military Camp, where they were untied and given some water. Prior to the arrival of the

³³ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

³⁴ The killing of some 1,700 Shi’a military cadets by IS in June 2014.

³⁵ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

Federal Police, witnesses reported hearing helicopters hovering over them and noticed the withdrawal of PMU members from the site.

Survivors were handed over to local officials from Anbar and transported to the makeshift detention facility at Munsha'at (Installations) in Amariyat al-Falluja for security screening. Several local officials who saw the survivors once they were handed over described to Amnesty International their shock at the sight of the bloodied and bruised detainees, some of them unable to stand or walk. Three bodies were also handed over, while a fourth victim died upon arrival in Amariyat al-Falluja.



The makeshift detention facility known as Munsha'at (Installations) is used for security screening of internally displaced persons in Amariyat al-Falluja, Anbar governorate. © Amnesty International

According to findings by the investigative committee established by the Anbar Governor, 49 males were killed after capture from Saqlawiya.³⁶ The committee found that some were shot dead, while others were beaten or burned to death. Survivors identified the perpetrators as members of the PMU's Kata'ib Hizbullah on the basis of emblems on their uniforms and flags.

Amnesty International met with tens of relatives of men and boys from Saqlawiya who remain missing. Many have several family members unaccounted for. They not only experience severe anxiety because they do not know whether their relatives are alive or dead, but also struggle in their daily lives, having lost their homes, livelihoods and often the sole income-bearers of their family. A 65-year-old woman from Saqlawiya told Amnesty International:

“I am a widow, and my only two sons were taken away by the Hashd [PMU] on 3 June in Athar. The youngest was only 17. I am completely alone; my siblings are displaced in Baghdad and I cannot travel there. I don't have a sponsor,³⁷ I don't have money. But the most important thing is that I want my two sons back. We were told that those who did not commit any crimes or were not with Daesh had nothing to fear after liberation. This is why they handed themselves over. Why did they take them away?”³⁸

³⁶ Soheib al-Rawi's website, "Soheib al-Rawi Governor of Anbar announced recommendations of committee established by the Governorate", 11 June 2016, available at bit.ly/2dKpaAk

³⁷ See Chapter 9 on restrictions on freedom of movement imposed on IDPs.

³⁸ Interview, Amariyat al-Falluja, 1 August 2016

4.3 GOVERNMENT INVESTIGATIONS INTO ABUSES

As news of the abuses began to emerge and pressure mounted, Iraqi Prime Minister Haydar al-Abadi established a committee to investigate disappearances on 5 June, vowed to punish those responsible and announced the arrest of an unspecified number of individuals who had committed “infractions”. However, he publicly maintained that abuses were “individual cases” and not part of a systematic pattern, and warned against exaggerating the scale of these “infractions” so as not to overshadow the battlefield successes and the “heroic” assistance provided by Iraqi forces to fleeing IDPs.³⁹ The committee’s findings are yet to be made public.

According to Administrative Order 12 issued by the Prime Minister’s Office on 5 June, which was not made public, but nonetheless obtained by Amnesty International, the Deputy Governor of Anbar was appointed head of the committee and its membership included representatives from the PMU, the Federal Police, the Command of Joint Operations, the General Directorate of Intelligence and Security of the Ministry of Defence and the Anbar Police. The committee also included a member of the High Commission of Human Rights, the national human rights institution, even though the mandate of its commissioners had expired in April 2016 and new commissioners have yet to be appointed. The process of appointing individual representatives to the committee remains unclear as Administrative Order 12 only listed institutions to be represented. Further, Administrative Order 12 limited the mandate of the committee to investigating the “disappearance of IDP families from al-Sijir”, although it appears that the committee also looked at disappearances in Saqlawiya. The Order was silent on whether the committee had the authority to compel officials and militiamen to testify and powers of search and seizure. It also did not clarify whether the committee’s findings would be made public or shared with judicial authorities.

On 6 June, Grand Ayatollah al-Sistani issued an official statement reiterating previous instructions to fighters⁴⁰, which warn against the killing of or attacks against “innocents”, destruction of private property and acts of revenge. The statement explicitly warned against reprisal attacks against civilians, whose direct relatives or tribe members joined the IS.⁴¹ However, the statement failed to acknowledge any abuses committed by PMU fighters and praised their bravery and sacrifices.

Amnesty International addressed a memorandum to the Prime Minister’s Office on 16 June 2016 requesting information about steps taken to investigate alleged abuses committed in the context of military operations launched on 23 May to retake Falluja and surrounding areas welcoming the establishment of a committee, but calling on the authorities to ensure its impartiality and independence. No response has been received. Amnesty International has also not received a response to another memorandum, dated 21 September 2016, reiterating its questions and concerns regarding the committee’s composition, particularly given the involvement of security bodies allegedly implicated in the abuses, as well as the lack of transparency and clarity around the committee’s exact mandate and working methods.

The committee created by the Anbar Governor to look into abuses committed in the context of operations to retake Falluja and surrounding areas handed its findings on 11 June to the investigative committee established by the Prime Minister for further investigation and action. The latter apparently visited IDP camps in Amariyat al-Falluja twice and interviewed a number of survivors from al-Sijir and Saqlawiya, as well as some relatives of those still missing. Amnesty International is concerned that the government did not take any measures to protect victims and witnesses, particularly as committee members included security bodies possibly implicated in violations. As a result, some witnesses might have been reluctant to come forward with their testimonies out of fear for their safety.

A woman from Saqlawiya whose 23-year-old son, four brothers-in-law, two nephews and several cousins remain missing after being seized in Saqlawiya on 3 June told Amnesty International:

“The Prime Minister’s Committee’s came twice in Ramadan to the camps [in Amariyat al-Falluja]. I spoke to them, and also filled out the form like the other families. But they did not contact us again, or tell us anything

³⁹ Al-Sumaria TV, “al-Abadi announces the referral of those suspected of committing infractions to the judiciary”, 7 June 2016, available at <http://www.alsumaria.tv/news/170547>, and Media Office of the Prime Minister, “Press Brief of Spokesperson of Media Office of the Prime Minister”, 5 June 2016, available at www.facebook.com/IraqPMMediaOffice

⁴⁰ In January 2015, the office of Grand Ayatollah Ali al-Sistani issued Advice and Instruction to Fighters in Areas of Jihad, which mirror some principles found in international humanitarian law including distinction. The instructions warn against any attacks or murder of women, children and the elderly, and emphasize the importance of respecting the sanctity and privacy of home.

⁴¹ Marja’ Sistani official website, *Al-Marja’ Sistani directs advice to fighters in frontlines and describes them as loved by the Marja’iya*, 3 June 2016 available at <http://www.sistani.org/arabic/in-news/25343/>

about what steps they were taking. I don't have much trust in the committee; I am afraid that they just want to cover up what happened.”⁴²

Lack of faith in government investigations might be partially due to the failure of previous investigations into abuses to provide remedy and reparation for victims. For instance, results of announced investigations into the unlawful killings and others abuses by the PMU in Barwana village and Muqdadiya city in Diyala governorate that took place on 26 January 2015 and on 11 January 2016 respectively have neither been made public nor led to any members of PMU militias being brought to account, to the best knowledge of Amnesty International.

Investigative committees are no substitute for judicial investigations conducted with a view to bringing perpetrators to justice in fair proceedings without recourse to the death penalty. On 7 June, Prime Minister Haydar al-Abadi announced the arrest of an unspecified number of individuals who had committed “infractions”, but no further information has been made available since, despite explicit requests by Amnesty International, most recently in its memorandum sent on 21 September.⁴³

⁴² Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

⁴³ Al-Sumaria TV, “al-Abadi announces the referral of those suspected of committing infractions to the judiciary”, 7 June 2016, available at www.alsumaria.tv/news/170547

5. ENFORCED DISAPPEARANCES AND ABDUCTIONS

The enforced disappearances of hundreds of men in Saqlawiya and al-Sijir in May and June 2016, highlighted in Chapter 4, are not isolated incidents. Since the emergence of IS and other armed groups, including al-Qa'ida in Iraq, thousands of Sunni men and boys have been subjected to enforced disappearances by Iraqi security forces and state-backed militias against the backdrop of ongoing armed conflict, insecurity and rising sectarian tensions. Some victims went missing after surrendering to militias or government forces or after having fled territories controlled by IS, while others were picked up from IDP camps and other settlements, homes, workplaces, hospitals, checkpoints, streets and other public places. Disappearances have been followed by a refusal to acknowledge the victims' deprivation of liberty or the concealment of their fate and whereabouts.

This crime not only affects those disappeared and cut off from the outside world, who are vulnerable to a series of other abuses including torture and possibly murder, but also their relatives, who live in the agony of not knowing the fate of their loved ones for periods stretching for years. Relatives spare no efforts to uncover any information about the disappeared. They approach security bodies; file complaints and missing person's reports with the police and courts; pay exorbitant sums to intermediaries with links to militias or government officials; inquire at prisons, other detention facilities, hospitals and morgues; approach human rights and humanitarian organizations; and show pictures of their disappeared relatives to released detainees in the hope that they can identify them. They are met only with government indifference and inaction. Many relatives of those abducted have told Amnesty International that they were too afraid of reprisals to file complaints with the police or judicial authorities, as they consider them either complicit in the crimes or powerless in the face of militias. Some reported being threatened by paramilitary groups if they reported the abduction or continued searching.

Amnesty International has documented dozens of enforced disappearances since 2014 in the governorates of Anbar, Baghdad, Diyala and Salah al-Din. On 21 September, the organization sent details of 105 individual cases of enforced disappearance which took place between September 2012 and August 2016 to Prime Minister Haydar al-Abadi, calling on him to ensure that prompt, independent and impartial investigations are carried out with a view to establishing the fate and whereabouts of the disappeared and bringing those suspected of criminal responsibility to justice in fair trials. As of 11 October, the organization had received no response.

In its concluding observations on 16 September 2015 on the report submitted by Iraq as a state party to the International Convention for the Protection of all Persons against Enforced Disappearance, the UN Committee on Enforced Disappearance raised concerns about "allegations of a situation of widespread disappearances in significant parts of the State party's territory, many of which may be qualified as enforced disappearances". It called on the authorities to adopt national legislation to criminalize enforced disappearance, as defined by the convention, investigate all cases of enforced disappearance and bring to justice those responsible, generate statistical information about the crime and end the practice of secret

detention.⁴⁴ Unfortunately, the Iraqi authorities appear not to have taken any steps towards implementing these recommendations.

5.1 AL-RAZZAZA CHECKPOINT CROSSING

Hundreds of Sunni men and boys have been abducted at the al-Razzaza checkpoint crossing, between the governorates of Anbar and Karbala, by Kata'ib Hizbullah since October 2014, when PMU militias consolidated control over the area of Jurf al-Sakhr, some 60km south-west of Baghdad, whose predominantly Sunni population remains displaced. The al-Razzaza checkpoint crossing was the only relatively safe route out of parts of Anbar to Baghdad for people fleeing territory controlled by IS until the city of Ramadi was retaken by Iraqi forces in December 2015 and alternative routes became available. In March 2016, Anbar parliamentarian Ahmed al-Salmani issued a press release calling for the intervention of Prime Minister Haydar al-Abadi to help put an end to these enforced disappearances, estimating that some 1,400 men and boys had been abducted from the al-Razzaza checkpoint.⁴⁵ He reiterated his public call in July 2016, adjusting the number of those abducted at the al-Razzaza checkpoint to 2,200. Relatives of over 800 victims completed forms about the identities of those forcibly disappeared in response to an initiative by Ahmed al-Salmani to collect detailed information. Despite these efforts and the widely available public information on the scale and gravity of enforced disappearances committed at the al-Razzaza checkpoint, the Iraqi authorities appear to have taken no real steps to reveal the fate and whereabouts of victims, to bring those responsible to account and to prevent further abductions. No information has emerged on the fate and whereabouts of the vast majority of victims or on any concrete measures taken by the government or judicial authorities to investigate the allegations.

For instance, “Khaled”,⁴⁶ a 32-year-old teacher who escaped from the district of al-Qaem on 6 March 2016 with his wife and three young children, remains missing to date. His relatives told Amnesty International that when they reached the al-Razzaza checkpoint, PMU militiamen questioned them about their escape. They said that an officer from the PMU, who was referred to as “Abu Ghadhab”, told them that he planned to avenge his four brothers killed in the Speicher massacre of June 2014. He ordered that “Khaled” and the driver should be taken for questioning. The driver returned soon after and was instructed to leave with the family. Before driving off, “Khaled’s” relatives tried to ask about his fate, but were ignored. They have not heard of him since, and have only seen his name included in lists circulated on social media of detainees supposedly held at Jurf al-Sakhr, a stronghold of Kata'ib Hizbullah.

Similarly, the fate of two cousins taken from the al-Razzaza checkpoint on 25 December 2015 remains unknown. They were fleeing al-Qaem, under the control of IS, towards Baghdad, together with their relatives. The two men were taken away, while the women and children were told to proceed with the driver. Witnesses identified the perpetrators as members of Kata'ib Hizbullah on the basis of emblems on the militiamen's uniforms and flags erected at the checkpoint. A relative who witnessed the abduction told Amnesty International:

“Hizbullah wouldn't tell us why they took our sons away; they ordered us to leave and not to look back. We asked about them everywhere; we haven't left a place that we did not approach. We even paid someone with a connection to Jurf al-Sakhr. There is nothing. We don't know whether they are alive or dead.”⁴⁷

According to the best knowledge of Amnesty International, only one group of around 65 men and boys ever reappeared after being abducted from the al-Razzaza checkpoint. They were freed on 9 January 2016 after being transferred from Jurf al-Sakhr into the custody of another militia, Saraya al-Salam, in the city of Samarra, where they stayed for three days in a mosque before being released. A 15-year-old boy from Anbar whose three brothers remain missing after being seized at the al-Razzaza checkpoint in December 2015 was among those released. He told Amnesty International that he was held for 40 days in a room in what appeared to be a disused school in Jurf al-Sakhr, together with about 200 other boys and men. He said that he remained blindfolded and had his hands bound behind his back for most of the duration of his detention. He told Amnesty International researchers that he was tortured, including by being suspended in a contorted

⁴⁴ UN Committee on Enforced Disappearances, *Concluding observations on the report submitted by Iraq under article 29 (1) of the Convention* (CED/C/IRQ/CO/1), 18 September 2015, available at tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CED%2fC%2fIRQ%2fCO%2f1&Lang=en

⁴⁵ See parliamentarian Ahmed al-Salmani's Facebook page, available at www.facebook.com/alsalmaniahmad/photos/a.856565561021715.1073741828.855853274426277/1159563247388610/?type=3&theater

⁴⁶ Not his real name.

⁴⁷ Interview, Tikrit, 31 July 2016

position from the ceiling and beaten with thick rubber cables while being questioned about IS members and activities in his home town. He recounted routinely hearing other detainees screaming in pain, and witnessed a detainee die as a result of torture. He also complained about being given inadequate amounts of dirty food and water, and being kept in squalid and unhygienic conditions.

5.2 DIYALA

Widespread enforced disappearances and abductions targeting Sunni men and boys are continuing with impunity in Diyala governorate, amid long-standing sectarian tensions, bans on returns for some Sunni IDPs and the tight control exercised by state-backed militias, particularly Munathammat Badr and Asa'ib Ahl al-Haq.

For instance, a 42-year-old man and father-of-four has been missing since 10 August 2015. He was driving his wife and children from their house in central Ba'qouba to his parents-in-law's home, when they were stopped by PMU militiamen near the Fadila School. Relatives told Amnesty International that some 30 Sunni men were rounded up in Ba'qouba that day apparently in retaliation for a deadly bomb attack in the predominantly Shi'a area of al-Huweidr, north of Ba'qouba. His family has since fled Ba'qouba and heard nothing about his fate and whereabouts despite numerous attempts to inquire about him with security forces in the area.

In another case, a driver in his forties was seized from his house in Ba'qouba in front of his wife and three young daughters by five heavily armed men dressed in black uniform on 14 April 2015. They did not present an arrest warrant or tell his distraught family where he was being taken. His wife told Amnesty International:

“Five armed men in black uniform forced their way into the house, they searched it from top to bottom turning everything upside down. They hit him and dragged him out of the house. I tried to run after them and ask where they were taking them. They just ignored me.”⁴⁸

His relatives asked about him at the Anti-Terrorism and Anti-Crime Directorates in Diyala, filed a complaint at the court in Ba'qouba, and even travelled to prisons in as distant locations as Baghdad and Basra.

Amnesty International has also documented cases of enforced disappearances and abductions in Muqdadiya, where extrajudicial executions and abductions of Sunni men by paramilitary militias have taken place with impunity in recent years.⁴⁹

A 22-year-old university student remains unaccounted for since his abduction from a street in Muqdadiya on 17 August 2015. His relatives searched for him in prisons, hospitals and morgues to no avail. They told Amnesty International that around 11 other Sunni men went missing in Muqdadiya around the same time. He had been previously abducted in November 2014, but freed three days later after his family paid a hefty ransom. His mother told Amnesty International:

“We were so relieved after he was released the first time, and thought our lives could resume. After he was abducted the second time, everything around me crashed. We were too afraid to file a complaint with the police, but asked around in prisons, hospitals and used our connections, but got no results. It was too dangerous to stay, and we needed to protect our other sons, so we left our homes behind. Not a day goes by when I don't think about my poor son. Our lives have been ruined.”⁵⁰

Similarly, relatives have had no news about a 30-year-old father-of-four who was taken from his shop in Muqdadiya on 16 June 2014 by armed men in military uniform, who did not present an arrest warrant. His family has since fled the area.

In some cases, victims are released after their families pay exorbitant ransoms, while in other cases the victims' fate remains unknown or their bodies are found dumped on the street on the outskirts of cities or near river banks, in some cases even after their relatives pay ransoms.⁵¹

⁴⁸ Interview, 5 August 2016. Location withheld to protect interviewee.

⁴⁹ See Amnesty International, *Iraq: Militia war crimes in Muqdadiya highlight authorities' persistent failures to hold them to account*, 5 February 2016, available at www.amnesty.org/en/documents/mde14/3396/2016/en/, and Amnesty International, *Iraq: Barwana massacre - Botched investigation, families waiting for justice*, 10 June 2015, available at www.amnesty.org/en/documents/mde14/1812/2015/en/

⁵⁰ Interview, Kalar, 17 August 2016

⁵¹ For more information on this pattern, Amnesty International, *Absolute impunity: Militia rule in Iraq* (Index: 14/015/2014), 14 October 2014, available at www.amnesty.org/en/documents/MDE14/015/2014/en/

For instance, a 14-year-old boy was seized from the street in his neighbourhood in Ba'qouba on 16 July 2016 at around 5pm. His parents called him incessantly for hours until a man, who did not identify himself, answered threatening to kill the boy if his demand for a hefty ransom was not met. The child was released five days later after the family paid 50,000 USD. Upon his release, the boy said that the men guarding him were dressed in khaki military uniform and were heavily armed. He also told his family that his captors used sectarian insults against him. Shortly after his release, his family moved to the north of Iraq. Other abductees have been found dead. For instance, a man in his forties abducted from Kan'an in mid-July 2016 was found dead in the area of Abu Sayida some three days later, while his relatives were negotiating a ransom with his purported captors.

5.3 SALAH AL-DIN

The battle to retake territories from IS in Salah al-Din governorate has been marred by widespread enforced disappearances of Sunni Arab men. In some cases, witnesses have identified perpetrators as PMU militias on the basis of insignia on their uniform or flags, including Munathammat Badr, Saraya al-Salam, Kata'ib Hezbollah and 'Asa'ib Ahl al-Haq. In other instances, relatives and other witnesses have also reported seeing members of Iraqi security forces including the Golden Brigade of the Counter-Terrorism Service, at times operating jointly with PMU militias and Tribal Mobilization fighters.

Five cousins from a village in Yathrib remain unaccounted for after being seized from their relatives' home in Dujail, together with three other relatives, at about 9pm in January 2015 by a group of armed men in khaki-coloured military dress, who did not present an arrest warrant. Three men released 29 days later said that victims were initially taken to an unfinished building in the area of Dujail, where they were kept blindfolded. Relatives searched for the five cousins in hospitals, morgues and prisons across Iraq to no avail.

Armed men in military uniform carrying Kata'ib Hezbollah flags, according to witnesses, rounded up a number of men from the village of Abu Dhala near the city of al-Dur on 6 March 2015; several remain unaccounted for. Among them is a 48-year-old civil servant in Tikrit, and his two sons aged 16 and 17, both secondary school students. Two other relatives taken at the same time remain missing, while three others were released two and a half months later. The women and children who were in the same house were taken to an empty house between Samarra and al-Dur and were kept there for four days, before being allowed to leave.



Relatives of those abducted from Salah al-Din are spread out in camps across the country including in Ashti camp in Sulaymaniya governorate and the Salam camp in Baghdad.
© Amnesty International



←  Salam Camp in al-Dora neighbourhood south-west of Baghdad. © Amnesty International

Others are taken from the road or checkpoints. For instance, Nofel Shalal Habib al-'Azawi, 27, had left his home in a village near Yathrib on 25 December 2014, settling in Baghdad with his family. On 6 September, he travelled to the town of Balad to complete paperwork at the Balad General Hospital, where he had worked before the conflict. Upon arrival, he was arrested without a warrant by the police and detained at the Balad Police Directorate for three days, where his mother visited him. His family was informed that, on 9 September 2015, armed men believed to belong to the PMU took him out of the Balad Police Directorate together with four other Sunni detainees to an unknown location. Relatives have relentlessly searched for him in prisons and detention facilities and filed complaints with the Ministry of Interior and the Central Criminal Court of Iraq in Baghdad. His relative told Amnesty International:

“I hold the Iraqi government responsible for his disappearance. He was taken from inside an official police station, and yet the government is not doing anything to keep

militias in check and return our children to us.”⁵²

Dozens of other IDPs were rounded up from the Ishaqi IDP camp and a nearby school used as a shelter by IDPs on 13 October 2015. Witnesses believed the abductors to be members of the Saraya al-Salam militia based on insignia on their uniforms and the fact that they were in control of the area. Among those unaccounted for are two brothers and their cousin, all in their twenties, from the village of al-Farhatiya in the Balad district. Their relatives told Amnesty International that they approached security forces and the Saraya al-Salam militia, but were not allowed to submit a formal complaint.

Sunni Arab IDPs who fled the districts of al-Sharqat and al-Bajji have also gone missing after being abducted in recent months. For instance, relatives have no information about the fate and whereabouts of Humeidi Taleb Humeidi, 22, since he was seized together with his cousin from the Asmida checkpoint in al-Bajji district on 24 July 2016. He had travelled with a large group of IDPs from the village of Sabih al-Houri in al-Sharqat, walking for some five hours until reaching the Asmida checkpoint. There, men considered of fighting age were separated from women and children and instructed to line up and present their identity documents. A number of men, including Humeidi Taleb Humeidi and his cousin, were removed from the line by men in military dress. His cousin was released on about 14 August 2016, but said that he had no idea where he was held as he was blindfolded and had his hands bound behind his back for most of the duration of his incarceration. At least two other men taken at the Asmida checkpoint around the same time and subsequently released were tortured and otherwise ill-treated, according to testimonies gathered by Amnesty International.

Relatives also said that officials denied holding their loved ones at the Salah al-Din Operations Command, on the road between al-Bajji and Tikrit, but they had heard otherwise from released detainees. For instance, relatives heard that Bashar Hamad Mohamed Hilali, an employee at the Oil Ministry and father-of-five, and his cousin Alaa Ahmed Mahmoud Yassim, a 20-year-old student, were held by the Salah al-Din Operations Command. They had been taken from the transit camp in Hajaj on 25 July 2016, after having fled the village of Imam Gharbi together with their families, by members of the PMU in military uniform, according to witnesses. Their families have not seen or heard from them since.

⁵² Multiple interviews over the telephone.

5.4 BAGHDAD

Sunni Arab men, including IDPs, have also been forcibly disappeared from the capital and surrounding areas in Baghdad governorate.

In June 2014, a large group of masked armed men apprehended a 46-year-old resident of Baghdad, his son and his three brothers, who had recently been displaced to Baghdad. The armed men failed to present an arrest warrant and told relatives that the five would be brought back within two days after some “clarifications”. The five remain unaccounted for. A relative told Amnesty International:

“For the past two years, I have been running around asking about them everywhere. I even filed a police report. I paid thousands of dollars to get any information about them. There is nothing but rumours; we haven’t heard their voices once. My mother is sick with grief.”⁵³

Nine men from the Albu Issa tribe have remained missing for over two years after their abduction. Eleven men from the Albu Issa tribe were travelling together with a driver in a small rented bus from their home in Bzeibiz to the capital on 13 August 2014. They were apparently stopped at a roadblock at 9am in an area about 10km from Bzeibiz by masked armed men in civilian dress. They let the driver and two passengers go. The others were blindfolded and taken away to an unknown location. Since then, there has been no information on the fate and whereabouts of the nine remaining passengers, namely: Raham Jassem Mohamed, 42; Dahal Ftikhan Muhawish, 29; Hussein Issari Jassem, 42; Rassoul Hamid Khalifa, 32; Ra’d Khalifa Salef, 27; Raed Ibrahim Jassem, 40; Khairi Ibrahim Jassem, 31; Raed Ibrahim Awad, 32; and Muthanna Abd Ali, 30. Their relatives’ inquiries about them, including with the Baghdad Operations Room and the Ministry of Interior, have gone unanswered.

⁵³ Interview, Kalar, 17 August 2016

6. ABUSES IN THE CONTEXT OF DETENTION

6.1 SECURITY SCREENINGS

After harrowing journeys to escape IS controlled territories, all males considered of fighting age (roughly 15 to 65) are separated from their families to undergo screenings and interrogations to determine their involvement with IS. Security screenings generally involve identity checks for newly arrived IDPs against computerized databases compiled by various security agencies and basic questioning.

This practice is applied by both the central Iraqi and Kurdish authorities. For instance, security screenings have been taking place in the context of the two most recent waves of mass displacement in central Iraq, namely from Falluja and surrounding areas since the start of military operations on 23 May and from the districts of al-Sharqat and al-Baiji in Salah al-Din governorate and al-Qayyara district in Ninewa governorate since fighting intensified in mid-June. They are also taking place against the backdrop of arrivals to areas controlled by the KRG, including for IDPs fleeing Hawija and areas surrounding Mosul for Makhmur district in Erbil as well as Kirkuk.

In central Iraq, such screenings appear to be conducted by a range of security bodies including the Anti-Terrorism and Anti-Crime Directorates of the Ministry of Interior,⁵⁴ general and military intelligence bodies, Federal and provincial police, the PMU,⁵⁵ Tribal Mobilization militias and units within the Ministry of Defence. In the KRG-controlled areas, screenings are carried out by the Asayish.

While authorities have the right and duty to protect the life and security of those in their territory, security measures have to be necessary and proportionate, for a legitimate purpose, not violate rights, and be the least harmful means of achieving the aim. Further, there must be safeguards against abuse of such measures.

During major waves of large-scale displacement, the authorities have struggled to cope with mass arrivals, particularly to areas that have been affected by the conflict and lack adequate infrastructure, facilities and personnel to process thousands of people simultaneously, leading to security screenings taking place in dire conditions for periods reaching up to several weeks. The situation is particularly difficult in Anbar governorate, which has no functioning prison and only three functioning investigative courts, amid an acute shortage of investigators and investigative judges. When planning military operations, authorities need to factor in the anticipated needs of IDPs, and ensure that any security procedures they impose are conducted in a manner that upholds human rights and dignity.

⁵⁴ The website of the Ministry of Interior states that the mandate of the Anti-Terrorism Directorate is to investigate and expose terrorism offences and other organized crime, arrest suspects and collect evidence in application of the Anti-Terrorism Law. The website states that the mandate of the Anti-Crime Directorate in Baghdad pertains to investigating and combatting the crimes of kidnapping, armed robbery, vehicle theft and economic crimes. In practice, it appears that the Anti-Crime Directorate, including in the governorates of Anbar, Diyala and Salah al-Din, also investigates terrorism-related offences and arrests and detains individuals suspected of terrorism-related offences. In its memorandum to the authorities sent on 21 September, Amnesty International sought clarification on the exact roles of and relationships between the two directorates and on mechanisms to determine whether a case comes under the jurisdiction of the Anti-Terrorism or Anti-Crime Directorate. The organization also asked for legal and policy frameworks governing the operating procedures of the two directorates.

⁵⁵ For instance, during its 30 July 2016 visit to the "Silo" transit centre in Hajaj, where male IDPs underwent screening, Amnesty International researchers witnessed the presence of members of the PMU.



 ↑ Entrance to Khaldiya court, where the head of the court told Amnesty International that only two investigative judges were reviewing the detention of all those held on suspicion of links to IS. When Amnesty International visited on 2 August, the court complex was crammed with people. The court is one of the three functioning investigative courts in Anbar governorate. © Amnesty International


6.1.1 CENTRAL IRAQ

In the course of 2016, security screenings for IDPs fleeing IS-controlled territories have taken place in makeshift detention facilities, such as the abandoned warehouses formerly known as Mashru' Shahid (Martyr's Project) in Amariyat al-Falluja and commonly referred to as the Munsha'at (Installations), or at transit sites for IDPs, such as the unused storage facility in Hajaj in Salah al-Din governorate commonly referred to as the "Silo". At times, preliminary security screenings and arrests also take place at checkpoints or military forces' positions near front lines, where IDPs first come into contact with Iraqi security and armed forces and paramilitary militias. For instance, IDPs arrested during military operations to retake Falluja and surrounding areas have been picked up from a number of locations including Markaz al-Salam and Fallahat checkpoints for those fleeing Halabsa and Kilometre 18 for those fleeing Jazirat al-Khalidiya. Similarly, a number of IDPs fleeing from the district of al-Qayyara in Ninewa governorate were arrested from the village of Ijhala, where armed forces, including members of the Special Weapons and Tactics (SWAT) team of the Iraqi Counter-Terrorism Service and the Federal Police, were stationed, from the village of Teena and from the Asmida (Cement) checkpoint. Others have been directly seized from their homes, when Iraqi forces recaptured their villages or towns.

While some detainees are released within days, others remain in limbo for much longer. Those screened at detention facilities – rather than transit sites – are generally denied contact with their relatives and none have access to lawyers.

While undergoing screening, detainees are frequently held in inhuman and squalid conditions, characterized by severe overcrowding, shortages of latrines and other sanitation facilities, and a lack of basic necessities including personal hygiene items. Those held in transit camps, such as the "Silo", visited by Amnesty International on 30 July were at times housed outside with little protection from the scorching sun.



 ↑ Conditions at the Hajaj transit centre for internally displaced persons, commonly referred to as “Silo”, are dire. When Amnesty International visited on 30 July, thousands of men were awaiting security screenings with little protection from the scorching sun. © Amnesty International

A man from Imam Gharbi who fled his home on 20 July together with his wife, children and six other families described how his treacherous journey to reach safety ended in security screening:

“We set off at 5am to avoid being detected by Daesh, who shoot at those escaping their prison, and walked until 7pm. We did not take any of our belongings, just our clothes on our backs and our children. On the road, we were shot at by a sniper; an elderly aunt died from exhaustion... Now I am waiting for my security screening; it has been days.”⁵⁶

Pointing at a plastic sheet above his head, he commented: “This is all the protection we have from the sun.”

Conditions at the Munsha’at in Amariyat al-Falluja, which Amnesty International visited on 30 April 2016, are believed to be even worse. At the time of Amnesty International’s visit, 683 detainees were crammed into several rooms in a complex of disused warehouses with less than a square metre per detainee.⁵⁷ While hundreds were released after Amnesty International met with Prime Minister Haydar al-Abadi on 3 May, thousands more were brought in for security screening in the course of operations to retake Falluja and surrounding areas compounding already dire conditions.

An IDP originally from Albu ‘Ilwan in Karma but living in Falluja for the past two years told Amnesty International that he spent 40 days in Munsha’at before being released without charge in late July. Comparing his life under IS and his predicament after fleeing, he lamented:

“We fled injustice to be faced with more injustice. I was taken for security screening from Markaz al-Salam and brought to the Munsha’at. The first eight days I spent in the tents with thousands of other men awaiting screening; then they suspected that I was Daesh, and took me inside a large hall, where about 1,200 people were held. I spent 32 days there inside, without being allowed to get any fresh air or go outside. It was so crowded, dirty and smelly; we could barely breathe. Temperatures were over 50°C and there was no ventilation... I got a

⁵⁶ Interview, Hajaj transit camp, 30 July 2016

⁵⁷ Amnesty International, “Iraq: More than 1,000 detained in shocking conditions at counter-terrorism centres in Anbar”, 3 May 2016, available at www.amnesty.org/en/latest/news/2016/05/iraq-more-than-1000-detained-in-shocking-conditions-at-counter-terrorism-centres-in-anbar/

skin infection while there. We were given one meal a day, and warm water that wasn't even drinkable. We all shared two toilets, two water taps and one shower.”⁵⁸


Such makeshift detention centres lack adequate medical facilities and, in some instances, individuals in need of specialized medical treatment or emergency care are not transferred to medical facilities outside detention centres, purportedly on security grounds. For instance, at the peak of mass displacement from Falluja and surrounding areas in June, there were nearly 23,000 detainees crammed into makeshift facilities in Amariyat al-Falluja. Amnesty International learnt that at least three people died inside the facility in June, apparently as a result of poor conditions including lack of ventilation in the scorching heat.

Another IDP who fled from the Jolan neighbourhood of Falluja on 26 June together with his wife, seven children and mother told Amnesty International:

“We were under siege for about nine months in Falluja... We were barely surviving; all we had to eat towards the end was old dates. Daesh took our IDs to discourage us from fleeing, but we left anyway. We walked for 10 hours towards Halabsa and then Fallahat. I was taken from there with all the men, and brought to the Munsha'at. There were about 12,000 people there at the time. It was very crowded and dirty and very hot. I was staying in a tent, but those against whom there were suspicions were taken inside [the warehouse]. I stayed there for 13 days until my turn for the computer came. It was very difficult, and some older people and those with chronic diseases would lose consciousness and get sick. Some people didn't make it.”⁵⁹

6.1.2 KRG-CONTROLLED AREAS



 [↑] *Thousands of people were crammed into a temporary holding site in Dibaga, commonly referred to as the “Sim” (Wire), in squalid conditions, amid piles of rubbish and open sewage, when Amnesty International researchers visited on 9 August. Some had already been through security screening a month prior, but had yet to be transferred to the adjacent Dibaga camp. © Amnesty International*

Security screenings carried out by the Asayish generally take place in temporary holding sites near IDP camps or at makeshift reception sites in areas where IDPs first come into contact with the Peshmerga and other security forces, such as the checkpoints erected at Maktab Khaled and Dibis for IDPs fleeing Hawija, and in the town of Makhmur for IDPs fleeing villages from the Makhmur district as well as areas surrounding Mosul. During a meeting in Erbil on 18 August, Adel Botani, the Deputy Director of the Asayish Gishti, explained to Amnesty International that security checks take place on the basis of lists of “wanted names” compiled by security and intelligence agencies, photos and other intelligence, including information collected from informants.

Living conditions at temporary holding sites in the KRG are also substandard at best. For instance, when Amnesty International researchers visited on 9 August, thousands of people were crammed into a temporary

⁵⁸ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

⁵⁹ Interview, IDP camp in Khalidiya, 2 August 2016

holding site, commonly referred to as the “Sim” (Wire), in squalid conditions, amid piles of rubbish and open sewage, awaiting transfer to the adjacent Dibaga IDP camp in Makhmur district, whose population had mushroomed to about 37,000 people by September 2016. IDPs recounted being kept at the holding facility for periods exceeding 30 days, including after having completed interrogations and having their names checked against computerized databases. IDPs complained about the lack of clarity and detailed information on the exact procedures for the transfer of male IDPs from the “Sim” to the camp mosque, from where they are either allowed to leave the camp through sponsors or are reunited with their families upon assignment of tents in the camp.

A group of 25 men from the same extended family who were originally from Tikrit and had been displaced several times in the course of the past two years told Amnesty International on 9 August that they had been in the “Wire” for some 30 days, and that their IDs had yet to be returned to them even though they had undergone computer checks and interrogations. One said:

“This place is not fit for human life. Suffering has become our fate. We were suffering under Daesh from hunger and lack of services, and it is the same here... We get one meal a day, like half-cooked beans and rice; we are sleeping on top of each other on the ground with nothing but a plastic sheet over our head. Our families are at the school [in Dibaga IDP camp] and we have no idea when they will let us out of here... We are prisoners inside the Sim.”⁶⁰

6.2 ARRESTS, DETENTION AND DENIED OR DELAYED ACCESS TO FAMILIES

IDPs fleeing territories under IS control who are not cleared in initial security screenings due to suspicions of their involvement with IS are generally transferred into the custody of security bodies, most commonly the Anti-Terrorism or Anti-Crime Directorates in the case of the governorates of Anbar and Salah al-Din in central Iraq and the Asayish in areas controlled by the KRG.

Other Sunni Arabs are re-arrested from IDP camps or transit sites after being released following initial screenings. Some are also taken from checkpoints, homes or public places. In all such cases documented by Amnesty International, security forces fail to present arrest or search warrants or tell distraught families where their relatives are being taken. This breaches Article 92 of the Iraqi Code of Criminal Procedures (CCP), which requires that a person may be arrested only on the basis of a judicial warrant, other than in exceptional circumstances, the conditions for which have not been met in cases documented by Amnesty International,⁶¹ and must be informed of the reason for arrest and of any charges against them.

In most cases, no attempts are made to inform relatives of the whereabouts of detainees or provide detainees with the means to communicate with the outside world. Relatives generally only uncover detainees’ whereabouts through information provided by released detainees and at times through the International Committee of the Red Cross (ICRC). Some relatives also directly approach security officials or known detention facilities to inquire about the whereabouts of those detained or missing.

The practice of denying or severely delaying detainees’ access to their families is not limited to those picked up once they flee territories under IS control, but also for detainees arrested subsequently as well as those taken far from conflict-affected areas. In its last annual report covering events of 2015, the High Commission for Human Rights in Iraq noted that, in the course of its 84 monitoring visits to prisons throughout the year, it had documented a number of breaches to Article 14 of Memorandum 2 of 2003 on the Administration of Prisons and Detention Facilities, which grants detainees the right to communicate with the outside world including through receiving visits and written communications.⁶² Amnesty International has found that these rights continued to be trampled on in 2016.

⁶⁰ Interview, temporary holding site in Dibaga, 9 August 2016.

⁶¹ These exceptional circumstances are defined in Articles 102 and 103 of the Code of Criminal Procedures and refer to situations where a person commits an offence in front of witnesses, has escaped after being legally arrested or has been sentenced in his absence, is carrying arms, or is clearly intoxicated or confused.

⁶² High Commission for Human Rights in Iraq, *Annual report on the human rights situation in Iraq in 2015, 2016*, available at ihchr.iq/upload/upfile/ar/47.pdf

6.2.1 CENTRAL IRAQ

No official statistics are available on the numbers of people held on suspicion of involvement in terrorism-related offences by central Iraqi authorities and the PMU since the outbreak of the armed conflict against IS. Amnesty International's requests for such information, most recently in a memorandum sent to Prime Minister Haydar al-Abadi on 21 September, have gone unanswered.

In Anbar governorate alone, thousands, including children as young as 15, are held on suspicion of affiliation or support to IS. Some have been picked up during operations to retake Falluja and surrounding areas in May and June and operations to retake Jazirat a-Khalidiya launched in late June, while others have been held since late 2015 when the city of Ramadi was retaken from IS. They are held at a number of facilities including the makeshift facility of Munsha'at in Amariyat al-Falluja (also used for security screenings), the Anti-Terrorism Directorate in Habaniya and the Anti-Crime Directorate in Khalidiya. Most detainees are denied family visits. In some instances, relatives have been allowed to leave clothes, medicine and money after bribing guards, but not allowed to see detainees. Those with connections seem to be the only exceptions.

During meetings with Amnesty International on 3 August, local Amariyat al-Falluja officials justified the denial of family visits to the Munsha'at on the grounds that the facility was not equipped to receive visitors, particularly women, given the lack of space and the absence of female guards to conduct searches. As there are no functioning prisons in Anbar, transferring detainees to a more appropriate facility within the governorate was not an option. According to information provided to Amnesty International by local officials, some 2,000 detainees continued to be held in Munsha'at in September 2016.

An IDP in Amariyat al-Falluja camp told Amnesty International how he escaped from an IS prison in Falluja in mid-June together with a relative, who used to work for the police:

"We were running for our lives, with a group of former prisoners of Daesh until we met members of the Hash al-Ashairi [Tribal Mobilization] near the Markaz al-Salam checkpoint... We lifted a white flag, and we were taken to security screening together. I was released after 10 days, but he [the relative] still remains in the Munsha'at... He was in a Daesh prison on accusations that he was opposed to them and now he is detained for being Daesh. We suffered a lot in the Falluja prison, we were held together with about 50 other people in a cell of about 4m² for about two months, never allowed to go outside. We were both suspended by our limbs and beaten... given only rice and rotten dates for food. And, after all this, he is in jail again and we are not even allowed to see him and make sure he is in good health."⁶³

His relatives have been denied visits and have no information on whether he has been charged.

Relatives of a former member of the Sahawat (Sunni militia groups supported by Coalition forces in the fight against al-Qa'ida) have been prevented from seeing him and his 17-year-old son since their arrest on 14 June from the Markaz al-Salam checkpoint in Halabsa. His wife told Amnesty International:

"I heard from relatives who came out of the Munsha'at that my son and husband are detained there. But I am worried; I just want to see them. My husband's heart is weak and I want to make sure he is coping. My son is just a young boy. Why won't they let us see them or even hear their voices on the phone?"⁶⁴

A 29-year-old woman who fled the Jolan neighbourhood of Falluja on 16 June 2016 told Amnesty International that she lost her seven-year-old son on 14 August 2015 in air strikes that hit the obstetrics and children's hospital in Falluja. Pointing to her one-year-old daughter she continued:

"I was in the delivery room for this one, when the other side of the hospital was hit. I lost consciousness and was transferred to the General Falluja Hospital. I awoke to the news that my son and about six others were killed in the air strikes."⁶⁵

The family's suffering did not end with their escape from Falluja. Relatives said that security forces, including members of the Iraqi army and local fighters from the Tribal Mobilization, took away the child's 62-year-old grandfather and 17-year-old uncle from inside the an IDP camp in Khalidiya on 19 June, the day after they had been released following security screening. The family heard from released detainees that they were held at a facility controlled by the Anti-Crime Directorate in Khalidiya, but were denied access when they tried to visit. Guards neither confirmed nor denied holding them.

⁶³ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

⁶⁴ Interview, IDP camp in Khalidiya, 2 August 2016

⁶⁵ Interview, IDP camp in Khalidiya, 2 August 2016

In the city of Tikrit in Salah al-Din governorate, some of those detained on suspicion of links to IS after having fled territories controlled by IS, are held at facilities controlled by the Ministry of Interior, including General Police Directorates, the Anti-Crime Directorate and the Anti-Terrorism Directorate. While some detainees are permitted family visits twice a month on Tuesdays, others are denied this right for prolonged periods of time. For instance, relatives of a labourer and father-of-seven who fled from al-Sharqat on 27 July were denied a family visit by the Anti-Crime Directorate on 16 August without explanation. Witnesses said that he was arrested from inside the Hajaj transit camp on 28 July by members of the PMU, while awaiting his turn to undergo security screening. Relatives were first able to see him about six weeks following his arrest after he had been transferred to a facility controlled by the Anti-Terrorism Directorate in Tikrit.

6.2.2 KRG-CONTROLLED AREAS

In KRG-controlled territories, IDPs detained on suspicion of links to IS appear to be mainly held in facilities under the control of the Asayish Gishti or local Asayish branches, like those in Erbil and Kirkuk. In response to Amnesty International's request for information, in a letter dated 4 October 2016, the KRG's High Committee to Evaluate and Respond to International Reports stated that 9,089 people had been arrested by the Asayish Gishti and the Asayish branches in Erbil and Kirkuk since 2014, while a further 150 people had handed themselves over to the Peshmerga and other security forces near front lines. It remains unclear how many of these remain under investigation in facilities controlled by the Asayish, and how many had been referred to trial or released. According to the High Committee to Evaluate and Respond to International Reports, a further 450 people had been arrested by the Anti-Terrorism Directorate, of which 250 remains detained. One hundred are still under investigation, while the remainder had either been sentenced or released.

During its visits to IDP camps in the KR-I between 8 and 18 August, Amnesty International met dozens of families who had no knowledge of their detained relatives' whereabouts or welfare for weeks and even months. Some remain unaccounted for.

For instance, a distraught woman displaced to Dibaga camp from Ninewa governorate told Amnesty International on 9 August that she has had no news about her husband, a 32-year-old policeman, since he was taken by individuals witnesses identified as Kurdish forces on 18 July 2016 in the area of Hajj Ali, to where the family had fled from the village of Imam Gharbi. She told Amnesty International:

"I am here in the camp with my four children. I don't know who to ask or where to go. We fled from Daesh hoping for a better life, but now I am left with no husband, no home, and no money."⁶⁶



IDPs in Nazrawa camp cannot go to Kirkuk, some 20 km away, without having a local sponsor, a civil servant job or property in the city. Several of those living in the camp have detained relatives on suspicion of links to IS, but were unable to visit them due to restrictions on their freedom of movement. © Amnesty International

⁶⁶ Interview, IDP camp in Dibaga, 9 August 2016

Kirkuk resident Ghassan Nouri Madan, 52, has been forcibly disappeared since he was taken from his home in the Kirkuk neighbourhood of Wasitin on 4 May 2016 by three masked men in military uniform, who did not present an arrest warrant. His relatives inquired about him with the local police, the Asayish and the Directorate of General Intelligence, but received no official information. In other cases in Kirkuk, relatives had no information about those arrested until their release without charge weeks or months later. The whereabouts of a 25-year-old IDP from Hawija were unknown from his arrest from Maktab Khaled checkpoint on 2 August until late September, when he was released without ever appearing in front of a court. During his detention, relatives asked several security bodies in Kirkuk, including the police and the Asayish, but received no information. His brother told Amnesty International:

“We risked our lives to flee our village in the Rashad sub-district. We walked for about 24 hours, through valleys, dry river beds, rural areas, ground covered with thorns. We had to avoid mines and explosives, because we heard others fleeing in front of us step on them. We were also shot at by Daesh snipers and had to run, carrying our children part of the way. When we finally got to safety, my brother was taken away. He was just a farmer, and has a wife and children. I am taking care of them as well as my own six children.”⁶⁷

Some families have had no confirmation of their relatives' whereabouts for longer. Family members have not heard from or seen a government employee from the village of Ruwala since his arrest by the Asayish at the Makhmur checkpoint on 4 August 2014. He was travelling from his home when witnesses saw him stopped by security forces and led away. Relatives heard from former detainees released from the Asayish Gishti facility on the 30 Metre Road in Erbil that he was held there, but have been unable to visit since arriving in the Dibaga camp on 31 July 2016. In a letter to Amnesty International, the KRG's High Committee to Evaluate and Respond to International Reports confirmed that he was being held by Asayish Gishti due to links to IS.

Some relatives' ability to directly inquire about their loved ones in known detention facilities is constrained by restrictions to their freedom of movement outside IDP camps and onerous bureaucratic procedures. To obtain permits to access cities in KRG-controlled areas, Sunni Arab IDPs require sponsorship. To visit detainees, they also need separate permission from the local Asayish branch. This was confirmed to Amnesty International in a meeting on 18 August 2016 by the Deputy Head of the Asayish Gishti in Erbil, who justified the practice on security grounds, including the long front line between the KR-I and territories controlled by IS. At times, authorization is denied without explanation or on the grounds that the detainee is still under “investigation”. The Asayish Gishti spokesperson, who only introduced himself as Bahaa al-Din, told Amnesty International during a meeting on 30 November 2015 that detainees under “interrogation” by the Asayish cannot be visited in order to protect the integrity of the investigation and prevent communication with “terrorist networks”.

Women heads of households with young children whose husbands are detained also find it particularly difficult and costly to move outside the camps to inquire about them. Some relatives were only able to see detainees through visits organized by humanitarian organizations.

Relatives generally first receive news about detainees' location through released cell mates or “Red Cross messages” delivered through the ICRC. For instance, Kamel Adham Matlak's relatives only found out that he was held by the Anti-Terrorism Directorate in Erbil through a “Red Cross message”, months after he had been arrested at the Dibis checkpoint on 20 March 2016. The last message they received from him is dated May 2016. They have no information on whether he is facing any charges or has been brought to trial. His wife gave birth to a baby daughter in late August, and has no way to communicate the news to him. The family has been displaced from Salah al-Din governorate since mid-2015, and is currently living in an IDP camp in Kirkuk.

Mohamed Abdel Karim Mahmoud, 25, a student at the Education Faculty at Mosul University, originally from Imam Gharbi, has not been able to communicate with his family since being taken from the Dibaga camp on 15 July 2015. His father told Amnesty International that he was planning to travel from Erbil to Kirkuk to be able to resume his studies after being cut off from university following the IS takeover of Mosul. His relatives, displaced in Salah al-Din governorate, first received news through the ICRC in mid-September that he was being held in Erbil.

Military officer Mohamed Saleh Mohamed Waga'a, 45, fled IS from his home in the village of Salahiyat Makhmur at the beginning of June 2016 together with his wife and seven children. After handing themselves over to the Peshmerga in Makhmur, they were taken to the temporary holding site near the Dibaga camp. On 20 June 2016, he was taken from inside the camp by the Asayish and his family has received no news since. On 29 June 2016, his son Ayman was also arrested by the Asayish from the mosque in Dibaga camp

⁶⁷ Interview, Nazrawa camp, 10 August 2016

after having completed screening procedures. Relatives received information through the ICRC that Ayman was being held in Erbil by the Asayish Gishti, and heard rumours from former detainees that his father was held at the Asayish branch in Erbil.

6.3 PROLONGED DETENTION WITHOUT REFERRAL TO JUDICIAL AUTHORITIES

Amnesty International has documented severe delays in referring detainees arrested in the course of 2016 on suspicion of links to IS or other activities considered to be terrorism-related to judicial authorities in both territories under the control of the central Iraqi authorities and the KRG, denying suspects the right to challenge the legality of their detention and the right to be informed of the exact charges facing them. Detaining authorities flout constitutional guarantees which stipulate that “No person may be kept in custody or investigated except according to a judicial decision” (Article 37.1.b). Failing to bring suspects in front of judicial authorities is also in contravention of the Iraqi CCP, which requires that suspects are questioned by investigative judges within 24 hours of their arrest, as well as of Iraq’s obligations as a state party to the International Covenant on Civil and Political Rights. Short delays may be understandable in the context of mass arrests following the exodus of thousands of IDPs in the course of military operations to retake territories from IS, which strain the capacity of the criminal justice system. However, prolonged delays have been a chronic feature across Iraq for detainees suspected of terrorism-related offences since 2003.⁶⁸

Prior to their appearance before judicial authorities, suspects are questioned by investigators belonging to security apparatuses holding them, without the presence of lawyers. Released detainees have told Amnesty International that those detaining them did not inform them of their right to have lawyers. In fact, all released detainees and relatives of detainees interviewed by Amnesty International believed that it was “forbidden” to have a lawyer during the initial pre-arraignment interrogation phase by security officials. This flouts safeguards laid out in Article 123 of the CCP, which stipulates the right of an arrested person to be represented by legal counsel, when being questioned during the pre-arraignment and pre-trial period. The CCP also stipulates that detaining authorities must inform detainees of these rights before questioning them.

The CCP requires that pre-trial detention orders are reviewed by judicial authorities, at regular intervals, generally every 15 days. This provision is either flouted, or detention orders are extended on the basis of paper reviews in the absence of the suspect.

Some detainees are held for months, or even years, without being referred to trial, in contravention of the CCP, which sets a six-month time limit for pre-trial detention unless approved by a competent criminal court (Article 109). Some detainees are held for weeks or months and then released without ever being brought in front of judicial authorities.

6.3.1. CENTRAL IRAQ

Delays in referring suspects to judicial authorities appear to be partially due to the shortage of investigators and investigative judges. For instance, judges in investigative courts in Khalidiya, Amariyat al-Falluja and Ramadi, the only functioning investigative courts in Anbar governorate at the time of writing, confirmed that there were four investigative judges handling all cases of individuals suspected of terrorism in the governorate of Anbar. They also told Amnesty International that some of their colleagues, who had been displaced outside of Anbar since 2014, have failed to return to work after territories were recaptured from IS. This explanation for the acute shortage of judges in Anbar was also presented to Amnesty International by the Chief Prosecutor, Mohamed al-Jabani, in a meeting on 4 August. In early August, investigative judges and local officials told Amnesty International that about 2,000 people remained in detention, out of a total of 23,000 people who had undergone security screenings following operations to retake Falluja and surrounding areas since 23 May. Among them, 400 were detained based on orders by investigative judges, while, as of early August, the remaining 1,600 detainees had yet to appear before judicial authorities. Up to a thousand more had continued to be detained since Ramadi was retaken by Iraqi forces in December 2015. Only two cases had been referred to trial before the Ramadi Criminal Court, which had yet to reopen by September 2016.

⁶⁸ See Chapter 8 on Long-standing concerns in the criminal justice system.



 ↑ When Amnesty International visited on 2 August, the Ramadi Criminal Court was still under refurbishment following the takeover of the city from IS in December 2015. It is the only Criminal Court in the Anbar governorate. © Amnesty International

As prison visits are generally denied in Anbar, most relatives have no concrete information on the legal process or exact charges facing detainees, if any. Most also cannot afford private legal representation. The only news they receive on the status of their relatives generally comes from released detainees.

A 43-year-old farmer from Saqlawiya who said he was tortured by the PMU after being seized in the area of al-Athar on 3 June⁶⁹ told Amnesty International that he was detained at a facility of the Anti-Crime Directorate in Khaldiya for about a month after being handed over to local officials on 6 June. He explained:

“I would see two judges come to prison, but they did not question me. I was questioned by [security] officers. There were about 570 people detained with me. None of us knew our charges, we just knew that we were detained because they thought we had some relationship with Daesh. When I was released, I informed relatives of those I knew in prison that they were held in Khaldiya and that they were in good health.” ⁷⁰

Amnesty International has also documented prolonged detention without referral to the judicial authorities in Tikrit in the case of IDPs primarily fleeing fighting in al-Sharqat district in Salah al-Din governorate and al-Qayyara district in Ninewa governorate. According to the head of the provincial council of Salah al-Din, Ahmed Krim, as of 30 July, 200 men had been detained at a facility of the Anti-Crime Directorate in Tikrit since the start of military operations on 14 June, which propelled the exodus of tens of thousands of civilians from areas of active conflict. He claimed that about 25 detainees had been seen by an investigative judge by 30 July.

A 20-year-old student was apprehended at the Asmda checkpoint in al-Baiji district on 26 July 2016 while fleeing al-Sharqat and was held for about seven weeks in different facilities including some controlled by the Ministry of Interior. He told Amnesty International that he was released without charge and without even appearing in front of any judicial authorities.

In addition to undue delays, Amnesty International is concerned by the fact that questioning by investigative judges, when it does take place, is conducted inside detention facilities, rather than in court complexes, apparently due to the security and logistical challenges of transporting the large number of detainees to court. This practice risks deterring detainees from reporting complaints regarding their treatment in custody or from recanting “confessions” made under duress to detaining authorities.

Amnesty International is concerned that interrogations by members of security forces without the presence of lawyers, the length of detention without appearance in front of judicial authorities, the denial of family visits and lack of access to the outside world render suspects particularly vulnerable to torture and other ill-

⁶⁹ See Chapter 4

⁷⁰ Interview, IDP camp in Amariyat al-Falluja, 1 August 2016

treatment and undermine their right to a fair trial, including their right not to incriminate themselves and their right to an adequate defence. The organization's concerns are more pronounced given the well-documented pattern of the use of "confessions" extracted under torture as evidence in trials of defendants charged under the Anti-Terrorism Law as described in Chapter 8.

6.3.2 KRG-CONTROLLED AREAS

In a meeting with Amnesty International on 18 August, the Deputy Director of the Asayish Gishti claimed that suspects' files are referred to investigative judges within 24 hours of arrest, and that it was up to the investigative judges to decide whether they wanted detainees to appear in person. Judge Bengeen Qassem Mohamed Kattany, the acting head of the KR-I High Judicial Council, overseeing courts in Erbil, Dohuk, Kirkuk and Sulaymaniya, confirmed to Amnesty International in a meeting on 18 August that all suspects must be referred to investigative judges within 24 hours of arrest as per Article 123 of the Iraqi CCP, applicable in the KR-I.

Further, President Barzani's orders to security forces, most recently issued in March 2016, specified: "No civilian should be arrested without sufficient legal evidence or according to any legislative act. All cases must be relayed to a specific court which is relevant to their charges, and proceedings must be in accordance to judicial laws and regulations." In its response to Amnesty International's memorandum sent to the KRG on 21 September regarding concerns in the context of detention, the KRG's High Committee to Evaluate and Respond to International Reports also claimed that "all detainees have gone through the established legal procedures".

Legal guarantees are flouted in practice and detainees are held for prolonged periods of time without appearing before investigative judges. In fact, the spokesperson of the Asayish Gishti told Amnesty International on 30 November 2015 that the Asayish pursued interrogations alone, without taking the suspect to court, until sufficient evidence was gathered.

Some detainees have been released after having spent up to two years in detention without ever appearing in front of judicial authorities. For instance, a Sunni Arab IDP who was released in mid-August 2016 told Amnesty International that he had been detained by the Asayish Gishti in Erbil since January 2015 without being brought before an investigative judge or being referred to court. He estimated that there were about 450 people detained at the facility, divided between nine cells. He said that some, like him, had never been brought before judicial authorities. Those released without any judicial process are not provided with any documents verifying that they have been detained or indicating that they are no longer wanted in relation to any charges.

"Ahmed"⁷¹, a 51-year-old man from a village in Makhmur arrested from Dibaga mosque on 23 June 2015 was released on 9 September 2016 without any judicial process. His family first heard that he was detained at the Asayish Gishti Prison in Erbil after receiving a "Red Cross message" on 5 October 2015. They were able to visit him once throughout his detention. When they tried to visit him again, they were unable to secure permission from the Asayish branch in Makhmur to be able to travel to Erbil, where "Ahmed" was detained.

Others continue to be detained for months and even years without trial. For instance relatives and released detainees told Amnesty International that three men from the Gwer district continued to be held without trial after their arrests in September 2014, one at the Asayish Gishti in Erbil, one at the Asayish branch in Erbil and one at the Asayish branch in Shaqlawa.

The difficult situation of detainees is compounded by the fact that most do not have access to private lawyers, as a result of financial constraints as well as their inability to communicate with their families and the outside world for weeks or months after their arrest. Lawyers have also told Amnesty International that they are only able to see clients after the latter have been referred to investigative judges. While state-appointed lawyers must be present during interrogations by investigative judges or once cases are referred to criminal courts, most only meet with clients during hearings and generally do not have adequate time and facilities to prepare their defence, further undermining detainees' rights to a fair trial.

An IDP from an area north-west of Mosul told Amnesty International that, during interrogations by the Asayish at the General Police Directorate in Dohuk in October 2015, he was made to sign a statement in Kurdish without understanding its content. He said that he was not informed of his right to have a lawyer present during his interrogation while in pre-trial detention. He confirmed having a state-appointed lawyer once he was referred to the Dohuk Criminal Court on charges of belonging to IS. He was acquitted in

⁷¹ Not his real name

January 2016, but only released in July 2016, as he had to wait for the final decision of the Court of Cassation and release procedures from the Asayish Gishti prison in Erbil, which lasted for over a month.⁷²

⁷² Article 6 of the Anti-Terrorism Law in the KR-I (Law 3 of 2006) stipulates that no individual accused of terrorism-related offences can be released until a final decision is rendered in the case. The law ceased to be in force on 17 July 2016, after the KR-I parliament failed to renew it, as required every two years by Article 7 of the same law. Judicial and security officials in the KR-I told Amnesty International that, for terrorism offences committed after 17 July 2016, other relevant Iraqi legislation including the Penal Code is applied.

7. TORTURE AND OTHER ILL-TREATMENT

7.1 TORTURE AND OTHER ILL-TREATMENT AT THE HANDS OF IRAQI SECURITY FORCES AND THE PMU

Torture and other ill-treatment continue to be routinely committed by Iraqi security forces as well as



members of PMU militias in a climate of impunity, including in the governorates of Anbar, Baghdad, Diyala and Salah al-Din. According to testimonies by released detainees, relatives, lawyers and human rights activists, detainees are most vulnerable to torture and other ill-treatment when held incommunicado and interrogated by security officials, prior to their appearance

before judicial authorities. Most frequently reported methods of torture include suspension in stress positions, the use of electric shocks, beatings with various objects including metal bars and pipes, and threats of rape directed against their female relatives. Testimonies suggest that torture is used to compel suspects to “confess” or provide information on IS activities and to degrade and punish detainees for crimes committed by IS.

 [↑] *PMU militia sign on the road to Tikrit, Salah al-Din governorate. PMU militias have forcibly disappeared and arrested scores of internally displaced persons in Salah al-Din. Released detainees reported torture and other ill-treatment. © Amnesty International*

Amnesty International has documented torture and other ill-treatment committed by PMU militias and Iraqi security forces against IDPs fleeing areas controlled by IS. For instance, a former detainee told Amnesty International that he was stopped at a checkpoint near the al-Baiji oil refinery while travelling from Mafrqa al-Sharqat to Tikrit on 25 June 2016, together with 11 other relatives including two boys under the age of 18. He recalled seeing different coloured flags at the checkpoint and therefore assumed that it was manned by

members of the PMU. The 12 IDPs were then blindfolded, had their hands tied behind their backs and forced into vehicles. They were driven to what they described as a normal house, where they were interrogated about their suspected affiliation to IS and beaten with cables and wooden sticks, mainly on their backs and legs. Five days later, they were dumped on the side of the road near the checkpoint where they were initially seized.

In another case, a group of men from a village in the al-Qayyara district told Amnesty International that they were beaten at a Tuz Khurmatu checkpoint by Turkmen fighters of the PMU. They had escaped conflict in their village on 31 June 2016 by walking for hours to Ijhila village and then to the area of Hajj Ali, where they handed themselves over to Peshmerga forces. After staying at the Dibaga camp in Makhmur district for five days, they departed for Tikrit. Once the seven families travelling together reached a checkpoint manned by PMU fighters in Tuz Khurmatu, males aged 17 and over were separated from women and younger children. According to the victims and other witnesses, militiamen ordered the men to line up and then beat them with their fists and with rifle butts for about an hour, while accusing them of supporting “Daesh”. The militiamen also took their mobile SIM cards and broke them. Similar testimonies were given by other IDPs passing through the Tuz Khurmatu checkpoint on 15 July 2016.

Another IDP who fled al-Sharqat on 9 July 2016, along with approximately 600 people, told Amnesty International that members of the PMU and the Golden Brigade of the Counter-Terrorism Service at the Tulul al-Baj checkpoint degraded and insulted all the men in the group. The armed men ordered them to strip down to their underwear, run a length of the road and then sit down and look down. He said that members of the PMU claimed that their deaths were sanctioned by Islam (they used the word “halal”) as they had stayed so long under IS rule, and that they should be punished for the Speicher massacre. He added that anybody who looked up was slapped. He said, “I wished for the army to come and rescue me from Daesh, who would flog us for doing the slightest wrong, and when I flee they call me Daesh!” The men were eventually transferred to the Hajaj temporary reception centre for IDPs.⁷³

An IDP from the Sabih al-Houri village in al-Sharqat told Amnesty International that he was beaten, including with rifle butts, punched and kicked at the Asmida checkpoint in the al-Baiji district on 24 July 2016. IDPs said that various forces were present at the checkpoint including Brigade 51 of the Armed Forces, the Counter-Terrorism Service, the Salah al-Din provincial police and the Tribal Mobilization militias.

A 20-year-old student was apprehended at the Asmida checkpoint in the al-Baiji district on 26 July 2016 while fleeing al-Sharqat by what he described to be a mixed force of men in military uniform and some in civilian dress. He said that he was immediately blindfolded and driven away. He continued:

“I spent seven weeks under torture; they wanted me to confess to being Daesh. I was held with about 30 other people in a school. We were all beaten with metal rods and cables. They also used electric shocks... I was blindfolded most of this time. After 22 days, they transferred all of us to Baghdad to a prison. There were other people there, some detained for over six months and their families did not know anything about them... I was also tortured there, and interrogated once while blindfolded.”⁷⁴

He was eventually freed without charge.

An IDP from Salah al-Din governorate told Amnesty International that he was stopped by armed men in military uniform on the road from Baghdad to Samarra on 24 December 2014, while travelling with five adult relatives and 12 children. The men had emblems and flags suggesting they belonged to the PMU. He continued:

“The Hashd grabbed me and my brother. They blindfolded us, hit us with the backs of rifles and tied our hands behind our backs before forcing us into a vehicle. I think we were held in al-Shuqaq [“the Apartments”, an area in the Balad district of Salah al-Din governorate] near the area of Sayid Mohamed. I was beaten badly there with cables and metal bars. They suspended me by the arms from the ceiling. The skin on my back was scraped off as a result, and they sprayed Dettol [a make of cleaning products] on my injuries. We weren’t given any food or water in the first two days, and then very little. Militiamen pointed a gun to my head several times threatening to shoot if I didn’t tell them what they wanted. They wanted me to confess to being part of Daesh. I spent 27 days there before being taken to a police station near Dujail. The Hashd warned me not to complain to the police or anyone about what had happened. We have no news on my brother, and we are too afraid to ask.”⁷⁵

⁷³ Interview, Tikrit, 31 July 2016

⁷⁴ Telephone interview, 27 September 2016

⁷⁵ Telephone interview, June 2016

An IDP in his early thirties from Ninewa governorate, who had fled to Baghdad two weeks after IS took control of the city on 10 June 2014, told Amnesty International how he was accosted by a large group of armed men, some in military uniform and others in civilian dress, in front of a mosque where he worked as a night guard in May 2015. He said:

“They started asking me questions about who came and went to the mosque. I explained that I was a night guard and did not know. They started hitting me with metal bars, including on my head, and calling me a terrorist. I lost consciousness. I woke up 45 days later from a coma in a hospital. Someone found me and brought me to the hospital. They had left me for dead.”⁷⁶

Amnesty International has also documented torture cases at facilities under the control of the Ministries of Defence and Interior. For instance, a Sunni Arab man in his forties who fled his home and spent over two weeks at a facility controlled by Unit 17 of Brigade 55 in Baghdad in June 2016 told Amnesty International that, during interrogations, he was forced to strip down to his underwear and was subjected to electric shocks on various parts of his body including his legs and stomach. He said:

“Men in military uniform would take me out from the cell for interrogations, usually at night, and blindfold me. Interrogations lasted for hours. I was suspended for about five hours by my arms from the ceiling. They asked about people from our neighbourhood, and used sectarian slurs against me. I was one of the luckier ones: others couldn’t even walk or use the toilet without help from beatings... Eventually they took me to a rural area and just dumped me there. Before releasing me, they threatened to kill me if I complained about torture. I have moved out of my neighbourhood since then, and essentially live in hiding.”⁷⁷

He said that others held with him were subjected to similar treatment, and that some had thumb-printed “confessions” as a result.

“Amr”⁷⁸, a man from a village east of Baghdad told Amnesty International that he searched for his three brothers for three months after their arrest in February 2016 from their homes by members of the National Security Service, who did not present a warrant. He only found out that they were held at a facility in the former Muthanna military airport, where several security and intelligence bodies detain suspects, once one of the three brothers, “Loay”⁷⁹, was released. “Amr” told Amnesty International that his brother was covered in bruises and contusions, while his left arm was fractured as a result of torture. “Loay” said that one of his detained brothers had thumb-printed a “confession” under torture, while he lost contact with his other brother after they were separated in detention. After his brothers were abducted, “Amr” fled his home.

An IDP from Imam Gharbi told Amnesty International that he was tortured at a facility controlled by Iraqi armed forces and intelligence, which he identified as being part of Ninewa Operations Command, near Hajj Ali in June 2016 before being handed over to the Kurdish authorities in Makhmur. He recounted:

“We were over 50 people held in one room. Everyone was beaten. I was taken to interrogations three times, the first two times blindfolded. They beat me with a thick cable on the soles of my feet. I saw another detainee having a cigarette extinguished on his body. A boy of about 15 had hot wax poured on him. They wanted us to confess to being Daesh. I was released about three days together with about 20 other people and transferred to the Kurds [the KRG].”⁸⁰

Relatives who visit their loved ones for the first time in detention, usually weeks or months after their arrest, recount seeing visible torture marks, including bruises, scars and burns. Some also report fractures. For instance, a woman in her thirties who visited her husband at the Muqdadiya Police Directorate for the first time three months after his arrest described barely recognizing him as both his shoulders were dislocated; he had blue bruises and burn marks on several parts of his body, and some skin around his fingers and cuticles had been torn off. He was sentenced to death under the Anti-Terrorism Law in 2015.

A father-of-seven who fled al-Sharqat on 27 July 2016 and was arrested from the Hajaj transit camp the following day was first seen by his relatives on 9 September. His relatives told Amnesty International that he recounted being tied to a bed and beaten with metal rods and cables at a facility of the Anti-Crime Directorate in Tikrit.

A father-of-eight in his forties from a village in Yathrib in Salah al-Din governorate was first seen by relatives three months after his detention in October 2015. His relatives told Amnesty International that he was

⁷⁶ Telephone interview, 25 September 2016

⁷⁷ Interview, Baghdad, 4 August 2016

⁷⁸ Not his real name.

⁷⁹ Not his real name.

⁸⁰ Interview, IDP camp in Dibaga, 9 August 2016

covered in scars. During the visit, he described being suspended from the ceiling for hours and given electric shocks at the Ishaqi Police Directorate, where he was questioned and eventually “confessed” to assisting IS. Relatives of detainees also reported the use of similar torture methods at the Dujail Police Directorate. A woman from a village in Yathrib, who has been living in IDP camps in Sulaymaniya, recounted to Amnesty International seeing her detained brother, who was 23 years old, at the Dujail Police Station in July 2016:

“I could barely recognize him. They used electric shocks, and his shoulder was dislocated. They accuse him of being Daesh. He is my only brother, and has four young children. Who can look after them now?”⁸¹

Detainees released in June and July 2016 from facilities under the control of the Anti-Crime Directorate in Khalidiya and in Amariyat al-Falluja also reported beatings. For instance, a man who spent 40 days in the Munsha’at in Amariyat al-Falluja, including several days in the custody of the Anti-Crime Directorate, reported being beaten with cables, kicked by guards in military boots and punched. He showed Amnesty International researchers bruises and scars consistent with his account. He was eventually released without charge.

7.2 TORTURE AND OTHER ILL-TREATMENT AT THE HANDS OF THE ASAYISH

Former detainees report beatings and other ill-treatment in some facilities controlled by the Asayish, particularly in the initial period of their detention. It appears that detainees are subjected to such treatment to punish them for crimes committed by IS or to extract information from them. A number of former detainees interviewed by Amnesty International, currently living in territories controlled by the KRG, also appeared reluctant to complain about ill-treatment, telling the organization’s researchers that they were just relieved to be at liberty and wished to move on with their lives. Those who recounted their experiences only agreed to do so if their identities were concealed out of fear of reprisals.

A number of IDPs who were detained by the Asayish in Makhmur for periods ranging from a few days to about two weeks told Amnesty International that they were slapped, beaten with cables and insulted during interrogations. None had lawyers present during questioning. From Makhmur, detainees were either released without charge or transferred to facilities controlled by the Asayish in Erbil.

Former detainees also told Amnesty International that they were beaten after being arrested in July 2016 at the Dibis checkpoint by the Asayish. One recounted being held by the Asayish in Dibis for six days in July 2016 in a cell with about 115 other men, mainly Sunni Arabs from villages around Hawija district. He said that he was beaten by cables and given electric shocks. After six days, he was transferred to the Asayish Gishti headquarters in Erbil, while blindfolded and with his hands tied behind his back. He spent 17 days in detention before being interrogated by a committee and released without charge together with dozens of others. Amnesty International gathered similar testimonies from former detainees regarding beatings by the Asayish in Dibis.

Two Sunni Arab men arrested in December 2013 and released upon acquittal in March 2016 told Amnesty International that they were subjected to various forms of torture at an Asayish facility in Dohuk, which they said was located in the former al-Balda Hotel. They said they were sexually abused by being forced to sit on bottles, given electric shocks and beaten. They said their treatment became markedly worse in 2015, after the IS takeover of large parts of Iraq.

7.2.1 HANDOVER OF SUSPECTS TO CENTRAL IRAQI AUTHORITIES

The KRG authorities have given Amnesty International contradictory statements about how they handle cases of individuals arrested by KRG security forces on suspicion of involvement in terrorist acts or other security crimes committed in other parts of Iraq. The Deputy Director of Asayish Gishti told Amnesty International on 18 August that their mandate was limited to investigating and prosecuting crimes committed against the KR-I, while individuals suspected of committing crimes in territories under central Iraqi government control are handed over to the authorities in Baghdad. The head of investigations at the Anti-Terrorism Directorate also told Amnesty International in a meeting on 15 August that suspects are handed over to the authorities in Baghdad, but only after specific requests are made and the necessary paperwork is

⁸¹ Interview, IDP camp in Arbat, 16 August 2016

completed. In its written response to Amnesty International's questions sent on 4 October, the KRG's High Committee to Evaluate and Respond to International Reports also reiterated that a "detainee" could be transferred to central Iraq "if proven to be involved in acts of terrorism, and went through the legal proceedings of a certain court in the Kurdistan Region". By contrast, the spokesperson of the Asayish Gishtî told Amnesty International on 30 November 2015 that no detainees were transferred to central authorities "due to torture concerns". Further, in a meeting with Amnesty International on 18 August, the head of the Judicial Council of the KR-I insisted that courts in the KR-I can try terrorism-related crimes committed in other parts of Iraq, given the nature of the crime. This view was reiterated by the KRG's High Committee to Evaluate and Respond to International Reports.

In practice, Amnesty International has documented a number of cases of detainees being handed over to the central Iraqi authorities by the Asayish branch in Sulaymaniya without consideration of the risk of torture or other serious human rights violations. For instance, a 23-year-old IDP from Salah al-Din governorate was arrested in late 2015 from Arbat IDP camp in Sulaymaniya, after having fled there some six months before. He was transferred from Sulaymaniya to a detention facility in Ishaqi and then to Duail Prison, both in Salah al-Din governorate. When his relatives first visited him, he told them that he had been tortured including with the use of electric shocks. His relatives recalled that several of his nails had been pulled out. At the time of writing, he had yet to be referred to trial.

7.3 LEGAL SAFEGUARDS AND IMPUNITY

Torture and the reliance on confessions and other statements extracted through coercion or torture are prohibited by Iraq's Constitution (Article 37. 1.c) and under Iraqi law. For instance, Article 127 of the CCP criminalizes the "use of any illegal means to influence the accused to secure his statement. Mistreatment, threatening to harm, inducement, threats, menace, psychological influence... are all considered illegal means."

Further, the Penal Code, in Article 333, provides that "any employee or public servant who tortures, or orders the torture of an accused, witness, or expert in order to compel that person to confess to committing a crime, to give a statement or information, to hide certain matters, or to give a specific opinion will be punished by imprisonment or detention. The use of force or threats is considered to be torture".

In practice, neither the Iraqi nor the Kurdish authorities have demonstrated any political will to investigate allegations of torture and other ill-treatment or to bring those responsible to justice. Despite numerous requests by Amnesty International in government meetings and in writing, most recently in memorandums sent to the central Iraqi and KRG authorities on 21 September, no information has been provided on whether any members of security forces or paramilitary militias have been investigated and referred to trial for torturing or otherwise ill-treating detainees.

In a meeting with Amnesty International on 4 August Mohamed al-Janabi, the Chief Prosecutor of the Iraqi central government, pointed to the High Judicial Council's establishment on 11 January 2014 of investigative courts in the jurisdiction of every appeals court specialized in addressing complaints of human rights violations including torture, but did not provide any statistics on the number of cases such courts have handled since their establishment. When Amnesty International visited one of the two appeals courts in Baghdad, the Karkh Appeals Court, on 8 August, and met with its attorney general and the investigative judge responsible for investigating allegations of human rights violations, it did not receive a clear answer as to the number of cases the Investigative Court in Karkh had reviewed since its establishment in 2014, and whether it had actually referred any suspects to trial. The investigative judge told Amnesty International that two cases were under investigation at the time, but refused to provide any details.

Iraqi law also provides for independent monitoring of prisons and other detention facilities by the public prosecution and the High Commission for Human Rights. In its last annual report, covering events in 2015, the High Commission for Human Rights claimed that it documented a number of torture cases during its visits to prisons and detention facilities under the Ministries of Justice, Defence and Interior. It also reported receiving 10 separate complaints regarding torture in the course of 2015. The Commission pointed out that, despite its right to conduct unannounced visits to detention facilities as per Article 5 of Law 53 of 2008 of the High Commission of Human Rights, in practice it was unable to conduct such visits without prior co-ordination with prison authorities, which it claimed created difficulties in "documenting allegations of torture or knowing the reality of the prisons' situation."⁸² The Commission had not visited any facilities under PMU

⁸² High Commission for Human Rights in Iraq, *Annual report on the human rights situation in Iraq in 2015, 2016*, available at ihchr.iq/upload/upfile/ar/47.pdf

control. Further, it recommended that the public prosecution play a more effective role in monitoring the situation of prisons through conducting regular visits to prisons as per Article 7 of Law 159 of 1979 of the Public Prosecution. None of the former detainees interviewed by Amnesty International were ever visited by members of the public prosecution in the course of their incarceration or were aware of their right to submit complaints to the prison administration.

Amnesty International is also not aware of any members of the Asayish or other security forces in the KR-I being held to account for torturing or otherwise ill-treating detainees. In a meeting with Amnesty International in November 2015, the spokesperson of the Asayish claimed that no torture or other ill-treatment occurs in facilities under Asayish control, while admitting to waking suspects up several times throughout the night for interrogations to expedite the process. When asked about the number of Asayish or other security officials investigated or referred to trial on charges of torturing or otherwise ill-treating detainees in a meeting on 18 August with Amnesty International, Judge Bengreen Qassem Mohamed Kattany, the acting head of the KR-I High Judicial Council, referred to the cases of two police officers convicted of torture in the 1990s. He did not recall any cases since 2003. In their written response sent to Amnesty International on 4 October, the KRG authorities claimed that there have been no confirmed cases of torture or “other physical abuse” by the Asayish, while reiterating the KRG’s commitment to investigate any such allegations.

8. LONG-STANDING CONCERNS IN THE CRIMINAL JUSTICE SYSTEM IN IRAQ

Ongoing abuses in the context of arrest and detention of individuals suspected of links to IS, described in Chapter 6, risk perpetuating patterns of human rights violations in the administration of justice in Iraq consistently documented by Amnesty International since the 2003 US-led invasion and occupation of the country.⁸³ Iraqi courts have a legacy of sentencing defendants to long prison terms and death following proceedings falling far short of international standards for fair trial.

Since the fall of Saddam Hussein, tens of thousands of Iraqis have been rounded up by security forces or pro-government militias without warrant on suspicion of belonging to or supporting armed groups, most recently IS, or carrying out “terrorist acts”. Thousands have since disappeared or have been killed in custody. Many have been held for weeks, months or in some cases years without any contact with the outside world, in conditions that amount to enforced disappearance and facilitate torture and other ill-treatment. Even when brought before investigative judges and referred to trial, mainly on charges under the Anti-Terrorism Law, following severe delays, defendants’ rights to a fair trial, most notably the right to adequate defence, the right not to incriminate oneself and the right to cross-examine prosecution witnesses have been routinely flouted. Courts have been consistently convicting defendants based on coerced “confessions” and torture-tainted evidence, including in capital cases. Even those defendants who complained about torture during investigations in front of courts and recanted their “confessions” found themselves convicted and in some cases sentenced to death without their allegations being investigated.

The vast majority of those held or convicted on the basis of the Anti-Terrorism Law are Sunni Arabs – leading to common grievances among the community that the criminal justice system has been used as a tool for revenge for crimes committed by armed groups such as IS or al-Qa’ida, rather than for the delivery of justice. Many have lost faith in the criminal justice system, they perceive as politicized, corrupt and complicit in violations committed by security forces and paramilitary militias in the context of arrest and detention. This lack of trust in the judiciary coupled with fears of reprisals, particularly in the absence of any victim or witness protection mechanisms, deter many survivors and relatives of those killed or missing from lodging official complaints.

The plight of detainees and their families is compounded by the severe shortage of competent lawyers willing to take up the defence of clients accused of involvement in “terrorism” offences and cases of complaints of human rights abuses against security forces and militias. Lawyers involved in such cases told Amnesty International that they are frequently subjected to threats and intimidation by security forces and PMU

⁸³ See Amnesty International, *Iraq: A decade of abuses* (Index: MDE 14/001/2013), 11 March 2013, available at www.amnesty.org/en/documents/MDE14/001/2013/en/

militias. This situation leaves relatives vulnerable to exploitation by opportunistic private lawyers, who extort large sums of money from desperate families and frequently fail to adequately communicate with defendants and with their relatives, inform them of their rights, share case documentation or even attend hearings in court.

In late 2012, protests flared up in governorates with sizeable Sunni populations against abuses in the criminal justice system, among other issues. Protesters called for the adoption of an amnesty law and the release of “innocent detainees”. The government’s failure to address these and other grievances contributed to the escalation of violence in late 2013 in Anbar and was exploited by IS to seize territory and expand their presence and control in western, central and northern Iraq. Rather than learning from past mistakes, Iraqi authorities have shown little political will to reform the criminal justice system, investigate allegations of torture and other ill-treatment in detention and uphold fair trial rights.

8.1 COURTS’ USE OF “CONFESSIONS” EXTRACTED UNDER TORTURE

Old patterns have persisted, while impunity for violations remained entrenched. To date, courts continue to admit into evidence “confessions” and other statements marred by allegations of being extracted under torture or duress and do not address widespread breaches of procedure. Relatives, lawyers, activists and others have told Amnesty International that dozens of defendants sentenced to death or prison terms in 2015 and 2016 were convicted on the basis of “confessions” extracted under torture or duress. Court rulings reviewed by Amnesty International corroborate their accounts and demonstrate that judges continue to admit “confessions” marred by allegations of torture into evidence, frequently placing the burden of proof on defendants and failing to order independent investigations into defendants’ claims.

For instance, in February 2016, the Central Criminal Court of Iraq in Baghdad sentenced four defendants to death after convicting them, under the Anti-Terrorism Law, on charges of abducting and killing a man. The court relied on defendants’ “confessions” to reach its verdict, even though they recanted them, claiming that they were made under duress. The court ruling, seen by Amnesty International, dismisses their allegations on the grounds that they were not supported by “any medical report”. The court further stated that the defendants’ confessions were consistent with statements made by a witness and the killed victim’s relative, neither of whom appeared in court, denying the defence the possibility to cross-examine them. Relatives of one of the convicted men told Amnesty International that he had been arrested in May 2009 at a checkpoint in Baghdad, held in incommunicado detention for months in facilities controlled by the Ministry of Interior and tortured. When his relatives first saw him, seven months after his arrest, they said that he still bore signs of torture and told them he had been suspended by his limbs from the ceiling, given electric shocks and beaten.

In January 2016, the Central Criminal Court sentenced two men to death by hanging under the Anti-Terrorism Law for abducting and killing a man in 2005. In its ruling, examined by Amnesty International, the court relied heavily on the two men’s statements, which it said corresponded to the content of the victim’s brother’s statement and the victim’s forensic report. Relatives of one of the convicted men told Amnesty International that he was held in solitary confinement for three months, during which time he was tortured, including by being suspended by his limbs from the ceiling for 14 days, and thumb-printed a statement as a result.

The Central Criminal Court sentenced a Sunni Arab resident of Baghdad to death on 19 October 2015. He was convicted of belonging to a terrorist group, abduction and murder under the Anti-Terrorism Law. His relatives told Amnesty International that, after his arrest from a street in Baghdad in 2007, he had signed a “confession” as a result of torture in a facility under the control of the Ministry of Defence. In a ruling seen by Amnesty International, the Central Criminal Court dismissed claims he made in court about confessing under duress, and refused to refer him to forensics on the grounds that it would be impossible to determine the “nature and time period of their [the injuries’] occurrence” as more than six months had passed since the alleged incident. His mother lamented to Amnesty International:

“I cannot describe in words the suffering of Iraqi detainees and their families. My son still has visible scars on his body, which he showed me during a [prison] visit, and yet the judge just refused to send him to forensics. I

have been running from prison to prison, court to court to try to help my son, who was the only one providing for our family. I don't know where to turn any more. There is no justice in this country.”⁸⁴


In November 2015, the Central Criminal Court in Baghdad convicted an IDP from Anbar to 15 years imprisonment for an attempted attack with the use of an improvised explosive device on the basis of evidence marred by allegations of torture. In its verdict, seen by Amnesty International, the Central Criminal Court acknowledged the defendant's claims that his “confession” was made under “duress”, but dismissed them on the grounds that his “confession” was “detailed and elaborate”. According to the forensic report issued about two months before the verdict and examined by Amnesty International, the defendant had five scars on the back of his head, lower lip and other parts of his body. The report also indicated that the defendant was being sent for X-rays as both his shoulders were dislocated. Relatives told Amnesty International that he was tortured while detained at a facility under the control of the Ministry of Interior, where he said he thumb-printed a “confession” while blindfolded. The verdict was upheld by the Court of Cassation in June 2016.

Those sentenced by criminal courts have the right to appeal to the Court of Cassation. However, the Court of Cassation has frequently based its decisions on a paper review of the verdict and dossiers without a re-examination of the evidence, although it was entitled to call in plaintiffs, defendants and representatives of the public prosecution to testify or “for any purpose enabling the establishment of truth” (Articles 258 and 259 of the CCP). Final decisions in capital cases upheld by the Court of Cassation are then sent to the President for ratification, before an execution can be carried out.

8.2 APPLICATION OF THE DEATH PENALTY

Despite flagrant violations of due process, including in capital cases, the Iraqi authorities continue to carry out executions. In 2016, the authorities announced 88 executions, while at least 123 people were sentenced to death. The Iraqi authorities have come under increasing political and public pressure to speed up executions, particularly following the deadly attack on Karrada, a shopping district in Baghdad, on 2 July 2016, which claimed nearly 300 lives. In the wake of the attack, the Ministry of Justice announced that seven executions were carried out on 4 and 5 July. It stated that there were up to 3,000 individuals on death row.⁸⁵ Amendments were also introduced to Iraq's CCP on 12 July making it more difficult for defendants sentenced to death to seek a retrial. On 21 August, the Iraqi authorities carried out executions of 36 men convicted of the killing of 1,700 military cadets at Speicher military camp near Tikrit in June 2014 after a deeply flawed mass trial which lasted only a few hours and relied on “confessions” extracted under torture.



 ↑ *Father still looking for the body of his son, among the some 300 people killed in the 2 July Karrada neighbourhood bombing in Baghdad. The Iraqi authorities carried out an increasing number of executions since the attack, following public pressure to “punish terrorists”. © Amnesty International*

⁸⁴ Telephone interview, 20 September 2016

⁸⁵ Ministry of Justice website, “Statement issued by Ministry of Justice”, 4 July 2016, available at www.moj.gov.iq/view.2459/

Amnesty International had raised the Speicher trial case during a meeting in Baghdad on 4 August 2016 with the Special Committee in the Presidency Office established in 2015 to speed up executions and explicitly appealed for the President not to ratify the death sentences for these men. During the meeting, the head of the Committee, Khalid Shwani, assured Amnesty International that all death sentences were reviewed carefully to ensure that there were no procedural deficiencies and unaddressed torture allegations. He said that a backlog of about 550 cases was left by former President Jalal Talabani, who refused to ratify executions, while an additional 43 cases had been sent to the Presidency since President Fuad Massoun assumed the position in July 2014 – leaving some 2,900 individuals on death row.

8.3 GENERAL AMNESTY LAW

Following debates lasting several years, the Iraqi parliament passed the General Amnesty Law on 25 August 2016, with the declared aim of “fostering the spirit of tolerance and reform in society”. The law was supported by several Sunni politicians, as well as the Sadrist bloc (supporters of Shi’a cleric Muqtada al-Sadr) seeking amnesties for members of the Mahdi Army armed group and affiliates sentenced to death for acts against the US-led Coalition forces. Proponents of this law argued that could redress some cases of arbitrary detention of Sunni Arab men held under the Anti-Terrorism Law and reduce the number of “security” detainees. While containing some provisions which might lead to the retrial of individuals convicted on the basis of “confessions” extracted under torture and might remedy some delays in referring suspects to trial, the General Amnesty Law is no silver bullet to reform Iraq’s criminal justice system and may lead to immunity from prosecution for individuals suspected of crimes under international law.

The general amnesty for individuals convicted to prison terms and death excluded 13 types of crimes including “terrorist crimes that resulted in death or permanent disability and the crime of destroying state institutions and the crime of fighting against Iraqi armed forces and any other terrorist act, to which he [person to be excluded] contributed through aid, incitement or agreement”. Amnesties are also contingent upon plaintiffs or victims’ relatives withdrawing complaints. Even for these excluded crimes, the law did explicitly grant the right for judicial review of cases where individuals were convicted on the basis of “confessions” extracted under “duress” and cases of judicial proceedings initiated on the basis of evidence provided by a “secret informant”⁸⁶ or “confessions” by other suspects. The review is to be conducted by a judicial committee, established for that purpose (hereafter “the implementing committee”), which can decide to order a retrial or re-open criminal investigations. The right to appeal the committee’s decision is also guaranteed before the Court of Cassation for felony cases and before the Court of Appeals for misdemeanour cases.

Instructions issued by the High Judicial Council regarding the implementation of the General Amnesty Law specified that proof would be needed to demonstrate that verdicts were based on one of these elements: confessions by other defendants, statements made under duress or secret informants. In practice, this appears to place the burden of proof on defendants, and presumes that procedures were respected during trial (e.g. court documents and verdicts registered detainees’ complaints of torture). Amnesty International has documented cases where judges dismissed complaints of torture made by defendants, as well as cases where defendants did not raise concerns regarding their treatment fearing retaliation. The judicial committee should therefore independently and impartially investigate all allegations of torture made by detainees or prisoners requesting review.

The General Amnesty Law appears to recognize that the CCP is flouted in practice. Article 12 calls on security and military bodies as well as courts to refer to the implementing committee the files and documents of suspects who have been detained for more than three months without being brought before judicial authorities. It also calls for the referral of detainees investigated for over 18 months without either being brought to trial or released to the implementing committee. It remains to be seen whether the law will be implemented in practice, as guarantees already exist in the Iraqi CCP to ensure that suspects are brought before judicial authorities within 24 hours of arrest and that they are referred to trial within six months, unless delays are approved by a competent court.

It remains unclear how the justice system, already suffering from severe shortages of judges and prosecutors, will be able to adequately and fairly review all eligible cases within the specified time frame. The instructions clarify that the implementing committee will accept requests for review for a period of six

⁸⁶ Informants whose identities are not revealed, therefore their testimony cannot be challenged by defendants.

months. It is also unclear how prisoners and detainees who do not have private lawyers or are held incommunicado will be informed of their rights to present requests for review within this time frame.

While the law is perceived by some observers as an attempt at national reconciliation, and a mechanism to provide a remedy for Sunni Arabs arbitrarily swept up on security and terrorism charges, there are risks that the law will actually provide amnesties for crimes under international law committed by security forces or pro-government fighters. While genocide, war crimes and crimes against humanity are excluded from the law's provisions, torture and enforced disappearance that are committed outside the context of armed conflict are not. Abductions are only excluded if they resulted in the death or permanent injury of the victims, or their fate remains unknown.

9. CONTINUAL FORCED DISPLACEMENT AND RESTRICTIONS ON THE FREEDOM OF MOVEMENT

Some 3.4 million Iraqis had been displaced by the conflict as of September 2016.⁸⁷ While members of all of Iraq's ethnic and religious communities are among those displaced, movement restrictions are imposed almost exclusively on Sunni Arab IDPs by the Iraqi security forces and PMU militias in central Iraq and by Kurdish authorities in the KR-I and the disputed territories in the north of the country.


The restrictions have become more stringent in the past year, as Iraqi and Kurdish forces have advanced and recaptured large areas from IS, and large numbers of Sunni Arab residents of those areas have been displaced by the fighting.



Many families have been displaced multiple times, having found themselves at risk again and again in the very places where they had sought sanctuary or having been forced to leave their shelters for economic or bureaucratic reasons.

Hassan Abdallah, his wife and 11 children, from the Yousifiya area in Baghdad, who were sheltering in an IDP camp south of Baghdad in early October, have been displaced five times in the past nine years, during which his two oldest sons were killed: 20-year-old Sa'ad by al-Qa'ida in 2007 and 21-year-old Ibrahim by IS in April 2016. The IS gunmen who killed Ibrahim also burned down the family home. On 27 July 2016 a mortar landed in the IDP camp where the family was sheltering, injuring two of their children, four-year-old Khadija (Lali) and five-year-old Muthanna. Hassan told Amnesty International:

“We have been running from place to place for years; we are exhausted. We have lost everything, our children, our home and above all we have lost hope. What future is there for my children?”

←  Conditions in Salam camp are dire. The camp has come under attack several times in 2016, including on 27 July, leading to the injury of four children. © Amnesty International

⁸⁷ According to the Displacement Tracking Matrix of the International Organization for Migration iraqdtm.iom.int/ (DTM tab).

Hassan described the family's latest move:

“On 2 April 2016, at 9.30 in the evening, IS terrorists broke into our home and accused my son Ibrahim of being a member of a pro-government militia, which was not true; he was just working with me to cultivate vegetables and raise chickens. They took Ibrahim and handcuffed him and poured petrol over us and said they were going to burn us all. The children were crying. In the end they let us out but took Ibrahim away and burned down our home and our car. After they left I found Ibrahim’s body nearby. They had shot him in the head. We fled again and came here. But even here we are not safe. Last week [27 July] two of my little children were injured when a mortar struck here in the camp... There have been several such attacks in recent months, killing and injuring other children. One of my sons is disabled and cannot walk; he cannot run away if there is an attack. We are not safe here but we don’t have anywhere else to go. May God help us!”⁸⁸

Those displaced are today not only homeless and destitute, as many earned their living from farming and animal rearing on their land, but are also subject to stringent movement restrictions which make it difficult or impossible for them to access the job market and force them to depend on humanitarian aid, which remains woefully inadequate.⁸⁹

IDPs have to navigate frequently changing and opaque bureaucratic procedures to access cities and move to other parts of the country or even within the same governorates. Such movements are conditional to them producing various documents, some of which are difficult or impossible to obtain, and generally require local sponsors, who in some cases must be civil servants. Allegations of corruption are widespread, with IDPs frequently complaining that they need to pay bribes to be allowed passage into cities or to other governorates or areas. Such restrictions on freedom of movement are not imposed on specific individuals reasonably suspected of having committed an offence, as they are detained by both Iraqi and Kurdish authorities (see Chapter 6). Rather, they are imposed on Sunni Arab IDPs in general, who appear to be collectively regarded as potentially linked to or supportive of IS.

9.1 AREAS UNDER THE CONTROL OF THE IRAQI CENTRAL GOVERNMENT

In the governorate of Anbar, where more people have been displaced by the conflict than anywhere else in Iraq, IDPs face stringent requirements to be able to enter Baghdad governorate. They also face periodic closures of the Bzeibiz Bridge, which connects the two governorates. In the space of a few weeks in April and May 2015, some 180,000 Sunni Arabs fled fighting in Ramadi. Even though Ramadi is only 120km from Baghdad, the displaced were stranded for days in dire conditions at the Bzeibiz Bridge, unable to enter the Baghdad governorate if they did not have a sponsor in the capital.⁹⁰ Fighting intensified again around Ramadi in December 2015, when the city was eventually recaptured from IS, resulting in another large wave of displacement. And again displaced families faced untold difficulties trying to reach safety. The problem continued and became more acute when military operations in May and June 2016 to recapture Falluja and surrounding areas forced an additional 87,000 people from their homes. Even though the IDP camps in Anbar were struggling to cope with large influx of people, few were allowed to leave the governorate for other areas, and the displaced were stranded in dire conditions for weeks.⁹¹

Accessing Baghdad from Anbar has been particularly difficult since 2015, with IDPs having to obtain and variety of documents and secure one or two sponsors from Baghdad,⁹² a requirement which is costly and time-consuming at best and outright impossible to fulfil for many because they cannot obtain the necessary documents from the authorities of their original place of residence and/or cannot secure sponsors from Baghdad.

⁸⁸ Interview, Salam IDP camp, Baghdad, 6 August 2016.

⁸⁹ As of 1 September 2016, only 53% of the requirements set out in the Iraq Humanitarian Response Plan had been met and the flash appeal launched to respond to humanitarian needs in Mosul had not yet been funded. Global Humanitarian Assistance, “Crisis Briefing”, 1 September 2016, available at www.globalhumanitarianassistance.org/wp-content/uploads/2016/09/Development-Initiatives_START_Briefing_Iraq-Mosul_Final.pdf

⁹⁰ UNHCR, “Thousands fleeing violence in Ramadi and surrounds struggle to reach safety”, 29 May 2015, available at www.unhcr.org/uk/news/briefing/2015/5/55685b376/thousands-fleeing-violence-ramadi-surrounds-struggle-reach-safety.html

⁹¹ World Food Programme, “WFP Alarmed At Dire Conditions For More Than 85,000 People Who Have Fled Fallujah”, 27 June 2016, available at www.wfp.org/news/news-release/wfp-alarmed-dire-conditions-more-85000-people-who-have-fled-fallujah

⁹² For more details see Ceasefire Centre for Civilian Rights and Minority Rights Group International, Iraq’s Displacement Crisis: Security and protection, March 2016, available at minorityrights.org/wp-content/uploads/2016/04/CEASEFIRE-report_ENGLISH_march-2016_210x297mm_WEB.pdf

When Amnesty International visited Amariyat al-Falluja at the end of April 2016, hundreds of IDPs were stranded at the Bzeibiz Bridge, unable to cross into the Baghdad governorate. Many were women, children and elderly men, including sick people who were desperate to reach hospitals in the capital or other cities. Aswan, a 65-year-old widow from Mosul, told Amnesty International:

“I have been here for eight days and have not been able to cross the bridge. I have been sleeping on the ground because there is nothing here. I need to go to Baghdad to get my husband’s pension, which is my sole income but I have not been able to receive it for a year and a half because I was stuck in a place controlled by Daesh and I could not leave because Daesh did not allow anyone to leave. It was very difficult and exhausting to escape from Daesh and get here, and now I find myself in this terrible situation.”⁹³



 → IDPs have to secure a sponsor to obtain permission to cross the Bzeibiz Bridge to Baghdad. An increasing number of IDPs have been crossing the bridge from Baghdad to Anbar to return to areas recaptured by the Iraqi forces including the city of Ramadi. © Amnesty International

IDPs are subjected to restrictions on their movements even after they have undergone the security screening. In an IDP camp in Amariyat al-Falluja, Na'im, a father of eight, from Ramadi told Amnesty International:

“I just want to go to Baghdad or Kirkuk because there I could find some work and provide for my family. Here there is no work and we receive little help and it is humiliating to have to wait for food handouts. I just want to work.”⁹⁴

Women heads of families often face additional challenges, especially if their husbands are missing or detained. Samia, a 45-year-old woman from Anbar sheltering in an IDP camp in Amariyat al-Falluja, told Amnesty International:

“My husband has been missing since 2014, when he was abducted by Daesh. Now I am alone with my children and I can't get the papers they ask for in order to let me cross to Baghdad and I don't know anyone in Baghdad who can give me a guarantee. If I could get to Baghdad I could get my husband's pension. The officials I spoke to told

⁹³ Interview, Anbar, 30 April 2016

⁹⁴ Interview, Amariyat al-Falluja IDP camp, 1 August 2016

me that my husband probably joined Daesh but it is not true, but I have no proof that he is dead or imprisoned and I don't know anyone who can help me.”⁹⁵

Some IDPs who managed to enter Baghdad governorate without all the necessary documents by paying bribes are sheltering in IDP camps or with host communities west of the capital cannot go into town without necessary permits in case they are stopped at checkpoints. Samir, an IDP from Falluja who has been sheltering in the western outskirts of the capital, told Amnesty International:

“I paid a hefty sum to be able to get here and now I'm stuck and can't go look for work in Baghdad because if I get caught without a permit I'll be arrested or worse. Here in this area it is very difficult to find work. There are too many displaced people and too little work. So my family and I are surviving mostly on charity.”⁹⁶

The nearly 100,000 people who fled the districts of al-Sharqat in Salah al-Din governorate and al-Qayyara in Ninewa governorate since fighting intensified in June 2016 are also facing restrictions on their freedom of movement. For instance, IDPs from al-Sharqat and surrounding areas require a sponsor to leave the transit site in Hajaj, and access cities such as Tikrit. Since mid-August 2016, procedures have become more onerous as sponsors are now required to obtain a “security form” from the Salah al-Din Operations Command, which also needs to be approved by several security and intelligence bodies including the Anti-Terrorism Directorate. As a result, men who had undergone security screenings remain trapped inside the transit site in squalid conditions.

Families displaced from villages around al-Qayyara, a town about 30km south of Mosul, who are sheltering in schools in al-'Alam, in Salah al-Din governorate, told Amnesty International in late July 2016 that some of their male relatives who had been cleared in the screening process at the Hajaj transit site were stuck there because they could not find sponsors to vouch for them. “To get a sponsor you need to know someone or pay, or both, and I don't know the right people here and don't have any money, so my husband is stranded in Hajaj and I'm here with my small children and no help,” a young mother of three told Amnesty International.⁹⁷

In other parts of the country, notably in the areas with a mixed population where sectarian violence has been rife since the outbreak of the Sunni-Shi'a civil strife in 2006,⁹⁸ Sunni IDPs are being barred altogether from returning to their towns and villages.

For example, the small town of Jurf al-Sakhr, some 60km south-west of Baghdad, was emptied of its mostly Sunni residents in October 2014, when the town was recaptured from IS by Iraqi forces and militias.⁹⁹ To date not a single resident has been allowed to return by the militias who control it, notably Kata'ib Hizbullah, known for having committed widespread abuses against Sunni residents in the area and elsewhere. Residents of the town who had stayed throughout the fighting told Amnesty International that they had been forced to leave by militia members after the fighting had ended. Amr, one of the residents, said:

“The militias marched us out of our home by force after the battle was over and Daesh had been kicked out, and now they are saying to the media that they evacuated us for our protection; whereas we had stayed in our home while the two sides fired at each other over our heads. Then they forced us out and told us we will never be allowed back, and if nobody helps us they will have it their way.”¹⁰⁰

Thousands of residents of dozens of Arab villages around the predominantly Shi'a town of Amerli, which were emptied of their residents and irreparably damaged in late 2014 and early 2015, continue to be prevented from returning to their villages. Mohammed, an elderly resident of Maftoul village, told Amnesty International that, two years on from the destruction, he is beginning to lose hope of ever returning home:

⁹⁵ Interview, Amiriya al-Falluja IDP camp, 1 August 2016

⁹⁶ Interview, Near Amiriya district, outskirts of Baghdad, 6 August 2016

⁹⁷ Interview, Al-'Alam, 31 July 2016

⁹⁸ An unprecedented wave of sectarian violence was unleashed following the bombing by Sunni militants linked to al-Qa'ida of the Askari mosque, a Shi'a shrine in Samarra, north of the capital. See for example UNHCR, High Commissioner's Middle East mission, February 2007, available at www.unhcr.org/cgi-bin/texis/vtx/search?page=search&skip=117&docid=45c31e534&query=iraqi%20refugees Many Sunni Arabs displaced from the capital and surrounding areas since 2006 never returned home as they did not feel it was safe for them to do so. For more details on the pattern of displacement between 2006 and 2010 see International Organisation for Migration, Iraq: Review of Displacement and Return in Iraq, August 2010, available at www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/Iraq/IOM_Iraq_Review_of_Displacement_and_Return_in_Iraq_August_2010.pdf

⁹⁹ New York Times, “Sunni Fear Permanent Displacement From Iraqi Town”, 5 December 2014, available at www.nytimes.com/2014/12/06/world/middleeast/sunnis-fear-permanent-displacement-from-iraqi-town.html?_r=0

¹⁰⁰ Interview, near Jurf al-Sakhr, April 2015.

“I am over 70 and I fear that I may not live in my village again. The orchards must by now be ruined and would need a start from afresh, and my younger grandchildren soon won’t remember life in the village. And there is no tangible progress in the situation. For this reason I am very pessimistic.”¹⁰¹

In parts of Diyala and Salah al-Din governorates, Sunni IDPs have been prevented from returning to their towns and villages through a mix of complicated bureaucratic procedures and requirements, and intimidatory tactics, including abductions, arbitrary detention and, in the case of Diyala, even extrajudicial executions.¹⁰² Families displaced from mixed Sunni and Shi’a towns such as Muqdadiya and from Sunni villages located near Shi’a villages in Diyala governorate who are sheltering in IDP camps around Khanaqin and Kirkuk told Amnesty International that they were too frightened to return home. Haya, a humanitarian worker herself displaced from Diyala, told Amnesty International:

“It is possible for women and children and elderly people to go back, but younger men and boys risk being killed by the militias who control the area, so many families can’t go back because in the villages they live off the land and if the men can’t be there to work the land the families have no means of surviving. Here the men can earn some money as daily labourers and sometimes they can get some aid. It’s a miserable life but at least they are safe.”¹⁰³

9.2 AREAS UNDER KRG CONTROL

In the KR-I and in the disputed areas currently under de facto KRG control, Sunni Arab IDPs are likewise being subjected to arbitrary and discriminatory restrictions on their movements, which are not imposed on IDPs from other ethnic and religious communities. Officials repeatedly justify these restrictions on security grounds, but these measures are discriminatory and disproportionate, and have adversely impacted other human rights including the right to family life, health, work and education.

To access cities in the KR-I like Erbil and Dohuk, Arab IDPs need local sponsors to vouch for them in order to obtain permits to reside or even just to enter the cities and to move within the governorates. The tens of thousands of more recent IDPs who arrived at the Dibaga camp from IS-controlled areas since July 2016, are not even allowed to leave the camp – where conditions are dire – without a sponsor; others can at best go as far as nearby villages.

Even more rigid restrictions are imposed on IDPs in Garmawa camp in Dohuk governorate. IDPs must leave their identity documents and telephones with the camp administration. They are only allowed to make telephone calls in front of the administration. Access is not only restricted to the city of Dohuk and other cities in the governorate, but also to Shekhan, the town nearest to the camp. Even for access to local clinics, IDPs have to obtain authorization from the camp administration and the Asayish. A number of Sunni Arab IDPs in Garmawa camp were also denied permission to return home to surrounding villages including Cherghana, Sindana al-Sufla and Qalat Farhan on security grounds, despite their proximity to the camp and the fact that their immediate and extended families were living there.

¹⁰¹ Interview, near Tuz Khormato, November 2015. His situation remains unchanged.

¹⁰² Amnesty International has documented several cases of (mostly young) Sunni Arab male IDPs abducted and killed by paramilitary militias in Baghdad, Diyala and Salah al-Din governorates. For more details see Amnesty International’s reports *Absolute impunity: Militia rule in Iraq*, of October 2014, available at www.amnesty.org.uk/sites/default/files/absolute_impunity_iraq_report.pdf, and *Iraq: Barwana Massacre - Botched investigation, families waiting for justice*, 10 June 2015, available at www.amnesty.org/en/documents/mde14/1812/2015/en/

¹⁰³ Interview, Khanaqin IDP camp, April 2015. The situation remained unchanged in September 2016.



↑ IDPs at Garmawa camp told Amnesty International that they not permitted to return to their villages including Chergana, a five-minute drive from the camp, by the Asayish on purported security grounds. © Amnesty International ↓



↑ Chergana village. © Amnesty International

A 65-year-old woman from a village near Wana who has been sheltering in Garmawa camp since early 2015 told Amnesty International that in August 2016 she obtained a seven-day permit to visit her relatives in Wana but that when she arrived at the Taibe checkpoint she was first refused passage by Asayish officers and then told she could only go for two days. “So I went for only two days. What could I do? I had not seen my sister for a year,” she told Amnesty International.

Since 2015, procedures for IDPs to enter the city of Kirkuk in the “disputed territories” have become increasingly onerous and frequently changing. The situation is further complicated by the Governor’s sporadic decisions to suspend the sponsorship and registration system entirely and prevent any IDPs from entering the city. Restrictions even apply to residents of the Kirkuk governorate, including Sunni Arab IDPs fleeing from conflict in Hawija. In a meeting on 10 August, the representative of the Ministry of Migration and Displacement in Kirkuk told Amnesty International that IDPs, including from Hawija, can only enter the city of Kirkuk if they own property there, have a civil service job, or have a local sponsor. As a result, many

remain confined to IDP camps and other makeshift shelters in other rural areas in dire conditions with little or no humanitarian assistance, but unable to leave the area to seek employment in the city.

KRG forces have also repeatedly forcibly displaced residents from towns and villages in the disputed areas, purportedly on security grounds. Scores of families from four villages near Mosul Dam - Eski Mosul, Sahlich, Tal al-Dhahab and Ahdhaima - were forced out of their homes between December 2015 and April 2016 and taken to the Garmawa IDP camp. One of the displaced villagers told Amnesty International:

“They gave us no option, what could we do? Other relatives and neighbours were even less fortunate as they were expelled to Daesh-controlled areas. They just took them to the no-man’s-land area and told them to go to Daesh. My cousin who was among them, stepped on a mine and was blinded in both eyes, and another villager was killed with his two children, a boy and a girl aged 11 and 13.”¹⁰⁴

Other IDPs have been forcibly displaced from the IDP camps to other locations in KRG-controlled areas, also on spurious “security grounds”. A woman from Wana, who has lived in Garmawa camp for nine months, told Amnesty International on 10 August that two months after her family’s arrival to the camp, the Asayish instructed her husband to leave the camp and the governorate, apparently because one of his relatives was a member of IS. He was given one night to collect his belongings and make arrangements, and has since been living in Kirkuk. IDPs in the Ashti camp in Sulaymaniya also told Amnesty International that a number of families were expelled from the camp and the governorate on the grounds that they had relatives who belonged to IS. Most settled in Kirkuk.

None of those forcibly displaced have been accused of any offence or given the opportunity to challenge their expulsion in a court of law. Nor were they given any written order or any formal notification. Tens of thousands of Arab residents of other towns and villages in the disputed areas who were displaced by the conflict have been barred from returning home, while Kurdish residents were allowed to return long ago. For example, in Zummar (60km north-west of Mosul) and Makhmur (120km south of Erbil), two mixed Kurdish-Arab towns in the disputed areas of northern Iraq which were briefly taken over by IS in August 2014, Arab residents have not been allowed to return, two years after the towns were recaptured by Kurdish forces and normal life resumed in the towns for the Kurdish residents.¹⁰⁵

Samira, a resident of Makhmur, who has been sheltering with her family in a nearby village, told Amnesty International:

“For two years we have been living a miserable life. Twelve of us sleep in this tiny room and we cannot afford even the most basic necessities like food and medicines because my husband and my sons cannot work, because we are not allowed to go anywhere and here there is no work. We used to have a good home and a comfortable life and now we have been reduced to living a miserable life, with no dignity. Why? Our Kurdish neighbours are living a normal life in Makhmur but we cannot go back because we are Arabs. I say, if we have done something wrong, take us to court and let the judge give us the punishment we deserve. But like this is just like being in prison; we cannot go anywhere where there is work and so cannot earn a living and our children cannot study because they cannot get permits to go to Kirkuk or Erbil, where the universities are.”¹⁰⁶

¹⁰⁴ Interviews, Garmawa IDP camp, 13 August 2016.

¹⁰⁵ Amnesty International, “Stoking the fire of Iraq’s sectarian conflict”, 3 November 2014, available at www.amnesty.org.uk/blogs/global-voices/stoking-fire-iraqs-sectarian-conflict; See also The Guardian, “After Isis: Kurds and Arabs return to old lives and new tensions”, 24 February 2015, available at www.theguardian.com/world/2015/feb/24/after-isis-kurds-arabs-iraq-peshmerga-islamic-state-zumar

¹⁰⁶ Interview, near Makhmur, August 2016.

10. APPLICABLE INTERNATIONAL LAW AND STANDARDS

10.1 INTERNATIONAL HUMAN RIGHTS LAW

International human rights law, covering civil, cultural, economic, political and social rights, applies both in peacetime and during armed conflict and is legally binding on states, their armed forces and other agents. It establishes the right of victims of human rights violations to remedies, including justice, truth and reparation. Iraq is a state party to many of the principal international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention for the Protection of all Persons against Enforced Disappearance. As such, Iraq has a duty to respect, protect and fulfil the rights to life, to freedom from torture and other ill-treatment, to liberty and security of the person, to a fair trial and to freedom of movement. By failing to prevent and remedy unlawful killings, enforced disappearances, arbitrary detention and torture by government forces and pro-government militias, Iraq is violating its legal obligations and can be held responsible for these gross human rights abuses.

As a state party of the International Convention for the Protection of all Persons against Enforced Disappearance, Iraq is required to criminalize enforced disappearances (Article 3), investigate and bring to justice any person who “commits, orders, solicits or induces” or attempts to commit an enforced disappearance (Article 6). Article 5 of the Convention notes that “The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law.” Because enforced disappearances can violate several human rights simultaneously, including the right to liberty and security of the person and the right not to be subjected to torture and other ill-treatment, they are referred to as “multiple” or “cumulative” human rights violations. An enforced disappearance is also a “continuing crime”, which takes place so long as the disappeared person remains missing and information about his or her fate or whereabouts has not been provided by the state responsible.

10.2 INTERNATIONAL HUMANITARIAN LAW

In situations of armed conflict, international humanitarian law, or the laws of war, govern the conduct of the parties to an armed conflict and apply alongside human rights law. International humanitarian law sets out rules of humane conduct that aim to minimize human suffering and offer special protection to civilians and those not directly participating in hostilities, including all those *hors de combat* as a result of capture, surrender or injury.

Iraq is a state party to the four Geneva Conventions of 1949 and their Additional Protocol of 1977 relating to the Protection of Victims of International Armed Conflicts (Protocol I). Article 3, common to the four Geneva Conventions, which is applicable to non-international armed conflicts, such as the one taking place in Iraq,

prohibits “murder of all kinds, mutilation, cruel treatment and torture”, “humiliating and degrading treatment”, “taking of hostages” and “the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court”.

These rules are legally binding on all parties to the conflict in Iraq, namely central government forces, government-backed militias, the KRG forces and IS. Serious violations of international humanitarian law constitute war crimes and those who commit or order war crimes are individually responsible and must be brought to justice. States have an obligation to investigate alleged violations of the laws of war, to bring to justice those responsible, and to ensure reparation for the victims of such violations.

International humanitarian law prohibits the displacement of civilians during non-international armed conflicts except for their own security or for imperative military reasons.¹⁰⁷ It guarantees displaced persons’ right to voluntary return in safety to their homes as soon as the reason for their displacement ceases to exist,¹⁰⁸ and their property rights must be respected.¹⁰⁹

10.3 STANDARDS ON INTERNAL DISPLACEMENT

The UN Guiding Principles on Internal Displacement,¹¹⁰ which draw on international human rights law and international humanitarian law, provide more detailed guidance on ensuring the rights of IDPs. The Principles underscore that every person has the right to be protected from being arbitrarily displaced from her or his home (Principle 6(1)). The Principles “shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction.” (Principle 2(1)). Prior to displacement, authorities must explore all feasible alternatives (Principle 7(1)). Whatever the original circumstances of the displacement, the competent authorities have the responsibility to help establish conditions for, and to facilitate, the safe, voluntary return of the displaced to their homes (Principle 28(1)). And they have the duty to help the displaced recover their property and possessions, and where this is not possible, to obtain appropriate compensation or another form of just reparation (Principle 29(2)).

The Principles also call for the protection of all IDPs who do not or no longer participate in hostilities from acts of violence, enforced disappearance, torture, and summary executions. The Guidelines also stipulate IDPs’ right to move freely in and out of camps, and to choose their residence.

10.4 INTERNATIONAL CRIMINAL LAW

Crimes under international law include war crimes, genocide, crimes against humanity, torture and enforced disappearances.¹¹¹ States are required to make such violations a criminal offence in domestic legislation.

Certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, the deliberate targeting of civilians, murder, enslavement, deportation or forcible transfer of population, torture, rape and other sexual crimes, and enforced disappearances.¹¹² All governments have a duty to investigate and prosecute crimes against humanity including by exercising universal jurisdiction over the crimes.

Serious violations of international humanitarian law are war crimes. The deliberate and summary killing of people in captivity – be they civilians, suspected members of armed groups or fighters captured on the battlefield – is a flagrant and serious violation of international humanitarian law and constitutes a war crime.¹¹³ Torture and cruel treatment, rape and other forms of sexual violence, hostage taking, and arbitrary deprivation of liberty are also serious violations of international humanitarian law and also constitute war

¹⁰⁷ International Committee of the Red Cross study, Customary International Humanitarian Law: Volume 1: Rules, J-M Henckaerts and L Doswald-Beck, eds, 2005 (“ICRC Customary IHL Study”), Rule 129, available at www.icrc.org/customary-ihl/eng/docs/v2_rul_rule129; and Rome Statute of the ICC, Article 8(2)(e)(viii), characterizing unjustified forced displacement of civilians as a war crime, available at www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

¹⁰⁸ ICRC Customary IHL Study, Rule 132, available at www.icrc.org/customary-ihl/eng/docs/v2_rul_rule132

¹⁰⁹ ICRC Customary IHL Study, Rule 133, available at www.icrc.org/customary-ihl/eng/docs/v2_rul_rule133

¹¹⁰ UN Guiding Principles on Internal Displacement, available at daccess-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement

¹¹¹ The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment requires state parties to exercise universal jurisdiction for torture (Article 5). State parties to the International Convention for the Protection of all Persons against Enforced Disappearance must exercise universal jurisdiction for enforced disappearances (Article 9).

¹¹² Rome Statute of the International Criminal Court, Article 7.

¹¹³ ICRC Customary IHL Study, Rules 89 and 156.

crimes.¹¹⁴ Individuals, whether civilians or military, can be held criminally responsible for war crimes. Leaders and commanders of armed groups must be particularly diligent in seeking to prevent and repress such crimes. Military commanders and civilian superiors can be held responsible for crimes committed by their subordinates if they ordered such acts or if they knew, or had reason to know, such crimes were about to be committed and did not take necessary measures to prevent their commission, or to punish crimes that have already been committed.¹¹⁵ Individuals are also criminally responsible for assisting in, facilitating, aiding or abetting the commission of a war crime.¹¹⁶

¹¹⁴ ICRC Customary IHL Study, Rules 90, 93, 96, 99 and 156.

¹¹⁵ ICRC Customary IHL Study, Rule 153.

¹¹⁶ Rome Statute of the International Criminal Court, Article 125.

11. CONCLUSIONS AND RECOMMENDATIONS

Civilians in Iraq have borne the brunt of crimes committed by IS. Civilians have been killed, abducted, raped, tortured and driven away from their homes en masse since the armed group captured large swathes of territory in northern and central Iraq in mid-2014. Two years on, territory under its control has shrunk as the Iraqi and Kurdish forces gear up for an assault on the city of Mosul and surrounding areas, IS's largest remaining stronghold. However, their battle to recapture territory has been marred by abuses mainly committed against Sunni Arab civilians, including IDPs who fled territories seized by IS, perceived as complicit in atrocities committed by IS. As detailed in this report, serious violations of international human rights law and international humanitarian law, some of which constitute war crimes, have been committed with impunity.

Sunni Arabs who had fled IS-controlled areas are frequently left with very few choices and are subjected to multiple human rights violations. Many cannot return to their homes, and face tremendous obstacles to rebuilding their lives elsewhere without access to the job market and without reparation for their destroyed homes and livelihoods. They also face the risk of being rounded up by security forces or militias on suspicion of links to IS. Some have been forcibly disappeared or extrajudicially executed, while others have found themselves caught in a dysfunctional criminal justice system that fails to uphold their most basic rights.

The authorities face tremendous security threats, but responding with measures that trample over human rights risks further exacerbating lawlessness, political violence and insecurity. In particular, Iraqi authorities, whose complicity, tolerance and inaction in the face of widespread gross violations by militias contributed to the current climate, must rein in PMU militias and hold them to account; not only to ensure that extrajudicial executions, enforced disappearances, abductions and torture are not repeated in ongoing and future operations against IS, but also to be able to build a country on the foundations of the rule of law and respect for human rights.

In fact, a long-established pattern of impunity and lack of redress for widespread arbitrary detentions, enforced disappearances, torture and unfair trials in the name of countering terrorism, particularly targeting Sunni Arabs, contributed to the emergence and rise of IS in Iraq. The authorities must clearly signal that revenge attacks and discrimination against Sunni Arab IDPs, for crimes committed by the IS, are illegal and will not be tolerated. Failure to do so and protect them from further abuse will allow the vicious cycle of sectarian attacks, repression and injustice to continue.

11.1 RECOMMENDATIONS TO THE CENTRAL IRAQI AUTHORITIES

Amnesty International makes the following recommendations to the central Iraqi authorities.

END ENFORCED DISAPPEARANCE, TORTURE, EXTRAJUDICIAL EXECUTIONS AND ARBITRARY DETENTION

- Ensure that no one is held in secret detention.

- Ensure that all those deprived of liberty are held in officially recognized and supervised places of detention, have immediate access to their family and lawyers and are registered in a centralized register of detainees accessible to their lawyers and families at all times upon request and without delay.
- Guarantee that any person deprived of liberty, or relatives or other representatives of the disappeared or their lawyers, are able to take proceedings before a court, in order that the court may decide without delay on the lawfulness of detention and order the person's release if the detention is arbitrary.
- Ensure that statements obtained through torture or other coercion are inadmissible as evidence in any proceedings.
- Immediately establish an official moratorium on executions with a view to abolishing the death penalty.
- Ensure that detainees, including individuals taken for security screening following their escape from territories held by IS, who are reasonably suspected of recognizably criminal offences are promptly referred to civilian judicial authorities to be investigated and prosecuted in accordance with international law and standards on fair trials or released. Additional investigative judges should be seconded to areas where mass displacement has led to the detention of thousands of male IDPs for prolonged periods of time, to expedite procedures. Investigative judges who are absent from duty for prolonged periods of time should be recalled to fulfil their functions under notice of sanction or other disciplinary procedures.
- Ensure that detainees are provided with the means to communicate with their families and to inform them of their places of detention; and establish a system to provide IDP camp administrators and community leaders with lists of individuals detained and their places of detention, enabling relatives of detainees to easily access information.
- Ensure that children are held in separate facilities from adult detainees. Children should be processed without delay as a matter of priority; and appropriate mechanisms should be put in place to ensure their reunification with their families.
- Ensure that PMU militias and others who do not have the proper legal authority do not arrest, detain or interrogate suspects, including IDPs fleeing areas of conflict.

COMBAT IMPUNITY AND ENSURE ACCOUNTABILITY

- Conduct prompt, thorough, impartial and independent investigations into allegations of torture, enforced disappearances, abductions, extrajudicial executions and other unlawful killings, including by members of the PMU, with a view to establishing the fate and whereabouts of the disappeared and bringing those suspected of criminal responsibility to justice in fair trials without recourse to death penalty. Pending the outcome of investigations and prosecutions, all those reasonably suspected of committing abuses should be suspended from duty.
- Reveal the fate and whereabouts of those who have been forcibly disappeared by the PMU and Iraqi security forces.
- Disclose the findings of the committee established by the Prime Minister on 5 June to investigate abuses in the context of military operations to retake Falluja and surrounding areas; and ensure that any evidence uncovered by this committee as well as by the committee established by the Governor of Anbar, which published its findings on 11 June, is shared with judicial authorities with a view to bringing perpetrators to justice.
- At the highest level of the state, publicly acknowledge the scale and gravity of war crimes and other human rights violations committed by militias, condemning them unequivocally and making clear that all those responsible for murder, torture, enforced disappearance and other crimes under international law will be prosecuted, regardless of rank and affiliation.
- Pending the establishment of a process to disarm, demobilize and reintegrate paramilitary militias in line with human rights law and standards, immediately implement effective command and control over paramilitary militias by Iraqi armed forces, and establish effective oversight and accountability mechanisms by civilian bodies.
- Encourage religious leaders, including Grand Ayatollah Ali al-Sistani and other senior clerics in the Marja'iyah, to publicly acknowledge and condemn war crimes and other violations committed by PMU

militias, reiterate previously issued instructions to militia members on the protection of civilians, and warn against their repetition in ongoing military operations.

- Accede to the Rome Statute of the International Criminal Court and issue a declaration accepting the International Criminal Court's jurisdiction since 1 July 2002.
- Accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.
- Recognize the competence of the Committee on Enforced Disappearances to receive and consider individual and inter-state communications under Articles 31 and 32 of the International Convention for the Protection of all Persons against Enforced Disappearance.

RESPECT THE RIGHTS OF INTERNALLY DISPLACED PERSONS

- Return identification documents to all IDPs, including those who have been released following screening and interrogation procedures, and establish mechanisms to facilitate the speedy issuance of identity documents for IDPs to replace lost or confiscated documents.
- Upon the release of detainees following screening procedures, provide them with documentation indicating that they have undergone security screening and interrogations by security forces and that they have been released without charge.
- Lift all arbitrary or discriminatory restrictions on the freedom of movement of IDPs.
- Allow and facilitate the voluntary, safe return of those forcibly displaced from their homes; and establish transparent processes to inform displaced residents of the access and damage status of their villages and of the procedures and required criteria for residents to be allowed to return to their homes and villages.

11.2 RECOMMENDATIONS TO THE KRG

Amnesty International makes the following recommendations to the KRG authorities.

- Guarantee that any person deprived of liberty is able to take proceedings before a court in person, in order that the court may decide without delay on the lawfulness of detention and order the person's release if the detention is arbitrary; and grant all detainees immediate access to their families and lawyers.
- Ensure that detainees, including individuals taken for security screening following their escape from territories held by the IS, who are reasonably suspected of recognizably criminal offences are promptly referred to civilian judicial authorities to be investigated and prosecuted in accordance with international law and standards on fair trials or released.
- Ensure that detainees are provided with the means of communicating with their families and inform them of their places of detention. Establish a system to provide IDP camp administrators and community leaders with lists of individuals detained and their places of detention, enabling relatives of detainees to easily access information.
- Reveal the fate and whereabouts of individuals who have gone missing after arrest in the KR-I.
- Put in place mechanisms to facilitate visits by family members, including those living in IDP camps, to prisons and detention facilities, including those controlled by the Asayish, inside cities in the KR-I.
- Ensure that detaining authorities inform detainees of their right to have a lawyer present during all pre-trial investigation phases.
- Do not hand over detainees to central Iraqi authorities if they are at real risk of torture or other serious human rights violations.
- Return identification documents to all IDPs, including those who have been released following screening and interrogation procedures, and establish mechanisms to co-ordinate with central Iraqi authorities the facilitation of the speedy issuance of identity documents for IDPs originating from areas under the administration of the central Iraqi government to replace lost or confiscated ones.

- Upon the release of detainees following screening procedures, provide them with documentation indicating that they have undergone security screening and interrogations by security forces and that they have been released without charge.
- Lift all arbitrary or discriminatory restrictions on the freedom of movement of Sunni Arab IDPs and cease the expulsion of IDPs on security grounds.
- Allow and facilitate the voluntary, safe return of those forcibly displaced to their homes and establish transparent processes to inform displaced residents of the access and damage status of their villages and of the procedures and required criteria for residents to be allowed to return to their homes and villages.

11.3 RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

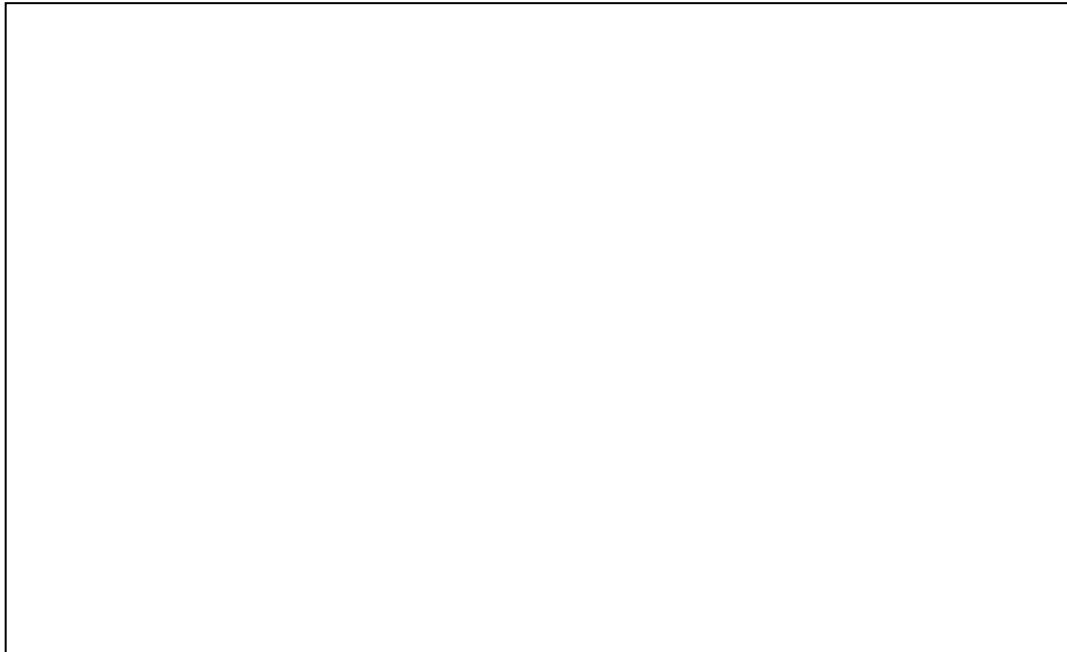
Amnesty International makes the following recommendations to the international community.

- Urge Iraqi authorities to end enforced disappearances, torture, extrajudicial executions and arbitrary detention; to hold those responsible to account; and to put in place effective measures to ensure effective command and control over paramilitary militias by Iraqi armed forces and establish effective oversight and accountability mechanisms by civilian bodies.
- Urge the Kurdish authorities to end arbitrary detentions; to guarantee the rights to fair trial for all those held on terrorism-related charges; and to lift arbitrary and discriminatory restrictions on the freedom of movement of Sunni Arab IDPs.
- Urge Iraqi and Kurdish authorities to guarantee access to independent international observers to temporary holding sites or makeshift detention facilities where IDPs fleeing IS- controlled territories are screened.
- As a matter of urgency, step up funding for humanitarian assistance to IDPs in Iraq to meet the basic needs of those already displaced and allow for better preparation for anticipated mass displacement from Mosul and surrounding areas, including to ensure that IDPs undergoing security screening are kept in humane conditions, meeting international standards, and have facilities to enable them to communicate with their families and have access to free legal representation.
- Where local courts have been destroyed in fighting or do not have capacity to handle the large number of detainees, provide funding to establish temporary facilities where detainees can be brought before investigative judges. Such interim facilities can be set up next to existing court complexes pending the full reconstruction of permanent structures.
- Put in place effective follow-up and oversight mechanism to monitor and assess the implementation and impact of current and future training and capacity-building programmes for security and judicial personnel, so as to ensure that such programmes deliver measurable improvements on the ground and are not contributing to the commission of human rights violations.

Amnesty International makes the following recommendations in particular to states providing military assistance or transferring or selling weapons or related equipment to the Iraqi central government or the KRG, or considering doing so.

- Approach transfers with extreme caution, adopting rigorous risk assessments, unit vetting and post-delivery monitoring to verify that all recipients are operating consistently with full respect for international human rights law and international humanitarian law, and that end user certificate restrictions are being honoured.
- Cease all transfers of arms, munitions and other military equipment, technology or assistance to any unit implicated in committing serious violations of international human rights and international humanitarian law.

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'PUNISHED FOR DAESH'S CRIMES'

DISPLACED IRAQIS ABUSED BY MILITIAS AND GOVERNMENT FORCES

This report reveals how government forces and paramilitary militias in Iraq have committed war crimes and other serious human rights violations in their battle to reclaim territory from the armed group calling itself the Islamic State (IS) and prevent it from carrying out deadly attacks against civilians. They have subjected Sunni Arabs who have fled territories controlled by IS to flawed security screenings, arbitrary detention, torture, enforced disappearances and extrajudicial executions, most recently in the course of military operations in 2016.

Amnesty International's findings are based on interviews with more than 470 former detainees and relatives of those killed, detained or disappeared, and other information provided by over 70 officials, community leaders, activists, lawyers and humanitarians.

The organization is calling on the Iraqi and Kurdish authorities to end their discriminatory and arbitrary treatment of Sunni Arabs for crimes committed by IS, and to comply by human rights law and international humanitarian law in their battle against the group. In particular, the Iraqi government must rein in militias and bring them under the control and oversight of civilian bodies.