

IRAQ

Human rights abuses in Iraqi Kurdistan since 1991

Table of Contents

Map of Iraqi Kurdistan
Glossary

INTRODUCTION	2
◆ Amnesty International's mandate	
◆ Amnesty International's concerns in Iraqi Kurdistan	
1 HISTORICAL AND POLITICAL CONTEXT	7
◆ The aftermath of the Gulf War	
◆ Political parties and groups in Iraqi Kurdistan	
◆ Kurdish self-rule	
◆ Background to the human rights crisis	
◆ The promotion of human rights work	
2 LAW ENFORCEMENT AND THE PRISON SYSTEM	25
◆ The Ministry for <i>Pesh Merga</i> Affairs	
◆ The Ministry of Interior	
3 THE JUDICIARY AND THE COURTS	32
◆ The special courts	
◆ The ordinary criminal courts	
4 HUMAN RIGHTS ABUSES BY THE KURDISH ADMINISTRATION	47
◆ Torture and ill-treatment	
◆ The death penalty	
5 HUMAN RIGHTS ABUSES BY THE POLITICAL PARTIES	69
◆ The perpetrators of human rights abuses	
◆ Torture and ill-treatment	
◆ Unlawful and deliberate killings	
◆ The events of December 1993	
◆ The events of May 1994	
CONCLUSIONS AND RECOMMENDATIONS	131

Appendix: Death sentences passed in Iraqi Kurdistan, March 1992-August 1994

Glossary

ADM	- Assyrian Democratic Movement
AKC	- Association of Kurdish Clans
Asayish	- Ministry of Interior's internal security forces
Dezgay Zanyari	- The PUK's security and intelligence apparatus
ICP	- Iraqi Communist Party
IKF	- Iraqi Kurdistan Front
IMIK	- Islamic Movement in Iraqi Kurdistan
INC	- Iraqi National Congress
IWCP	- Iraqi Workers' Communist Party
KCP	- Kurdistan Communist Party
KCP	- Kurdistan Conservative Party
KDP	- Kurdistan Democratic Party
KDU	- Kurdistan Democratic Union
KHRO	- Kurdistan Human Rights Organization
KLP	- Kurdistan Liberation Party
Komite	- Local party committee (term used by PUK)
KPDP	- Kurdistan Popular Democratic Party
KSDP	- Kurdistan Socialist Democratic Party
KSP-I	- Kurdistan Socialist Party - Iraq
KTP	- Kurdistan Toilers' Party (<i>Zahmatkêshan</i>)
KUP	- Kurdistan Unity Party (<i>Yekgirtin</i>)
Liq	- Party branch (term used by KDP)
Liway Taybeti	- Special Brigades
Melbend	- Party centre (term used by PUK)
Nawche	- Local party committee (term used by KDP)
PAK	- Kurdistan Freedom Party
PASOK	- Kurdish Socialist Party
Pesh Merga	- Armed Kurdish forces
PKK	- Kurdistan Workers' Party (of Turkey)
PUK	- Patriotic Union of Kurdistan
Rêkkhistini Taybeti	- The KDP's security and intelligence apparatus
Rewti Communist	- Communist Current
Têkoshin	- Organization of the Kurdistan Workers' Struggle
UKDP	- Unified Kurdistan Democratic Party

INTRODUCTION

Wide-ranging and serious human rights abuses have been committed by the Kurdish administration and political parties in those regions of Iraqi Kurdistan which have been under their control since 1991. These abuses include the detention of suspected political opponents, among them possible prisoners of conscience; torture and ill-treatment of political and common law detainees and the failure to investigate such abuses adequately; the use of the death penalty and the enactment of legislation increasing the number of offences punishable by death; executions after summary "trials"; and unlawful and deliberate killings of unarmed prisoners and assassinations of political activists and others.

This report is based on research carried out by Amnesty International over the past three years, including five fact-finding visits to the region between May 1992 and July 1994. During these visits, Amnesty International interviewed scores of detainees and former detainees held on both political and criminal grounds, as well as prisoners sentenced to terms of imprisonment or death. The organization obtained testimonies from victims of torture and ill-treatment, the relatives, friends and colleagues of victims of unlawful and deliberate killings, as well as eye-witnesses and human rights activists. Amnesty International also held discussions with the leaders or representatives of most Kurdish and other political parties, officials of the Kurdish administration, as well as law enforcement personnel and members of the judiciary. The organization acknowledges the cooperation and assistance it has received from many of them.

Amnesty International's concerns regarding the human rights situation in Iraq as a whole have been repeatedly placed on public record. Throughout the 1980s and into the 1990s, gross human rights violations on a massive scale have been committed by the Iraqi Government with total impunity and disregard for minimum standards of humane behaviour. They include the arbitrary arrest of suspected or actual political opponents, among them prisoners of conscience; prolonged detention without trial or imprisonment following manifestly unfair trials; the torture and ill-treatment of detainees resulting in countless deaths in custody; the use of the death penalty for a wide range of political and criminal offences after unfair trials and in violation of internationally established safeguards; and the "disappearance" or extrajudicial execution of hundreds of thousands of people - including whole communities - for political reasons. In its campaigns aimed at alleviating the suffering of the people of Iraq, Amnesty International faced a government which sanctioned atrocities as a matter of policy and violated its obligations under international law as a party to the International Covenant on Civil and Political Rights (ICCPR). The organization faced an international community which failed to adopt a single resolution in the United Nations (UN) General Assembly or other UN bodies condemning the Iraqi Government until the

invasion of Kuwait on 2 August 1990. It also faced a multitude of states whose perceived geopolitical interests did not accommodate intervention on human rights issues.¹

Amnesty International has also monitored the human rights situation in those areas of Iraq's northern provinces from which the government's forces withdrew on 23 October 1991. Since then, these areas have been controlled by Kurdish forces. Amnesty International holds them accountable for the human rights abuses described in this report, in implementation of its mandate in relation to abuses committed by armed political groups.

Amnesty International's mandate

Amnesty International condemns and actively opposes a range of human rights violations perpetrated by governments worldwide. The organization works to secure the immediate and unconditional release of all prisoners of conscience² and to ensure fair and prompt trials for all political prisoners. It opposes the death penalty, extrajudicial executions, "disappearances" and torture and other cruel, inhuman or degrading treatment or punishment in all cases.

Since Amnesty International was founded over three decades ago, its mandate has been extended in response to the human rights challenges of a changing world, most recently in September 1991 when several new areas of concern were incorporated into it.

Amnesty International stresses that the international human rights norms it cites concern the protection of the rights of individuals in relation to governmental authority; it is governments which have drawn up international human rights law and governments which are bound by it. However, in armed conflicts both governments and those opposing them must observe internationally recognized standards protecting the individual.

Amnesty International has for many years condemned the torture or killing of prisoners by anyone, including armed opposition groups - and has done so as a matter of principle. Since September 1991, the organization has opposed a wider range of abuses by such groups, guided by the protection of the individual enshrined in common Article 3 of the four Geneva Conventions of 1949. These abuses include not only the torture and killing of prisoners, but all unlawful and deliberate killings. Deliberate killings of people who are

¹ See Amnesty International's report, *"Disappearances" and Political Killings, Human Rights Crisis of the 1990s, A Manual for Action*, Chapter 1, Iraq: The World Would Not Listen, February 1994, (AI Index: ACT 33/01/94).

² Prisoners of conscience, as defined by Amnesty International's Statute, are people subjected to imprisonment, detention or other physical restriction imposed by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language, provided that they have not used or advocated violence.

taking no active part in hostilities are always arbitrary, and Amnesty International opposes them whether the victims are targeted individually or they are the victims of indiscriminate attacks. Similarly, the deliberate killing of soldiers, police or other security personnel who have been incapacitated by sickness or wounds, or who having laid down their arms seek to surrender, is prohibited by international law and condemned by Amnesty International.

Amnesty International focuses on the intentional killing of civilians and others taking no part in hostilities. These are distinguished from unintended killings that occur during attacks on military objectives, including killings in crossfire between opposing forces. Amnesty International opposes the taking or holding of hostages by armed political groups. It condemns the arbitrary threats to life, security and liberty which are implicit in hostage-taking. Amnesty International also seeks to secure the release of prisoners of conscience held by such groups.

Amnesty International take no position on the legitimacy of resorting to violence and opposes specific abuses, not the entity which commits them. In some contexts, governments criticize non-governmental organizations for not condemning their opponents or for not describing them as "terrorists". Amnesty International's use of the expression "armed opposition groups" or "armed political groups" has sometimes been criticized as conferring legitimacy on such groups. In fact, the organization seeks to employ neutral language which carries no such connotation.³ No organization can retain a non-political stance once it attempts to distinguish between legitimate and illegitimate rebellion. Amnesty International has not done so and will not do so even in relation to those groups which command the most or the least international sympathy.

Amnesty International's opposition to abuses by armed opposition groups stems from the same respect for human life, security and liberty which compels it to oppose human rights violations by governments. Amnesty International will continue to place its primary focus on human rights violations by governments and the responsibility of those with governmental authority to abide by their international obligations. Its work to hold opposition groups to the minimum humane standards complements rather than detracts from this work, and is pursued with the same impartiality and independence with which Amnesty International acts in its work with governments.

Amnesty International's concerns in Iraqi Kurdistan

³ Similarly, as the International Committee of the Red Cross commentary to common Article 3 makes clear, the applicability of that article's provisions to all parties to an internal armed conflict, including armed opposition groups, confers no legitimacy on such groups.

"It is an outrage that the Kurds - having suffered gross human rights violations for so long at the hands of Iraqi Government forces - should once again have to endure such abuses, only this time at the hands of their own political leaders."

The above extract is taken from a public statement issued by Amnesty International on 1 June 1994, appealing to Kurdish political party leaders to end human rights abuses. It was prompted by reports of gross abuses committed in the context of widespread military clashes the previous month between the two most powerful political parties in Iraqi Kurdistan - the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK). During the clashes both parties were said to have deliberately killed prisoners, mutilated some of the victims' bodies, and abducted, killed and tortured civilians on account of their political affiliation. A third political party, the Islamic Movement in Iraqi Kurdistan (IMIK), was also involved in the military conflict in opposition to the PUK. Its forces were reported to have tortured or deliberately killed prisoners. Five months earlier, similar abuses were perpetrated when fierce fighting erupted between PUK and IMIK forces.

The events of December 1993 and May 1994 (see Chapter 5) represented the most significant deterioration in the human rights situation since the region fell under Kurdish control. The events in May 1994 in particular, which were far more serious in terms of their immediate and long-term consequences, signified in Amnesty International's view an abandonment of fundamental human rights principles to which the Kurdish leadership had publicly committed itself. This was all the more regrettable since these were the same principles which the Iraqi Government itself consistently failed to uphold, and the consequences of which have meant endless torment and suffering for Iraq's Kurds, Arabs and others alike. Given this, the Kurdish leadership must bear full responsibility for the deep sense of betrayal expressed by many people in Iraqi Kurdistan today.

The human rights situation in Iraqi Kurdistan at the time of writing (January 1995) contrasts sharply with that which existed soon after the region fell under Kurdish control over three years ago. At that time, a number of positive measures were adopted to ensure the better protection of human rights, particularly after the May 1992 parliamentary elections and the appointment of the Council of Ministers (effectively the "government" in the region). These included, for example, the separation of the central judicial apparatus from the administration's executive machinery and the abolition of special courts. Attempts were made to create a centralized law enforcement apparatus with clear lines of accountability. Many detainees held by the political parties were transferred to acknowledged places of detention under the jurisdiction of the police and internal security forces. These measures are discussed in Chapters 2 and 3.

Chapter 4 addresses human rights abuses committed by the Kurdish administration since 1992. Chapter 5 examines abuses committed by the political parties. The distinction is somewhat artificial since the "administration" in many respects remains merely an extension of the power base of the two main political parties, the KDP and the PUK. The deepening

political crisis in Iraqi Kurdistan, resulting in large part from continuing disagreements over power-sharing arrangements between these two parties, has led to a gradual deterioration of the human rights situation, culminating in the events of May 1994 and the perpetration of hitherto unprecedented human rights abuses. In December 1994 widespread armed clashes broke out once again between the KDP and PUK and continued into January 1995. At the time of writing, Amnesty International was investigating new reports of human rights abuses, including unlawful and deliberate killings. Details of these abuses are not covered in this report.

The report ends with recommendations which Amnesty International urges the political leaders in Iraqi Kurdistan to implement. The organization believes that only when such steps are taken can the human rights crisis in the region be ended.

CHAPTER ONE HISTORICAL AND POLITICAL CONTEXT

The aftermath of the Gulf War

Following their defeat by allied forces in the Gulf War, the Iraqi armed forces withdrew from Kuwait on 28 February 1991, putting an end to the seven-month occupation of the country. Two days later, rebellion broke out in the city of Basra, instigated by units of the retreating Iraqi army. It was quickly transformed into a mass uprising, spreading to many towns and cities in the south. Several days later a mass uprising broke out in Iraqi Kurdistan, beginning in Chwar Qurna and Rania. By 20 March the city of Kirkuk had fallen under the control of Kurdish opposition forces. By the end of March, however, the Iraqi armed forces had crushed the uprising in both the north and south. The government then embarked on a campaign of widespread repression against the civilian population as a whole as well as those suspected of having participated in the uprising. In that context, gross human rights violations were perpetrated by the advancing government forces.⁴

The brutalities triggered a mass exodus of civilians, both Kurds and Shi'a Muslim Arabs, to neighbouring Iran and Turkey. Others fled towards the Saudi Arabian and Kuwaiti borders. By the end of April 1991, their numbers had reached an estimated two million, the majority of them Kurds; most were housed in refugee camps in the border regions in Iran and Turkey. On 5 April the UN Security Council adopted resolution 688, calling on Iraq to end "the repression of the Iraqi civilian population" and to cooperate with the distribution of humanitarian aid to all parts of the country.⁵ In mid-April "Operation Provide Comfort" was launched by the allied forces (principally those of the United States of America, the United Kingdom and France), followed by the establishment of a "safe haven" zone in Iraqi Kurdistan stretching between Zakho, Duhok and 'Amadiyya. An "air exclusion zone" was imposed on 19 April, forbidding Iraqi fixed-wing aircraft and helicopters from flying north of the 36th parallel. This remains in force.

Many of the Kurdish refugees who had fled to Turkey and Iran began returning to Iraqi Kurdistan in May 1991, encouraged by the presence of the allied forces. By mid-July, however, the allied forces had withdrawn, although they maintained a Military Coordination

⁴ See Amnesty International's report, *Iraq: Human rights violations since the uprising*, published in July 1992 (AI Index: MDE 14/05/91).

⁵ On 18 April 1991 a Memorandum of Understanding was signed between the UN and the Iraqi Government, providing the basis for UN humanitarian operations in Iraq.

Centre in Zakho and allied aircraft have continued to patrol the areas north of the 36th parallel from Incirlik base in southeastern Turkey. Between May and October 1991, Iraqi forces retained control of most areas they had regained after the uprising, with the exception of Duhok from which they withdrew in May shortly after the "safe haven" was set up. During this six-month period, armed clashes and skirmishes between Kurdish and Iraqi Government forces continued, resulting in the further displacement of the Kurdish civilian population. The clashes reached a climax in the first half of October, when government forces launched indiscriminate military attacks on civilian targets in the towns of Kifri, Kalar and 'Arbat, as well as Sulaimaniya city, using helicopters and heavy artillery. For military and other reasons, the Iraqi Government began a total withdrawal of its armed forces and civil administration from most of the Kurdish region on 23 October 1991. They withdrew from the cities of Arbil and Sulaimaniya, as well as other major towns and their surrounding plains, but remained in the strategic city of Kirkuk. An "internal frontline" was established and the government imposed an economic blockade on the Kurdish-controlled region, which remains in force.

The blockade caused severe economic hardship in the region which, like the rest of Iraq, was already suffering the effect of sanctions imposed by the UN in 1990 in the wake of the invasion of Kuwait. The internal blockade quickly caused acute fuel shortages and a sharp rise in the prices of staple foodstuffs and other commodities. The problems were compounded by the abrupt loss of income experienced by over half of the region's working population. Upon withdrawing its forces and administration, the government instructed all civil servants in the Kurdish-held region to redeploy to areas under its control (such as Mosul and Kirkuk) or face non-payment of their salaries. The overwhelming majority - including doctors, teachers, municipal workers, police personnel, members of the judiciary and employees of the courts - opted for non-compliance. They remained in post, working without pay for several months until the Iraqi Kurdistan Front (IKF: *Berey Kurdistanî 'Iraq/al-Jabha al-Kurdistanîyya al-'Iraqîyya*),⁶ which assumed *de facto* authority, resumed payment of salaries to civil servants performing essential duties.

Political parties and groups in Iraqi Kurdistan

The IKF, which was established in May 1988 to coordinate opposition activity against the central government, was initially composed of five political parties:

◆ Kurdistan Democratic Party (KDP: *Partî Dimukratî Kurdistanî/al-Hîzb al-Dîmuqrâtî al-Kurdîstânî*) led by Mas'ud Barzani;

⁶ Where relevant, the names of various bodies and political parties are transliterated first in Kurdish and then in Arabic.

- ◆ Patriotic Union of Kurdistan (PUK: *Yekîti Nîştîmanî Kurdistan/al-Ittîhad al-Watânî al-Kurdîstânî*) led by Jalal Talabani;
- ◆ Kurdistan Popular Democratic Party (KPDP: *Partî Gelî Dîmuqrâtî Kurdistan/Hîzb al-Sha'b al-Dîmuqrâtî al-Kurdîstânî*) led by Sami 'Abd al-Rahman;
- ◆ Kurdistan Socialist Party - Iraq (KSP-I: *Hîzbi Sosîyalîstî Kurdistan - 'Iraq/al-Hîzb al-Îshîrâkî al-Kurdîstânî - 'Iraq*) led by the late Rasul Mamand;
- ◆ Kurdish Socialist Party (PASOK: *Partî Sosîyalîstî Kurd/al-Hîzb al-Îshîrâkî al-Kurdî*) led by 'Abdullah Agrin.

Three other parties subsequently joined the IKF:

- ◆ Iraqi Communist Party - Kurdistan Region (ICP: *Partî Komunîstî 'Iraq-Harêmi Kurdistan/al-Hîzb al-Shuyû'î al-'Iraqî - Iqlîm Kurdistan*) led by 'Azîz Muhammad;
- ◆ Kurdistan Toilers' Party (KTP: *Hîzbi Zahmatkêshani Kurdistan/Hîzb al-Kadîhin al-Kurdîstânî*) led by Qader 'Azîz;
- ◆ Assyrian Democratic Movement (ADM: *al-Haraka al-Dîmuqrâtîyya al-Ashûrîyya*) led by Younadim Yusuf.

Prior to the May 1992 parliamentary elections two of these parties, the KSP-I and PASOK, formed a "joint leadership" and ran for the elections under one platform. Following the elections, the "joint leadership" was expanded to include the KPDP, and in August 1992 all three formed a new party - the Kurdistan Unity Party (KUP: *Partî Yekgirtîni Kurdistan/Hîzb al-Wahda al-Kurdîstânî*), which temporarily retained a three-member leadership body in lieu of a single leader. While both the KPDP and PASOK were dissolved after this unity, the KSP-I continued to operate under the leadership of Rasul Mamand, who had refused to join the KUP. The considerably smaller KSP-I was itself dissolved in December 1992 when Rasul Mamand joined the PUK as a member of its Political Bureau.

The KUP was in turn dissolved when it joined the KDP during the latter's Eleventh Congress in August 1993. As a result, the KDP was renamed the Unified Kurdistan Democratic Party (UKDP: *Partî Dîmuqrâtî Kurdistan-Yekgirtû/al-Hîzb al-Dîmuqrâtî al-Kurdîstânî al-Muwahhad*),⁷ and its new Political Bureau included three members of the former KUP's leadership. Among them was Muhammad Hâjî Mahmûd (formerly KSP-I) who broke away from the UKDP less than one month later and in October 1993 announced the re-establishment of the KSP-I under his leadership. At its Second Conference in November 1994, the KSP-I was renamed the Kurdistan Socialist Democratic Party (KSDP: *Partî Sosîyalîstî Dîmuqrâtî Kurdistan/al-Hîzb al-Îshîrâkî al-Dîmuqrâtî al-Kurdîstânî*).

⁷ Although UKDP became the official name of this party after August 1993, in this report it is referred to throughout as the KDP in line with the party's apparent practice in its English language public statements. In Arabic and Kurdish, it is more often referred to as UKDP.

The ICP also underwent change. Pressure had been growing for some time within the party for the establishment of a separate Kurdish communist party. At the ICP's Fifth Conference in October 1993, the Kurdistan Communist Party (**KCP: *Hizbi Comunisti Kurdistan/al-Hizb al-Shuyu'i al-Kurdistani***) was formed. The ICP (currently led by Hamid al-Bayati) and KCP (currently led by Karim Ahmad) are closely linked although they have separate Political Bureaux and Central Committees.

Outside the IKF, the Islamic Movement in Iraqi Kurdistan (**IMIK: *Bizutnewey Islami le Kurdistan 'Iraq/al-Haraka al-Islamiyya fi Kurdistan al-'Iraq***) is the most powerful group and represents, both politically and militarily, the third force in the region today. A Sunni Muslim movement, it was formed in 1986 during the Iran-Iraq war, and is headed by Shaikh 'Uthman 'Abd al-'Aziz, its Spiritual Guide. Its leadership cadres include former members of the Union of Religious Scholars (***Yekieti Mamostayani Ayni Islam/Ittihad 'Ulama' al-Din***),⁸ while others are veterans of the war in Afghanistan. In the past three years, the IMIK has boosted its membership levels in Iraqi Kurdistan, where it has established its own infrastructure in the areas under its control.

Within the past two years, three groups were dissolved upon uniting with mainstream parties. The Kurdistan Democratic Union (**KDU: *Yekieti Dimokrati Kurdistan/al-Ittihad al-Dimuqrati al-Kurdistani***), which was formed in 1978 and supported the establishment of an autonomous Kurdish region in Iraq, joined the KDP in August 1993. Its founder, 'Ali Sinjari, is currently a member of the KDP's Central Committee. Another group, the Movement of Islamic Feyli Kurds (***Bizutnewey Islami Kurda Feyliyyakan/Harakat al-Feyliyyin al-Akrad al-Islamiyyin***), was formed in Iran in the early 1980s principally to draw attention to the plight of tens of thousands of Feyli (Shi'a) Kurds forcibly exiled from Iraq by successive governments and to protect the interests of the Feyli minority. It also joined the KDP in August 1993 and its founder, Jalil Feyli, is currently a member of the KDP's Central Committee. A third group, Revolutionary Banner (***Alay Shorish/Rayat al-Thawra***), joined the PUK in late 1992. Formed originally from a PUK splinter group in the mid-1980s, it was concerned with the unification of Iraqi Marxists as a whole but also stressed the right of Iraq's Kurds to self-determination. In April 1992 ***Alay Shorish*** united with the KTP and several of its leaders became members of the KTP Central Committee. The KTP itself split after the May 1992 parliamentary elections and several of the former ***Alay Shorish*** leaders subsequently joined the PUK. Among them was the founder of ***Alay Shorish***, Hikmat Karim (known as Mulla Bakhtiar), who is currently a member of the PUK Leadership Committee (***Komitey Sarkirdayeti/al-Lajna al-Qiyadiyya***).

⁸ The Union of Religious Scholars was established in late 1971, its principal role being the promotion of religious awareness. It became defunct after the collapse of the Kurdish opposition movement in 1975, but was reconstituted some six months after the March 1991 uprising. It enjoys the support of both the KDP and PUK, but many of the religious scholars associated with it are known for their anti-IMIK stance.

Of the other political parties which espouse communism or socialism in Iraqi Kurdistan, the oldest is the Iraqi Communist Party - Base Organizations (***Hizbi Comunisti Kurdistan - Rekkhrawekani `al-Qa'ida`***/*al-Hizb al-Shuyu'i al-Iraqi - Munathamaat al-Qa'ida*). This party was formed in 1984 from an ICP splinter group led by Baha'uddin Nuri, Secretary of the ICP in the early 1950s, and is based in Sulaimaniya. Another group, the Kurdistan Liberation Party (KLP: ***Parti Rizgari Kurdistan***/*Hizb al-Tahrir al-Kurdistani*), was formed in 1993 from a KUP splinter group, most of whose members were originally affiliated to the KPDP and the KSP-I. It is based in Arbil. A third group, the Iraqi Workers' Communist Party (IWCP: ***Hizbi Comunisti Krêkari 'Iraq***/*al-Hizb al-Shuyu'i al-Ummali al-Iraqi*), was formed in July 1993 from a merger of four small communist groups. The largest group within the IWCP is Communist Current (***Rewti Communist***/*al-Tayyar al-Shuyu'i*) which, according to its spokespersons, was formed in the mid-1980s. However, it reportedly only became active after 1989. After the uprising, it established a presence in Sulaimaniya and formed labour organizations known as Workers' Councils, which were short-lived. The party also attempted to organize itself in Bahdinan during that period. Pressure from both the KDP and PUK, however, resulted in its activities remaining limited and semi-clandestine. The IWCP has an office in Arbil.

There are also several small Marxist groups which call for the unification of "Greater Kurdistan"⁹ and hence oppose on principle any negotiations with the central government in Baghdad. All are said to be closely linked to the Kurdistan Workers' Party (PKK: ***Parti Kargerani Kurdistan***/*Hizb al-Ummal al-Kurdistani*) of Turkey. The oldest among these groups is the Organization of the Kurdistan Workers' Struggle (***Rekkhrawi Têkoshani Rendjiderani Kurdistan***/*Munatham Nidal Shaghilat Kurdistan*), known as ***Têkoshin***. According to its spokespersons, it was formed in July 1978 and had close relations with the PUK. In late 1990 a rapprochement developed between ***Têkoshin*** and the KTP and the idea of unity was discussed. However, talks broke down when the KTP supported the idea of negotiations with Baghdad after the March 1991 uprising. It has representatives and members in Bahdinan and Arbil.

Another group with similar objectives is the Kurdistan Freedom Party (PAK: ***Parti Azadi Kurdistan***/*Hizb al-Hurriyya al-Kurdistani*). Formed after the 1991 uprising, it is considered by some as a PKK "creation" and to have as its principal aim the recruitment of members for the PKK in Iraqi Kurdistan. It initially had some members in Sulaimaniya and later in Duhok. They have been arrested at various times and held outside the framework of the law, principally by the KDP. A third group in this category is the Action Party for the Independence of Kurdistan (***Parti Kari Serbekhoy Kurdistan***/*Hizb al-'Amal li-Istiqlal*

⁹ "Greater Kurdistan" refers to the regions inhabited by Kurds in Iraq, Iran, Syria, Turkey and the former Soviet Union.

Kurdistan), led by Hussain Hallaq. Formed in 1993 from an ICP splinter group, it is based in Arbil. A fourth group is the Democratic Alliance for the Independence of Kurdistan (***Hawpeymaneti Dimokrati bo Serbekhoy Kurdistan***/*al-Tahaluf al-Dimuqrati li-Istiqlal Kurdistan*) formed by 'Aziz 'Aqrabi in 1992 and is said to have some representatives in Arbil.

Two groups representing several of the Kurdish clans¹⁰ in the region were formed after the 1991 uprising, and for whose loyalty the KDP and PUK competed. The Association of Kurdish Clans (AKC: ***Komelgay Ashayri Kurd***/*Jam'iyyat al-'Asha'ir al-Kurdiyya*) was formed in August 1991 and has closer relations with the KDP. It is headed by Hussain Surchi and based in Shaqlawa. The AKC has stressed the right of the Kurdish people to self-determination and also called for the "independence of Kurdistan". Following the May 1992 parliamentary elections, the AKC split and another group was formed, the Kurdistan Conservative Party (KCP: ***Parti Parêzgarani Kurdistan***/*Hizb al-Muhafidhin al-Kurdistani*). Led by Hussain Surchi's brother, 'Umar Khadr Surchi, the KCP is based in Arbil and has closer relations with the PUK. Its stated aims are similar to those of the AKC.

Aside from the IMIK, there are several smaller Islamist political groups in Iraqi Kurdistan today. Among them is Kurdish Hizbullah (***Hizbullahi Kurdi***/*Hizbullah al-Kurdi*), led by Shaikh Muhammad Khaled Barzani (a cousin of Mas'ud Barzani), which was formed in 1982 in Iran. The group is now based in the region stretching between Barzan, Rawanduz and Merga Sur. In late 1988 the group split and Kurdish Revolutionary Hizbullah (***Hizbullahi Kurdi Shorishger***/*Hizbullah al-Kurdi al-Thawri*) was formed, led by Adham Barzani. It is based in the Diyana region.

The vast majority of members of the Christian faith in Iraqi Kurdistan are represented by the ADM, a party represented in the IKF. There are also three other Christian groups: the Democratic Christian Movement (*al-Haraka al-Dimuqratiyya al-Masihyya*) and the United Kurdistan Christians (*Masihyyi Kurdistan al-Muwahhada*), both of which are closely associated with the KDP; and the Chaldean Christian Democratic Party (*Kaldo Ashur al-Dimuqrati*), which represents Assyrians of the Chaldean sect and is closely associated with the ICP.

The Turkman minority in Iraqi Kurdistan is represented by four parties: the Iraqi National Turkman Party (*al-Hizb al-Watani al-Turkmani al-'Iraqi*) led by Muthaffar Arslan; the Turkman Union Party (*Hizb al-Ittihad al-Turkmani*) led by Riad Jamal; the Union of Democratic Turkman (*Ittihad al-Dimuqratiyyin al-Turkman*); and the Turkman Brotherhood Party (*Hizb al-Akha' al-Turkmani*).

¹⁰ These include the Surchi, Khoshnaw and Bradosti.

Kurdish self-rule

In April 1991, in the aftermath of the uprising, negotiations began between the Iraqi Government and the eight opposition parties represented in the IKF. Five months later, the two sides had failed to reach agreement on a number of issues, the most important of which were: demarcation of the Kurdish autonomous region, particularly as regards the city of Kirkuk; responsibility for security affairs in the autonomous region; a new constitution; and the introduction of a multi-party political system as well as press and other freedoms. The last round of formal negotiations was held in Baghdad in August 1991, although contact between the two sides was maintained for several months. It was not until mid-January 1992 that the IKF finally announced that it was suspending talks with Baghdad. It simultaneously called for elections for a Kurdish parliament to fill the administrative vacuum in the region. The parliament would replace the former (government-created) Legislative Assembly of the Autonomous Region of Kurdistan.

Those areas of Iraqi Kurdistan which government forces failed to regain after the uprising, as well as those which fell under Kurdish control after October 1991, were effectively administered by the IKF. The IKF continued to exercise *de facto* authority in the region until mid-1992, when parliamentary elections were held and a Council of Ministers was formed. Until then, military, security, administrative, judicial and educational matters (among other things) were regulated by local committees set up by the IKF Political Leadership. In late August 1991 a permanent working committee was created to coordinate and supervise the activities of the various IKF local committees, as well as to liaise with international non-governmental organizations operating in the Kurdish region. Known as the Political Leadership Acting Body (*Karjeri Sarkirdayeti Siyasi/al-Hay'a al-'Amila lil-Qiyada al-Siyasiyya*), its creation coincided with the negotiations in Baghdad becoming deadlocked and the growing conviction of the Kurdish leadership that agreement could not be reached on the substantive issues. The Acting Body had eight members, representing each of the political parties in the IKF, who met on a frequent and regular basis in Khalifan (Arbil province). After October 1991 additional local committees were set up for the areas vacated by Iraqi forces. All local committees continued to liaise with and remained answerable to the Acting Body, which transferred its base from Khalifan to Arbil. The Acting Body effectively became redundant after the parliamentary elections and the formation of a Council of Ministers.

On 19 May 1992 elections were held simultaneously for the 105-member Kurdistan National Assembly (*Anjumani Nishtimani Kurdistan/al-Majlis al-Watani al-Kurdistani*) and for the "Leader of the Kurdish Liberation Movement". The two laws governing the electoral process had been drafted by a body established by the IKF, the High Commission

for the Supervision of the Elections in Iraqi Kurdistan.¹¹ The elections were based on a system of proportional representation with a seven per cent threshold. Twelve political parties competed in the parliamentary elections, eight of them for 100 seats and four others for the five seats reserved for parties representing members of the Christian faith. Four candidates contested the position of Leader. The IKF invited a number of international observers, both governmental and non-governmental, to observe and monitor the elections. Among them was the International Human Rights Law Group, which subsequently published its findings in July 1992.¹² The preface to its report reads:

"The conduct and completion of the electoral process was a remarkable achievement. The focus of any appraisal of the electoral process must be on the enormous accomplishments of the people of Iraqi Kurdistan and not on the shortcomings of the procedures. As [our] delegation found, the process was remarkably fair and, on balance, free... Despite flaws, the elections offered an opportunity for the will of the people to be expressed... perhaps for the first time in their history."

This assessment was not shared by some of the smaller political parties, who stated that the extent of multiple voting, as well as other irregularities, cast doubt on the fairness of the elections. In their public statements the PUK and KDP stated that the elections were on the whole free and fair, but privately some officials from both parties complained of irregularities. The published official results of the parliamentary elections gave the KDP 50.8 per cent of the vote and the PUK 49.2 per cent. This took into account the reallocation of votes cast for the smaller parties, none of which reached the seven per cent threshold to qualify for seats in the National Assembly. By agreement, however, the KDP and PUK settled for 50 seats each as part of a power-sharing arrangement. Four of the five seats reserved for the Christian parties went to the ADM. None of the candidates competing for the position of Leader won an absolute majority. No date was subsequently scheduled for run-off elections and the position has since remained unfilled. The National Assembly held its inaugural session in Arbil on 4 June 1992.

The Council of Ministers for the Iraqi Kurdistan Region (*Anjumani Wazirani Harêmi Kurdistanî 'Iraq*/Majlis al-Wuzara' li-Iqlim Kurdistan al-'Iraq) was formed one month later and began functioning officially on 4 July.¹³ Fifteen ministries were created,

¹¹ The Law for the Election of the National Assembly for Iraqi Kurdistan and the Law for the Election of Leader of the Kurdish Liberation Movement, both issued by the IKF in April 1992.

¹² International Human Rights Law Group, "Ballots Without Borders: A Report on the May 1992 Elections in Iraqi Kurdistan", Washington D.C., July 1992.

¹³ The Law of the Council of Ministers for the Iraqi Kurdistan Region (No. 3 of 1992), passed by Decree No. 15 of 16/9/92, published in the official gazette *Perleman*, Issue No. 2, October 1992.

including the Interior, Justice and ***Pesh Merga*** Affairs (the latter being akin to a Ministry of Defence). There is no Ministry of Foreign Affairs although some of the relevant functions are carried out by the Ministry of Humanitarian Assistance and Cooperation. Following the formation of the Council of Ministers, separate laws defining the administrative structure and areas of competence of each ministry were promulgated. Initially these laws were drafted by an advisory legal body composed of three jurists, but towards the end of 1992 this task was taken over by the National Assembly's Legal Committee (*al-Lajna al-Qanuniyya*). The various ministries, however, began functioning before the promulgation of these laws, the last of which was issued in December 1993. The 15 portfolios were divided along these lines: six each for the KDP and PUK, one for the ICP, one for the ADM and one for a non-affiliated candidate. Following a reshuffle announced in April 1993, the allocation of portfolios remained the same with the exception of the Justice portfolio, which was given to a representative of the KUP.¹⁴

On the political level, the Council of Ministers' stated aims included the "establishment of relations between Kurdistan and the central government on the basis of a voluntary union within a democratic Iraq which recognizes the rights of our people"; the establishment of good relations with neighbouring countries and non-interference in their affairs; and working through the UN both to exert pressure on the Iraqi Government to lift its blockade on Iraqi Kurdistan and to exclude the region from the sanctions imposed by the UN on Iraq. After the 1993 reshuffle, the Council of Ministers stated that efforts would be made to "establish the relationship of the Regional Government with the future central government on the basis of a voluntary union and respect for a framework of a federal and democratic Iraq in which all the rights of our people are safeguarded". This departure from previously stated political objectives reflected the adoption by the Kurdish leadership in October 1992 of federalism within a unified Iraq as the basis for its future political program. The statement announcing the "federal union", issued in the name of the National Assembly, read as follows: "The Kurdistan National Assembly... decided unanimously... to define its legal relationship with the central government, at this juncture in [the Kurdish people's] history, on the basis of a federal union within a democratic and parliamentary Iraq which believes in a multi-party system and which respects human rights as recognized by international covenants and treaties".¹⁵

On the level of democratic freedoms and human rights, the Council of Ministers committed itself to the following: suspending all legislation passed by the central government which "consolidates and protects dictatorship and destroys the spirit of liberation in

¹⁴ The Justice portfolio has been held by the KDP since August 1993, when the KUP dissolved itself and united with the KDP.

¹⁵ "Statement of the Announcement of the Federal Union", issued by National Assembly Decree No.22 on 4/10/1992, published in *Perleman*, Issue No.3, October 1992.

Kurdistan"; guaranteeing freedom of opinion, of political and religious beliefs and of the press, trade unions and others; protecting human rights in accordance with the Universal Declaration of Human Rights; guaranteeing the cultural rights of minority groups in Iraqi Kurdistan (the Turkman, Assyrians and Arabs); and enforcing the law, protecting the independence of the judiciary and refraining from interference in its affairs. After April 1993 the Council of Ministers also committed itself to making available the necessary buildings and other requirements regarding prisons and detention centres, and to uphold and respect human rights in these establishments; to ensure the availability of modern means of criminal investigation; and to respect human rights in the course of criminal investigation, including refraining from obtaining information by coercion.

In 1993 several important laws were promulgated by the National Assembly which were aimed at tackling security problems in the region as well as regulating various aspects of political and public life. The Weapons Law (No. 16 of 1993),¹⁶ passed in October, was intended to control the amount of freely available weaponry in the region and placed the issuance of licences for weapons under the jurisdiction of the Ministry of Interior. Earlier, in April, the Law on Publications for the Iraqi Kurdistan Region (No. 10 of 1993)¹⁷ was passed, giving the Ministry of Culture responsibility for issuing all publication licences. The Law on Associations for the Iraqi Kurdistan Region (No. 18 of 1993),¹⁸ passed in October, gave the Ministry of Interior responsibility for issuing licences to non-profit making associations. Article 4 of this law stipulates that the aims and activities of these associations must preclude the spreading of religious or sectarian strife, and must comply with democratic principles and the Universal Declaration of Human Rights. Article 6 guarantees the right of these associations to hold gatherings, demonstrations, strikes and other activities in accordance with the laws in force. Finally, the Law on Parties for the Iraqi Kurdistan Region (No. 17 of 1993),¹⁹ passed in October, was aimed at regulating the establishment of political parties in the region. Article 3 states: "The freedom to establish [political] parties is guaranteed, and each party may pursue its activities with complete freedom...". Articles 6 and 7 stipulate that applications for the establishment of political parties must be submitted to the Ministry of Interior and then referred to the Council of Ministers for a final decision. Article 15 sets out a number of "obligations" which all parties must commit themselves to, including: rejecting all forms of terrorism; respecting the law and preserving the independence of the judiciary; and refraining from retaining or establishing any military organizations or possessing weapons in violation of the laws in force. Existing political parties were expected to comply with the provisions of the law within three months of its coming into force.

¹⁶ Decree No. 41 of 5 October 1993, published in *Perleman*, Issue No. 15, 6 November 1993.

¹⁷ Decree No. 24 of 25 April 1993, published in *Perleman*, Issue No. 11, 20 May 1993.

¹⁸ Decree No. 44 of 31 October 1993, published in *Perleman*, Issue No. 15, 6 November 1993.

¹⁹ Decree No. 42 of 18 October 1993, published in *Perleman*, Issue No. 15, 6 November 1993.

The three laws governing publications, associations and political parties all contain provisions allowing the applicants to appeal against a negative decision by the competent ministry. Appeals must be lodged within a stipulated period to the Court of Cassation. Decisions by the Ministry of Interior to dissolve any political party deemed to have failed to comply with the law can also be appealed before the Court of Cassation. In all cases the rulings of this court are final.

The idea of the promulgation of a constitution for Iraqi Kurdistan has been discussed at various junctures by the political, legislative and judicial authorities, and Amnesty International is aware of two draft texts. At the time of writing, the draft texts were still under discussion. The position of "Leader of the Kurdish Liberation Movement" remains unfilled, although the law which regulated elections for this position in May 1992 was subsequently reissued by the National Assembly as Law No. 2 of 1992 and was used as the legal basis for the promulgation of other laws. The consequences of this post remaining unfilled has given rise to a number of legal problems, which are focused primarily on who should carry out the functions of Leader as defined in Articles 10 to 12 of Law No. 2 of 1992. Article 13 of this law states: "In the absence of the Leader from his position for any reason, the head of the executive authority will replace him". However, Article 14 states: "If the position of leader falls vacant for any reason, the President of the Kurdistan National Assembly will assume his responsibilities until a new leader is elected within one month of the position becoming vacant". Disagreement arose between the KDP and PUK over which of these articles should apply and over the legal definitions of "vacant" and "absent".

The decision initially taken in early 1993 was that the President of the National Assembly should carry out some of the functions of Leader on the basis of Article 14.²⁰ He did so for several months, but continuing challenges to his authority by PUK parliamentarians on the basis of Article 13 prevented him from carrying on with these functions. The legality of the decision to empower the President of the National Assembly as Leader was also challenged by some members of the legal profession in Iraqi Kurdistan, albeit on a different basis. Some people question the validity of Law No. 2 of 1992 itself, since it was originally promulgated by the IKF Political Leadership and not by a competent and elected legislative body (the parliament).²¹ Others argue that in any case the President of the National Assembly had exceeded his powers by continuing to carry out the functions of Leader beyond the one month stipulated in Article 14.

²⁰ Amnesty International understands that agreement was reached between the KDP and PUK that both the President of the National Assembly and the Prime Minister would share the functions of Leader on a temporary basis, but that for reasons of protocol the former would take responsibility for many of the public functions. The ratification or commutation of death sentences was also included in his brief (see Chapter 4).

²¹ The Law for the Election of Leader of the Kurdish Liberation Movement was not subsequently debated in the National Assembly. It was simply adopted as Law No.2 of 1992 when the National Assembly came into being.

At the time of writing this issue had not been resolved. Debate around varying interpretations of Articles 13 and 14 continued despite the promulgation of another law in December 1993 which ought to have made such a debate redundant. Law No. 19 of 1993 created an eight-member Presidential Body of the Iraqi Kurdistan Region (***Destey Serokayeti Harêmi Kurdistanî 'Iraq***/*Hay'at Ri'asat Iqlim Kurdistan al-'Iraq*),²² which was meant to fill the vacuum created by the absence of a Leader. Article 1 of Law No. 19 empowers the Presidential Body to assume the authority and responsibilities defined in Law No. 2 of 1992 "until the second phase of the election of Leader of the Kurdish Liberation Movement is completed". In fact the Presidential Body was short-lived and ceased to function within a few weeks of its creation, which had coincided with the outbreak of military clashes between PUK and IMIK forces (see Chapter 5). Law No. 19 was not subsequently repealed, however; in theory it retains legal validity but in practice none of its provisions is applied.

In July 1994, as a result of an initiative by a group of independent Kurdish intellectuals, delegations from the KDP and PUK held talks in Paris under the auspices of the French Government in an attempt to find a lasting solution to their political differences. A draft agreement was produced which tackled a number of key objectives, including: normalization of the situation in Iraqi Kurdistan in the wake of the inter-party conflict in May 1994; normalization of interference by political parties in the administration's affairs and the enhancement of the role of parliament; adoption of a unified policy towards Baghdad as well as the region's neighbouring countries; introduction of a system of accountability into the financial affairs of the Council of Ministers; unification of the police and internal security forces; the disbanding of the armed militias of the two political parties; the abolition of the Ministry for ***Pesh Merga*** Affairs and the creation of a unified army based on conscription. The leaders of the KDP and PUK were due to sign the agreement formally in Paris shortly thereafter. This did not take place and armed clashes between the two sides continued intermittently until August. On 21 November 1994 a separate agreement, known as the Alliance Covenant (*Mithaq al-Tahaluf*) was signed by Mas'ud Barzani and Jalal Talabani. A series of political and legal reforms was agreed as a means of settling differences between the respective parties and preventing the recurrence of the May 1994 clashes. The Alliance Covenant also called for the prohibition and criminalization of armed conflict between the political parties and forces in Iraqi Kurdistan and for the condemnation of the use of violence, assassinations and duress as a means of imposing opinions on others. The following month, armed clashes broke out again between KDP and PUK forces and which were ongoing at the time of writing.

²² Law for the Presidential Body of the Iraqi Kurdistan Region, passed by Decree No. 48 of 22 December 1993, published in *Perleman*, Issue No.15, 22 December 1993.

Background to the human rights crisis

In assessing the human rights situation in Iraqi Kurdistan, Amnesty International recognizes the many difficulties faced by the population and its political leadership over the past three years. The region was in a state of turmoil following the withdrawal of Iraqi Government forces and administration, which happened barely seven months after the brutal suppression of the uprising. The prevailing military and security situation was extremely precarious, with a constant threat of renewed military attacks by government forces. Iraqi Government agents are believed to have continued to perpetrate acts of sabotage, assassinations and other killings aimed at destabilization and spreading fear. Such acts are believed to have also been perpetrated by Iraq's neighbouring countries, namely Iran and Turkey, including the targeting of their own opponents who have sought refuge in Iraqi Kurdistan.

Coupled with this are the consequences of two economic embargoes. The international humanitarian assistance provided by UN agencies and international non-governmental organizations have undoubtedly benefited some sectors of the population. However, this could not compensate for the sudden loss of income and livelihoods experienced by so many people. High levels of unemployment have in turn contributed to a rise in crime. The uncertainties of the future, both politically and militarily, have also taken their toll.

These factors have, however, been used time and again to justify a wide range of human rights abuses committed by those who hold the reins of power in Iraqi Kurdistan. In Amnesty International's view, the failure to uphold fundamental human rights on such grounds or any other grounds, cannot be justified: such rights should be respected in all circumstances. The KDP and PUK, which hold the monopoly of power in the region and have the requisite military means, bear the greatest share of responsibility for the abuses of these human rights. The role of the IMIK, the third political force in the region, has also been significant in this regard.

The commitment to a multi-party political system expressed by the leaders of both the KDP and PUK has not been reflected in their practices. While several political parties have continued to function and some are represented in either the Council of Ministers or the National Assembly, the monopoly of power enjoyed by the KDP and PUK has ensured that none of them develops into a viable entity with political weight. Other smaller groups have been suppressed through intimidation, harassment and, in some instances, the arrest or assassination of their members by both the KDP and PUK. The only challenge to the supremacy of the two ruling parties has come from the IMIK, which controls territory and has a sizeable military force. Its challenge, directed principally at the PUK, has to date manifested itself through sheer military force. After failing to reach the seven per cent threshold in the May 1992 parliamentary elections, and following the failure of negotiations

with the **KDP** and **PUK** over its participation in the Council of Ministers, the **IMIK** distanced itself from mainstream politics and consolidated its own structures in territory under its control (mainly in the regions bordering Iran in Sulaimaniya Province) and elsewhere in Iraqi Kurdistan where it had presence and membership. In these areas it established its own system of law enforcement, a judicial apparatus, courts and detention facilities and provided educational, health and social services for its members. This has been one of the continuing sources of friction between the **IMIK** and the other political parties, which have accused the **IMIK** of not recognizing or accepting the legitimacy of the Kurdish administration and its institutions, and to have thereby contributed to the destabilization of the region. At the same time, the **IMIK** has itself failed to develop a substitute system of accountability as regards its own members who commit human rights abuses, including torture and unlawful and deliberate killings.

A high level of administrative paralysis - most critically in dealing with the criminal justice system - has resulted from the system of power-sharing agreed by the **PUK** and **KDP**. The dispute over the results of the parliamentary elections was tackled by sharing the National Assembly seats equally. The President of the National Assembly was to be from the **KDP** and his deputy from the **PUK**. Conversely, the Prime Minister was to be from the **PUK** and his deputy from the **KDP**. This so-called "50-50 policy" was applied to all other positions of power and authority in the administration. Every **KDP** minister has a **PUK** member as his deputy and *vice versa*. The head of the General *Asayish* Directorate²³ is a **KDP** member, while that of the General Police Directorate is a **PUK** member. Their deputies are appointed on the same basis.

Within this system, each party has sought to block the decisions of the other in accordance with its perceived interests at the time. The problems were compounded by the insistence of both parties that key officials and their deputies be accorded identical responsibilities and levels of authority. The gradual application of the "50-50 policy" to lower-level appointments has further ensured that the administration remains but a tool in the hands of the two parties, a means through which their political interests could be served but which cannot hold them accountable for their actions.

The absence of accountability has allowed the **KDP** and **PUK** to continue abusing their authority, and for individuals affiliated to them to perpetrate human rights abuses with impunity. From their respective positions of strength, both parties have undermined many of the positive measures adopted in the name of the administration. It is widely recognized, for example, that final decisions regarding authorization for the establishment of political parties rest with Jalal Talabani and Mas'ud Barzani rather than with the competent ministries. At least two political groups have alleged that their applications under the Law on Parties for the

²³ The General Security Directorate (see Chapter 2).

Iraqi Kurdistan Region have been blocked on political grounds rather than because they failed to comply with its provisions.²⁴ Both the KDP and PUK, among others, have yet to comply themselves with some of these provisions.

The KDP and PUK have shown a singular lack of respect for the independence of the judiciary. Both have actively interfered in perverting the course of justice. They have, for example, prevented the arrest of suspects affiliated to them and for whom arrest warrants had been issued by investigating judges. In other instances, they have removed such suspects from prison by force, collusion or other means. Political interference has compromised the right of defendants, particularly those accused of political or capital offences, to a fair trial. It has also meant that in many cases, members of the judiciary have been unwilling or unable to investigate claims of torture and cases of killings. There are a number of cases where investigating judges have been threatened with death or intimidated in other ways to deter them from pursuing investigations. Several lawyers and one investigating judge were assassinated (see Chapter 5). The increasing number of such killings has spread fear among the population and has prevented meaningful investigations into such crimes.

By far the most important factor underlying the human rights crisis is the phenomenon of impunity, which is rife in Iraqi Kurdistan. Despite evidence of the responsibility of forces under the authority of the political parties for grave human rights abuses, no one has been brought to justice. In July 1994 Jalal Talabani acknowledged to Amnesty International that PUK forces have committed some human rights abuses, but stated that no measures would be taken to bring them to justice. Mas'ud Barzani told the organization on more than one occasion that while he would be prepared to bring to justice KDP personnel found responsible for human rights abuses, there was "no evidence that any were implicated in such crimes". IMIK leaders told Amnesty International that their forces have not committed any human rights abuses. This report provides evidence to the contrary, and shows that all three political parties have committed gross human rights abuses.

Impunity is one of the main problems which the Kurdish leadership must resolve if its stated commitment to protect human rights is to have any credibility. To date, political leaders have shown themselves unwilling to acknowledge the scale of human rights abuses carried out by their respective parties, to impose the necessary controls on the forces under their authority, or to introduce effective measures to ensure that those responsible are held accountable before the law. The fact that the perpetrators of numerous unlawful and deliberate killings and torture remain not only at liberty but also in positions of authority has undermined public confidence in the administration of justice and the rule of law. The

²⁴ This refers to the IWCP and the KSP-I (under the leadership of Muhammad Haji Mahmud). Muhammad Rahim 'Abdullah, one of the KSP-I's leadership cadres who was assassinated in March 1994 (see Chapter 5) told Amnesty International in February 1994 that the KSP-I's application for registration as a political party was vetoed by Mas'ud al-Barzani.

knowledge that crime will go unpunished - and may even be rewarded - has contributed to the spiral of violence in society at large, which has in turn escalated human rights abuses in Iraqi Kurdistan.

Political leaders frequently justify their failure to act by referring to the precarious security situation in the region, the dire economic conditions, the political uncertainties and the complex nature of Kurdish society. They also cite practical problems relating to law enforcement and the administration of justice, including insufficient resources, lack of training, lack of specialist personnel and corruption. Real though these problems are, the Kurdish leadership must find the political will to ensure that the forces under its control are held accountable before the law and that justice is applied to all human rights abusers and victims.

The promotion of human rights work

Following the withdrawal of Iraqi Government forces from the region, political leaders publicly committed themselves to supporting human rights work, and in some instances initiated programs aimed at promoting human rights awareness.

In December 1991 the Kurdistan Human Rights Organization (KHRO: *Rêkkhrawi Mafi Mirov le Kurdistan*/Munathammat Huquq al-Insan fi Kurdistan) was set up, with branches in Arbil, Duhok, Sulaimaniya and Kirkuk.²⁵ Its membership was largely composed of lawyers, teachers, academics and other professionals, including doctors and engineers. The KHRO sought initially to document human rights violations perpetrated by Iraqi Government forces, but gradually extended its activity to cover abuses perpetrated by Kurdish groups. These activities included registering complaints by members of the public and intervening on their behalf with the Kurdish authorities; visiting acknowledged places of detention and bringing to the attention of the authorities complaints by detainees and convicted prisoners regarding their treatment in custody as well as the dire conditions prevailing in some prisons; and organizing seminars to promote human rights awareness among law enforcement personnel.

From the start, however, the KHRO's work has been hampered by a dearth of members with any experience in the field of human rights and an acute shortage of funding and other resources. On another level, the organization's impartiality has been called into question as a result of some of its members or branches being perceived as too closely associated with either the KDP or PUK. The KHRO has also been riven by internal strife.

²⁵ The Kirkuk branch of the KHRO, based in Derbendikhan, began functioning in December 1992.

These problems aside, however, it is evident that as the human rights situation in Iraqi Kurdistan deteriorated, the business of human rights investigation and protection became not only more difficult but also more risky. KHRO representatives increasingly complain to Amnesty International that both the political and administrative authorities rarely respond to interventions made on behalf of individual victims of human rights abuses or take serious steps to redress matters raised with them. More importantly, the increase in the number of unlawful and deliberate killings, particularly the assassination of political activists and members of the legal profession, has deterred committed human rights defenders from carrying out their tasks. Amnesty International is aware of several cases where individuals have been harassed, intimidated or threatened because of their human rights work.

A variety of groups and associations have been set up in the past three years which are not involved in general human rights work but focus on promoting the rights of women and specific groups of workers. Among the political parties, the KDP, PUK and IMIK have created their own human rights committees, specifically since the May 1994 events. However, their work remains largely confined to documenting human rights abuses against their own members.

Within the Kurdish administration, no mechanism or body with a human rights mandate has been established to date. In mid-1992, prior to the creation of the Council of Ministers, PUK leader Jalal Talabani told Amnesty International that the idea of creating a department within the Ministry of Justice to deal with human rights issues would be discussed by the IKF political leadership. No such department was subsequently created, however. There is also no parliamentary human rights committee within the National Assembly, although a number of parliamentarians have raised human rights issues during debates.

CHAPTER TWO LAW ENFORCEMENT AND THE PRISON SYSTEM

One of the most urgent tasks facing the IKF after the 1991 withdrawal of Iraqi Government forces from the region was the restoration of law and order in the major cities and towns. The civilian police forces were reconstituted and organized administratively into police directorates for each province, and were made directly answerable to the local committee of the IKF. This coincided with the resumption of work by members of the judiciary and the civil courts (see Chapter 3), and with the reopening of prisons under the jurisdiction of the police.

During the months leading up to the parliamentary elections, the civilian police gradually took on responsibility for the arrest, detention and interrogation of criminal suspects, and the referral of cases to the civil courts. The legal procedures followed from the start were said to conform to Iraq's Penal Code and Code of Criminal Procedure,²⁶ both of which fall short of international standards. However, cases involving offences of a "security" nature continued to be dealt with by the IKF's security committees. Suspects were arrested without warrant and interrogated while held in the custody of the same authority, with no independent judicial supervision at any stage in the process, as required by Article 9 of the ICCPR and other international standards. The vulnerability of detainees held in such circumstances was compounded by the fact that although many of them were held ostensibly in the name of the IKF, the arresting and detaining authority was in reality one or other of the political parties. Moreover, some of the detainees were held in unacknowledged places of detention, where they could be held indefinitely and during which they were deprived of the most basic rights. Those who were subsequently charged with recognizable criminal and political offences were brought to trial before special courts, which failed to ensure fair trials (see Chapter 3). Detainees held by political parties outside the IKF, notably the IMIK, were held under similar conditions. The IMIK adopted its own judicial system, according to which detainees were "tried" and sentenced to terms of imprisonment or to death.

A number of positive developments took place with regard to law enforcement in Iraqi Kurdistan once the Council of Ministers assumed its responsibilities in July 1992. The political parties moved towards the unification of their respective armed and security forces to an agreed limit, and a centralized law enforcement structure was created with clear lines of accountability.

²⁶ Penal Code, Law No.111 of 1969 as amended; Code of Criminal Procedure, Law No. 23 of 1971 as amended.

The Ministry for *Pesh Merga* Affairs

The Law of the Ministry for *Pesh Merga* Affairs (No. 5 of 1992) was promulgated on 1 October 1992.²⁷ The main purpose of the Ministry is defined under Article 3(1) as "the defence of the unity of Iraqi Kurdistan, its territory and its people, from all aggression irrespective of its source". Article 4 provided for the appointment of a Committee for the Unification of *Pesh Merga* forces to work towards the recruitment and unification of these forces.

Earlier, in July 1992, the National Assembly had passed a decree allowing for the reinstatement to their former positions of military, police and security personnel who had been removed from their posts or transferred to civilian duties by the Iraqi authorities "because of their links with the Kurdish liberation movement".²⁸ The following March, Law No. 8 of 1993 was passed, which allowed for the recruitment into the unified armed forces of veteran *Pesh Merga* officers, provided that they had not "deviated from the aims of the revolution and collaborated with the enemies of the Kurdish liberation movement".²⁹ By October 1993 the unified armed forces had reached some 35,000 in number, according to the Minister for *Pesh Merga* Affairs, Jabbar Farman. He told Amnesty International at the time that the KDP and PUK had each contributed 15,000 armed fighters, with the remaining 5,000 coming from several smaller political parties.³⁰ A military college had been established in Qala Cholan (Sulaimaniya province) at the end of 1991, although this was essentially a PUK rather than an IKF establishment.

The Ministry for *Pesh Merga* Affairs does not formally exercise jurisdiction over any prisons, although it has detention facilities for members of the armed forces accused of military offences. These facilities include cells located in or near the headquarters of the unified *Pesh Merga* forces' Special Brigades (*Liway Taybeti/al-Alwiya al-Khassa*), which Amnesty International visited in July 1994. Detainees have also been held on the *Pesh Merga* ministry's premises in Arbil. The procedures followed by the ministry with regard to

²⁷ Decree No. 19 of 1 October 1992, published in *Perleman*, Issue No. 4, November 1992.

²⁸ Decree No. 3 of 29 July 1992, published in *Perleman*, Issue No. 1, 15 September 1992.

²⁹ Article 5 of Law No. 8 of 1993, promulgated by Decree No. 18 of 17 March 1993, published in *Perleman*, Issue No. 10, 12 April 1993.

³⁰ According to KDP sources, the unified *Pesh Merga* forces never reached 35,000. Amnesty International was told that the agreed target was 36,000, but that the total number actually attained never exceeded 28,000-29,000. Of these, the KDP and PUK had contributed 12,000 fighters each, with the remainder coming from the smaller political parties.

the arrest, detention and trial of members of the unified **Pesh Merga** forces accused of having committed offences are said to be carried out in coordination with the Ministries of Justice and Interior.

The Ministry of Interior

The Law of the Ministry of Interior (No. 9 of 1993) was promulgated on 27 March 1993.³¹ Its areas of responsibility, as defined by Article 2, include the following: to protect the internal security of the Iraqi Kurdistan Region; to protect democratic liberties and human rights; to combat espionage, smuggling and infiltration; to protect the economy; and to prevent illegal entry into the region. The law enforcement personnel over which it has jurisdiction, the civilian police and the internal security forces, are a combination of former **Pesh Merga** fighters and former members of the police under the Iraqi Government. One of the first acts passed by the National Assembly was to bring "all checkpoints and the internal security forces" under the jurisdiction of a Ministry of Interior, effective from 15 July 1992.³²

The Ministry of Interior is organized into six directorates, among them the General Police Directorate (*Mudiriyyat al-Shurta al'Amma*) and the General Security Directorate (*Mudiriyyat al-Asayish al'Amma*), known as the **Asayish**.³³ The headquarters of both directorates are based in the city of Arbil, and it is to them that the police and the **Asayish** directorates in each of the four provinces are answerable. The Law of the Ministry of Interior does not spell out the range of crimes for which the police and the **Asayish** are responsible. In general, ordinary criminal offences are dealt with by the police while security offences, such as espionage and sabotage, as well as drug-trafficking, are dealt with by the **Asayish**.

The police directorates in the provinces of Arbil, Duhok, Sulaimaniya and Kirkuk are organized along the same lines. Initially, each police directorate consisted of three units with separate functions: the Emergency Police Directorate (*Mudiriyyat Shurtat al-Najda*), the City Police Directorate (*Mudiriyyat Shurtat al-Balda*) and the Crime Combat Directorate (*Mudiriyyat Mukafahat al-Ijram*). Each of these units had separate police stations in the principal administrative districts of the cities as well as in the provinces as a whole. The police stations of the City Police and Crime Combat directorates had detention facilities where

³¹ Decree No. 21 of 27 March 1993, published in *Perleman*, Issue No. 10, April 1993.

³² Decree No. 1 of 15 July 1992, published in *Perleman*, Issue No. 1, 15 September 1992.

³³ The *Asayish* (literally, "security") forces are the official internal security forces in Iraqi Kurdistan and are henceforth referred to by that name.

suspects were first held upon arrest and where preliminary interrogation took place. Most of the allegations of torture and ill-treatment of criminal suspects at the hands of the police which have been recorded by Amnesty International have emanated from police stations of the Crime Combat Directorate. Following changes in the organizational structure of the police forces at the end of 1993, the functions of the three directorates were merged to a greater degree and their separate police stations brought under a more centralized command. Amnesty International was told that these changes were aimed at achieving greater efficiency and better use of scarce resources.

The Ministry of Interior is also responsible for the four main police prisons in Iraqi Kurdistan, which are in the cities of Duhok, Arbil and Sulaimaniya and the town of Derbendikhan. All were prisons when the region was under Iraqi Government control, and each continues to be known as the Detention and Deportations Prison (*Sijn al-Mawqif wal-Tasfira*).³⁴ There are, in addition, smaller prisons or detention facilities run by the police in the major towns and some rural areas. Both convicted prisoners and detainees awaiting trial on criminal charges are held in these prisons, including women and children. The authorities claim that lack of resources has prevented the construction of separate prisons for these two latter groups. Prisoners sentenced to death are also held there, and executions are carried out on the premises.

The **Asayish** forces were formally set up in October 1992, five months before they were legally established under the Law of the Ministry of Interior. They were said to have started functioning effectively in January 1993 following the appointment of Karim Sinjari, a civilian, as head of the General Security Directorate.³⁵ The **Asayish** are also organized into four

³⁴ The police prison in Arbil is more commonly known as *Sijn al-Mahatta* (the Station Prison).

³⁵ Karim Sinjari is a member of KDP Central Committee. He remained General Director of the *Asayish* until the end of April 1994, when he was succeeded by Ghazi al-Zebari, formerly the KDP's representative in Syria.

directorates, one for each province.³⁶ With the exception of Duhok **Asayish** Directorate, all are headed by civilians. Each consists of several units,³⁷ including: the Political Unit (*al-Shu'ba al-Siyasiyya*), the Legal Unit (*al-Shu'ba al-Qanuniyya*), the Economic Unit (*al-Shu'ba al-Iqtisadiyya*), the Information Unit (*Shu'bat al-Itlaan*) and the Residence and Travel Unit (*Shu'bat al-Iqama wal-Safar*). In addition to the main urban centres, **Asayish** personnel are also stationed in the main administrative districts, but not in all sub-districts or villages.

Figure 2 Interior of the *Asayish* Prison, Arbil

Karim Sinjari told Amnesty International that **Asayish** members are recruited on the basis of their "trustworthiness", which he said ruled out individuals who had been members of the Ba'th Party or who had served the Iraqi Government in any capacity. He added that while he deemed this policy to be "contrary to human rights principles", the Kurdish administration could not afford at this stage to place its trust in people

who had been linked to the central authorities in Baghdad. The image presented by Karim Sinjari of **Asayish** personnel does not appear to be shared by wide sectors of the Kurdish population. Amnesty International has received numerous and persistent complaints suggesting that the **Asayish** abuse their authority, harass and intimidate civilians, and commit other abuses with impunity.

Asayish personnel are said to receive some basic training, including lectures run by representatives of the judiciary on the provisions of the Penal Code and Code of Criminal Procedure. To Amnesty International's knowledge, the training provided had no human rights content. The organization provided Karim Sinjari with copies of the UN Code of Conduct for Law Enforcement Officials, urging that it form part of the training of **Asayish** personnel and that immediate steps be taken to ensure its implementation. Karim Sinjari subsequently provided Amnesty International with a copy of a letter he had sent to all

³⁶ There is, in addition, a separate directorate dealing with matters relating to residence, passports and travel.

³⁷ Not all directorates have established the same range of units, apparently owing to lack of resources.

Asayish directorates, asking the officials in charge to ensure that all personnel are made aware of the provisions of the Code. However, no measures to follow this up are known to have been taken. Karim Sinjari said there were plans to provide for more intensive training in 1994 by running courses of at least three months' duration. Amnesty International does not have details of these courses and therefore cannot assess their potential usefulness.

Formally, the two main areas of jurisdiction of the **Asayish** are economic crimes and political crimes. The former include smuggling and illegal fixing of prices, and the latter focus principally on acts of terrorism, sabotage and espionage. Karim Sinjari told Amnesty International that the **Asayish** have also been involved in gathering intelligence on incidents involving assassinations, politically-motivated or otherwise, and that such information was then transmitted to the police who have prime responsibility for investigating such crimes.

In various areas of crime combat, conflicts between the police and **Asayish** forces emerged soon after the latter were set up. A number of police officers complained to Amnesty International that the **Asayish** frequently interfered in their affairs, namely by arresting, detaining and interrogating individuals suspected of having committed crimes which were clearly not within their jurisdiction. In such cases, suspects were said to be frequently arrested without a warrant and kept in detention without judicial supervision of their cases. Amnesty International raised this matter with Karim Sinjari in October 1993. He conceded that the **Asayish** had indeed interfered in police matters "in the early days", but that these problems had been largely resolved following a series of meetings with police chiefs. He commented, however, that the police apparatus in Iraqi Kurdistan was "old" and that the "enthusiasm" found among the newly-established **Asayish** forces was not shared by the police. He said that police personnel were often "not prepared to go out at night" when called to the scene of a crime, and "not as willing as the **Asayish** to make sacrifices" when combating crime. Such considerations, he maintained, had led the **Asayish** to act in areas outside their jurisdiction. This assertion was rejected outright by representatives of the police to whom Amnesty International spoke, and is not substantiated by the organization's findings about the abuse of authority by the **Asayish**.

The arrest and detention procedures followed by **Asayish** personnel are said by the authorities to conform with Iraq's Penal Code and Code of Criminal Procedure. However, Amnesty International has received numerous reports of the violation of these laws by the **Asayish**. These include the torture and ill-treatment of detainees and the denial of their legal rights. Suspects in the custody of the **Asayish** are normally held in one of the four main prisons under their jurisdiction in the provinces of Arbil, Duhok, Sulaimaniya and Kirkuk. The prison buildings are, for the most part, adjoining the headquarters of the respective **Asayish** directorates, and range in size from a large facility accommodating several hundred inmates to one or two cells. The headquarters of the General **Asayish** Directorate in Arbil also has separate detention facilities, where political and other detainees are held. In the provincial districts, **Asayish** centres have short-term facilities which are used to hold suspects before their transfer to the main prisons in the cities.

The prisons run by the civilian police and the ***Asayish*** can be described as the "official" prisons in Iraqi Kurdistan. The Kurdish authorities have granted international humanitarian organizations, notably the International Committee of the Red Cross (ICRC), regular access to these places of detention. All requests made by Amnesty International for access

Figure 3 Duhok *Asayish* Directorate

to these prisons have also been granted to date. Most are severely overcrowded, which has meant that sentenced prisoners have been held with detainees awaiting trial, juveniles have shared cells with adults, and female detainees have not had separate facilities. In December 1992 Amnesty International was told that the National Assembly had approved plans for a new central prison in the Khalifan region to alleviate overcrowding, improve conditions of detention and create separate detention facilities for the various categories of inmates. No such prison has been constructed to date. In July 1994 the Minister of Interior told Amnesty International that a decision had been taken to convert a disused tobacco factory in Arbil into a central prison, and expressed optimism that the decision would be implemented.

CHAPTER THREE THE JUDICIARY AND THE COURTS

Amnesty International is deeply concerned that the judicial system in Iraqi Kurdistan as established under Iraqi law and modified by legislation and practice since the withdrawal of Iraqi Government forces has been responsible for the unfair trials of political prisoners and the imposition of the death penalty, and has tolerated or facilitated torture and ill-treatment by the Kurdish administration authorities. The system of special courts using special procedures and practices, now abolished, and the susceptibility of judges in special courts to outside pressure has denied political prisoners the fundamental right to be tried by competent, independent and impartial courts. International standards which are particularly relevant include Articles 9 and 14 of the ICCPR, imposing safeguards against arbitrary detention and guaranteeing the right to fair trial before competent, independent and impartial courts, and the UN Basic Principles on the Independence of the Judiciary, providing that "[t]ribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or tribunals". Amnesty International is also concerned that no measures have been taken to put an end to political interference with the administration of justice at all levels.

The emergence of a central judicial system in Iraqi Kurdistan passed through several stages of development. During the seven months between the end of March and the third week of October 1991, judicial authority in areas which remained under Kurdish control was formally exercised by the IKF. This included the arrest, detention and interrogation of suspects; the establishment of special courts; the imprisonment of convicted prisoners; and the imposition of death sentences on prisoners convicted of crimes for which the death penalty was provided under Iraqi law, some of which were carried out. At the same time, individual political parties retained their own system of law and order, detaining and interrogating suspects in their own prisons and detention centres and, in some cases, executing them.

This system continued to operate after the withdrawal of Iraqi Government forces from most areas of Iraqi Kurdistan on 23 October 1991. However, the withdrawal brought under Kurdish administration the existing civil courts (including the criminal courts) in the cities of Arbil, Sulaimaniya and other areas, forming the basis of a central judicial system for the region. These courts continued to function as before, operating alongside the special courts set up by the IKF. The IKF retained ultimate judicial authority for both the special courts and the criminal courts until the appointment of the Council of Ministers in July 1992 and the creation of a Ministry of Justice. By November that year, all special courts had been abolished.

The special courts

One of the major decisions taken by the IKF in 1991 was to establish special courts, which had special procedures in practice, in an attempt to introduce law and order to those areas which remained under Kurdish control after the uprising was crushed. To Amnesty International's knowledge, the first special court was set up in Diyana (Soran district) at the instigation of Karim Sinjari, who was the IKF's representative in that area at the time. The decision to establish this court was taken in mid-April 1991 and the IKF Court (*Mahkamat al-Jabha*), as it came to be known, came into being shortly after. Its bench consisted of seven judges, all said to be graduates of the University of Baghdad's Law College. The court heard both criminal and security cases and its sentences were said to have been ratified by the IKF representative in the area. There was no right of appeal to a higher court. Several other local IKF courts were set up along similar lines in other areas, including Shaqlawa and Rania.

Little information is available to Amnesty International on the functioning of the IKF courts, which were said by officials to have applied existing Iraqi legislation. However, Amnesty International has received various reports, including from individuals closely connected with the courts, suggesting that corruption and political interference at a high level influenced some of the courts' decisions. Allegations included the acceptance of bribes by some members of the courts' benches, as well as numerous attempts by IKF officials to interfere in individual cases, particularly by trying to secure the release of certain detainees affiliated to one or other of the political parties.

The IKF courts were short-lived. In mid-May 1991 the IKF decided to set up a new judicial structure for the Kurdish-controlled areas. The task of overseeing the implementation and functioning of this new judicial system was entrusted to a senior IKF official, Qader 'Aziz Jabbari, who is currently the Minister of Justice. These areas were divided into four sectors (*mahawir*), each having a principal court: the Arbil Sector Court, which sat in Shaqlawa; the Sulaimaniya Sector Court, which sat in Qala Cholan; the Duhok Sector Court, which sat in al-Qadesh; and the Garmian Sector Court, which sat in a mountainous region on the outskirts of the town of Kifri.³⁸ The presidency of each was responsible for the judicial supervision of a number of lower courts which were also set up within each sector to hear different kinds of cases. These lower courts were said to include a Criminal Court, a Court of First Instance, a Misdemeanour Court, an Investigation Court and a Personal Status Court.

³⁸ Kifri and other neighbouring towns were under Iraqi Government control at the time.

In May 1992 Nuri Isma'il Nanakali,³⁹ formerly President of the Arbil Sector Court, told Amnesty International that the sector courts applied existing Iraqi legislation, with the exception of those provisions "affecting the liberty and security of individuals". Again, little information is available to Amnesty International on the functioning of the sector courts. However, the organization has received reports suggesting that they too were characterized by grave procedural irregularities, and subjected to interference by various political parties. Some of the allegations appeared to implicate several judges in the torture or ill-treatment of detainees, and in the clandestine release of detainees for political, financial or other motives.

By October 1991 all the sector courts had been abolished and replaced with the Supreme Kurdistan Court (*Mahkamat Kurdistan al-Ulya*), which became the highest judicial body in the Kurdish-controlled region. Article 1 of Decree No. 3035 issued by the IKF's Political Leadership Acting Body on 5 October 1991 defined the competence of this court as follows: hearing all cases of a criminal nature, except cases referred to the Supreme Special Court for the Revolution (*al-Mahkama al-Ulya al-Khassa lil-Thawra*, which was set up one month later - see below); in a cassation capacity, reviewing all judgments issued in civil cases, and in which the court's decisions were final; and appointing judges and taking disciplinary measures against them. Article 2 stipulated that all sentences passed in criminal cases by the Supreme Kurdistan Court be reviewed by cassation by a General Body (*al-Hay'a al'Amma*) of the court. The decisions of the General Body were final except in death penalty cases where sentences had to be upheld by the IKF.

The Supreme Kurdistan Court sat in Shaqlawa and had a three-member bench. All criminal cases which were left pending when the sector courts were abolished were referred to this court. Its president, Nuri Isma'il Nanakali, told Amnesty International in May 1992 that the court applied existing Iraqi legislation, namely the Code of Criminal Procedure and the Penal Code. He admitted that some of the provisions of these laws had on occasion been violated, particularly regarding the treatment of detainees during pre-trial detention. Amnesty International had in fact received numerous reports of gross irregularities before the Supreme Kurdistan Court at all stages of its proceedings, which were conducted *in camera*. These included the torture or ill-treatment of detainees (including minors) during interrogation to extract "confessions"; the acceptance of such "confessions" as the sole basis for securing a conviction; the conduct of trials in the absence of defence lawyers; and the denial of the right to appeal on points of fact. The court reportedly passed numerous death sentences, although officials did not provide Amnesty International with reliable and precise data on this. Nuri Isma'il Nanakali told the organization that the first three death sentences passed by this court were carried out publicly by firing squad in October 1991, and that death sentences passed thereafter were carried out in secret. Among the allegations received was that the decision to sentence prisoners to death and to execute them was, in some cases,

³⁹ Nuri Isma'il Nanakali was assassinated in November 1994 (see Chapter 5).

taken on political grounds. Political considerations were also said to have influenced the court's decisions to impose fines rather than terms of imprisonment.

In early November 1991, one month after the establishment of the Supreme Kurdistan Court, another special court was set up. The Supreme Special Court for the Revolution (*al-Mahkama al'Ulya al-Khassa lil-Thawra*) reportedly came into being to hear cases of a "special" or "dangerous" nature.⁴⁰ These included espionage and sabotage as well as other

Figure 4 The former Supreme Special Court for the Revolution and adjoining prison, Shaqlawa

offences of a political nature. The court sat in Shaqlawa and had a five-member bench. In theory, it followed the provisions of the Code of Criminal Procedure and the Penal Code. In practice, its proceedings reportedly did not meet the most basic standards for fair trial, including those contained in Iraqi legislation. Trials before the court were said to have been summary in the extreme and were characterized by the same irregularities described above with respect to the Supreme Kurdistan Court. In addition, it was widely perceived as a "political court" in the sense that its decisions were seen as based on political rather than legal considerations. There were also numerous cases where detainees who were affiliated to one or other of the political parties were reportedly released outside the framework of the law in exchange for large sums of money (euphemistically referred to as "fines"). This was said to have been an accepted practice, and that in fact there was a verbal agreement between the parties in the IKF to that effect. Numerous death sentences were said to have been imposed by this court but officials did not provide Amnesty International with accurate data in this regard. The IKF's Political Leadership Acting Body, according to one of its members, had ratified "tens" of death sentences passed by this court during the four months of its existence.

The extent of political interference in the affairs of the court was believed to be the principal reason behind its paralysis towards the end of January 1992, when conflict arose

⁴⁰ Amnesty International was unable to obtain the text of the IKF decree by which this court was set up and which may have defined its areas of competence.

between the KDP and PUK over a particular case. This coincided with the death of the President of the court, 'Umar Mustafa, at the end of that month during the PUK's First Conference. The Supreme Special Court for the Revolution became virtually defunct, although it was not abolished for a further two months. In the interim, the ordinary criminal courts in the cities of Arbil, Sulaimaniya and Duhok gradually took on more cases. This, together with the improved security situation in the region and the partial restoration of law and order, led the IKF to abolish the Supreme Kurdistan Court on 28 January 1992. All cases pending before this court were referred to the Supreme Special Court for the Revolution, which was in turn abolished at the end of February 1992. Nonetheless, and despite the existence of fully functioning criminal courts, the IKF leadership continued to believe in the necessity of having a special court to hear cases of a security and political nature. On 19 March 1992 the IKF's Political Leadership Acting Body decided to establish a Special Court for the Revolution (*al-Mahkama al-Khassa lil-Thawra*), and Decree No. 281 was issued to that effect on 22 March. The court sat in Arbil, using an office located in a prison attached to the city's former Police Directorate. Its bench consisted of three civilian judges, all said to be graduates of the Law College. Cases of a political and security nature which were pending when the Supreme Special Court for the Revolution was abolished were referred to this court.

As far as Amnesty International is aware, no other decree was issued by the IKF setting out the areas of competence of this court, which was essentially the Supreme Special Court for the Revolution with a new name and bench.⁴¹ The decree of 22 March 1992 stated, however, that the court would be charged with examining "cases referred [to it] by the political leadership". Its President, Faruq Jamil, told Amnesty International at the end of May 1992 that the court was temporary, and was set up during a transitional period to hear cases of a security nature. These were said to include espionage, sabotage and other activity deemed to be prejudicial to "the security of the revolution". Such acts were deemed to have been carried out principally by agents of the Iraqi Government operating in the region. Amnesty International was told that the court followed legal procedures set out in Iraq's Code of Criminal Procedure and Penal Code, and that no exceptional powers had been granted to the court which overrode the provisions of these laws. Preliminary investigations into offences of a security nature were usually carried out by a security committee within the IKF before being referred to the court, although in some cases such investigations were initiated by the civilian police and then referred to the court once it transpired that the offences were of a security nature. Faruq Jamil stated that the legal rights of detainees were respected once they were referred to the court. An investigating judge was appointed to examine their cases and to renew their detention periods as necessary in accordance with the Code of Criminal Procedure. He added that detainees were granted access to defence lawyers, who presented their clients' defence on two assigned days of the week; that no

⁴¹ The decree authorizing the establishment of this court referred to it as the "Special Court for the Revolution", while the decree which abolished it in November 1992 referred to it as the "Supreme Court for the Revolution".

torture or ill-treatment was used against them; and that, with the exception of cases involving crimes of a "moral" nature, all trial sessions were held in public. However, the verdicts and sentences of the court were final and convicted prisoners had no right of appeal, even in death penalty cases.

Amnesty International then met the court's two assistant judges. The organization was told that about 80 prisoners had been convicted by the Supreme Special Court for the Revolution in Shaqlawa on various criminal charges, including murder, robbery and forgery. There were also some 60 detainees arrested mainly in 1991 who had not been tried by that court when it was abolished, as well as 15 other detainees charged with security offences. The prison's register showed that 230 inmates had been entered up to 29 May 1992. Those convicted were serving prison terms ranging from one year to life for both security and ordinary crimes.

Amnesty International was offered unrestricted access to the inmates, and was allowed to examine sample files of both convicted prisoners and detainees awaiting trial and to photograph some of these documents. It was clear that in some cases proceedings had been summary, and that some defendants had been tried and convicted without any legal representation. One of the court's assistant judges admitted to Amnesty International that some defendants had not had a defence lawyer, particularly those charged with espionage or sabotage and who were suspected of being agents of the Iraqi Government. He said that it was not the court's policy to deny defendants this basic right; rather, very few lawyers were willing to defend them owing to the nature of the charges.⁴² Amnesty International was subsequently told by other members of the judiciary that trials before this court were, in fact, held *in camera*. The torture or ill-treatment of detainees during pre-trial detention was said to be routine, and "confessions" extracted under such circumstances were used to secure convictions.

The Special Court for the Revolution continued to operate until it was abolished by the National Assembly in mid-November 1992.⁴³ The decree which abolished it stated that all sentences handed down by the court would be enforced by virtue of acquiring legal validity through the IKF, which possessed *de facto* authority at the time (Article 2); that all criminal cases settled by the court would be referred for review to the Court of Cassation for the Kurdistan Region upon its establishment (Article 3);⁴⁴ and that all cases in which no rulings had been passed by the court would be referred to the Ministry of Justice for distribution to the competent courts (Article 4).

⁴² Nevertheless, Article 14(3) of the ICCPR requires the court in a criminal case to assign counsel to defendants who are unable to obtain a lawyer.

⁴³ Decree No. 35 of 14 November 1992, published in *Perleman*, Issue No. 6, second half of December 1992.

⁴⁴ The provisions of Article 3 also applied to cases involving disputes over land ownership.

Although the Court of Cassation for the Kurdistan Region was established by law in December 1992 and became functional in mid-January 1993, as far as Amnesty International is aware no cases from these special courts were referred to it for review for at least six months. It was only in late July 1993 that the new Minister of Justice, Qader 'Aziz Jabbari, announced the appointment of a three-member committee to sort through cases and refer them to the competent courts.⁴⁵ In October 1993 the investigating judge who headed the committee told Amnesty International that of the hundreds of cases being examined by the committee, 274 involved criminal offences where sentences had been passed by the Special Court for the Revolution. He added that there were no death sentences among them. Of the 274 cases, 250 had already been referred to the Court of Cassation.⁴⁶ He said the Court of Cassation would quash sentences in cases where errors in the legal procedures followed were identified, and uphold sentences where no errors were found.

The President of the Court of Cassation, Judge Rashid 'Abd al-Qader Salim, took a different view. In October 1993 he told Amnesty International that even in cases where the legal procedures followed were deemed to have been unfair, the sentences would be upheld as "they fell outside the framework of any review". He pointed out that the number of such cases was very small, and that the sentences passed were on the whole commensurate with the crimes committed. He added that the National Assembly could issue a partial or general amnesty if it felt that the sentences passed by the special courts were too harsh.

The task facing the Court of Cassation in reviewing the cases referred to it from the special courts is by no means easy. Indeed it is potentially a highly sensitive matter. The extent of political corruption which characterized these courts from the start, and the fact that most, if not all, political parties were reportedly heavily implicated in perverting the course of justice for their own interests explains, in the view of some members of the legal profession, the apparent reluctance of the Court of Cassation to delve too deeply into the hundreds of cases referred to it for review following the abolition of the special courts. These factors may also explain some of the obstacles encountered by Amnesty International in obtaining, particularly from official sources, access to court documentation pertaining to the period October 1991 to November 1992.

⁴⁵ Order No. 2/3/203 issued by the Minister of Justice on 24 July 1993. The three-member committee was composed of an investigating judge and two judicial investigators.

⁴⁶ Amnesty International has obtained, from non-official sources, a partial list of some 70 defendants arrested in the period May 1991 to March 1992 and convicted by the special courts for a variety of offences under Iraq's Penal Code. These included offences against the external security of the state (Articles 157, 158, 164 and 167), and common criminal offences such as robbery (Articles 443 and 444), rape (Article 393) and premeditated murder (Articles 405 and 406). Custodial sentences handed down by the courts ranged from two years to life, but of the 35 defendants from this group convicted of premeditated murder, four had been sentenced to death under Article 406.

Amnesty International has three main concerns in this area: a) that an unknown number of defendants, in both criminal and political cases, were executed following manifestly unfair trials while others remain under sentence of death; b) that the legal procedures followed during pre-trial detention and before the courts were manifestly unfair in political cases and cases where death sentences were imposed, and that those convicted may be executed or serve long terms of imprisonment if their sentences are upheld by cassation, without having had an effective right of appeal; and c) that the current Kurdish administration apparently does not intend to initiate investigations into past abuses relating to the special courts with a view to bringing those responsible to justice.

This is particularly regrettable as Amnesty International believes there was a genuine desire by the Kurdish leadership in the aftermath of the March 1991 uprising to establish a judicial mechanism as part of its overall efforts to maintain law and order in areas under its control. The IKF's efforts were hampered by a dearth of qualified and experienced judges and other members of the legal profession, many of whom had remained in Arbil and Sulaimaniya following the return of Iraqi government forces after the crushing of the uprising. Information obtained by Amnesty International suggests that while some of the judges who sat on the special courts' benches - whether politically independent or affiliated - endeavoured to resist interference in the courts' affairs by political parties, others were more amenable. Moreover, the political parties perceived such judges as their "representatives" on the benches through whom they could obtain the release of some detainees or the conviction of others. The continuing lack of respect displayed by the political parties for the independence of the judiciary and for the laws which they themselves helped to promulgate, has served to undermine many of the positive judicial measures adopted in the past two years (described below). Indeed, in Amnesty International's view, the single most significant threat to the independence of the judiciary in Iraqi Kurdistan today remains the interference on the part of some political parties - whether through brute force or more subtle means (see Chapter 5). It constitutes one of the root causes of many of the human rights abuses described in this report.

The ordinary criminal courts

The obstacles facing the judiciary in making the ordinary courts functional again after October 1991 were enormous, given the prevailing conditions. Many court documents, including those pertaining to the criminal investigation of suspects, had been burned or destroyed during the March 1991 uprising. Many criminal suspects had escaped during the uprising: some were later rearrested by Kurdish law enforcement personnel (particularly those charged with murder and other serious offences), and fresh investigations had to be launched into their cases. This added to the already huge burden facing the courts, created by the high incidence of new cases arising in a region where law and order had not been fully restored.

Nevertheless, the extent to which the judicial system became functional, the speed with which this was achieved and, more importantly, the fact that it acquired legitimacy in the eyes of the population, represented an important step forward. Courts which existed under the Iraqi Government continued to function under Kurdish administration. These included the Criminal Courts (*Mahakim al-Jinayat*) in the cities of Arbil, Dohuk and Sulaimaniya, the Court of Appeal (*Mahkamat al-Isti'naf*) in Arbil, as well as other specialized courts, such as the Juvenile Courts (*Mahakim al-Ahdath*).⁴⁷ The ordinary criminal courts tried defendants charged with capital offences as well as political detainees charged with security offences. According to members of the judiciary with whom Amnesty International held discussions in May and June 1992, the courts continued to apply Iraq's Code of Criminal Procedure and the Penal Code, with the exception of certain provisions deemed to violate minimum human rights standards - the so-called "Saddamist" aspects of these laws.

According to the Code of Criminal Procedure, criminal suspects can only be arrested on the basis of arrest warrants issued by an investigating judge. Initially the suspects are held at a police station for 24 hours, after which they must be referred to the investigating judge or released. Upon referral, the suspects' statements are recorded in writing by the investigating judge, who then decides whether to release them unconditionally or on bail, or to detain them for a further 15 days. If the detention period is renewed, the suspects are transferred from the police station to an officially recognized prison. To allow investigations into alleged offences to be completed, the detention period of suspects can be repeatedly extended by the investigating judge for 15 days at a time, provided that the total period of detention does not exceed six months. If the investigations are not completed within that period, permission for a further extension must be obtained from the criminal court, which can order the continued detention of suspects for further periods at its discretion. Iraqi legislation does not set a maximum limit to the period during which suspects may be legally detained, which can effectively lead to the indefinite detention without charge or trial of suspects.⁴⁸

It has not been possible for Amnesty International to assess the extent to which the provisions of the Code of Criminal Procedure were applied in all cases brought to its attention. In May 1992 the then President of the Court of Appeal, Ma'ruf Ra'uf Khadr (who was later to become Iraqi Kurdistan's first Minister of Justice),⁴⁹ told Amnesty International

⁴⁷ Other courts included the Misdemeanour Courts (*Mahakim al-Junah*) and the Personal Status Courts (*Mahakim al-Ahwal al-Shakhsiyya*).

⁴⁸ Amnesty International understands, however, that in ordinary criminal cases, the accepted norm in the criminal courts is that the periods for which suspects may be detained beyond the six-month limit should not exceed a further 90 days.

⁴⁹ Ma'ruf Ra'uf Khadr was appointed Minister of Justice in August 1992. He held the post until April 1993, when he was replaced by Qader 'Aziz Muhammad Jabbari.

that legal procedures were being applied as strictly as prevailing conditions allowed. He gave Amnesty International access to sample files he had selected pertaining to ongoing investigations into the cases of detainees accused of ordinary criminal offences. In these cases, provisions of the Code of Criminal Procedure appeared to have been followed. Several investigating judges gave Amnesty International similar assurances, although it was recognized that improvements in certain areas needed to be made. Ma'ruf Ra'uf Khadr conceded, for example, that there were still inordinate delays in bringing defendants to trial. This was borne out during a visit by Amnesty International to al-Mahatta Prison in Arbil in May 1992. Of the 238 inmates, some of whom had been charged with capital offences, eight were convicted prisoners while the rest were awaiting trial. The prison director told Amnesty International that a number of them had been awaiting trial for many months, and that in the case of one female detainee, the delay had exceeded 10 months. He said that additional time was needed to "check the background of suspects", a task made difficult by the absence of centralized data on individuals which had been removed by Iraqi government officials when they withdrew in October 1991. He insisted, however, that in other respects procedures were being followed, stating that no detainees were admitted into the prison except in accordance with arrest warrants issued by the competent authorities, and that they were permitted unrestricted access to defence counsel. He showed Amnesty International the prison's register of lawyers' visits, which indicated that lawyers had made visits to the prison at varying times of the day and on different days of the week.

One important area where the provisions of the Code of Criminal Procedure were not adequately applied was the investigation of complaints of torture and ill-treatment of detainees. This remains one of Amnesty International's major concerns with regard to the human rights situation in Iraqi Kurdistan (see Chapter 4). At the same time, Amnesty International recognizes the positive role played by the judiciary and some law enforcement personnel in attempting to adhere to the law with respect to arrest, detention and trial procedures. Their task was made that much more difficult because they were operating amid administrative and political chaos and with virtually no resources. More importantly, Amnesty International believes that the gradual emergence of a central judicial system which was not formally controlled by the executive authorities was instrumental in affording protection, albeit partial, to detainees held in acknowledged places of detention.

The situation altered significantly after the May 1992 parliamentary elections and the appointment of a Council of Ministers in July 1992. The legislative authorities, represented in the National Assembly, became formally separated from the executive authorities in the region for the first time. All laws, legislative decrees and orders which have since come into force were debated and passed by the National Assembly and published in the official gazette, *Perleman*.⁵⁰

⁵⁰ *Perleman* is published by the Kurdistan National Assembly on a monthly or bi-monthly basis in both Kurdish and Arabic. The first issue appeared on 15 September 1992.

In November 1992 a Ministry of Justice Law (No. 12 of 1992)⁵¹ was promulgated, defining the administrative structure of the ministry and its judicial mechanisms. Article 2 of this law states that the ministry's objective is:

"to secure justice through the development and implementation of laws and respect for their provisions, both in letter and spirit, such that the principle of the independence of the judiciary is upheld, and to defend human rights in accordance with the Universal Declaration of Human Rights and international human rights declarations and treaties."

In the latter half of 1992, the National Assembly passed other legislation which had a direct bearing on the judiciary. Among these was a decree addressing the question of the status of laws passed by the Iraqi Government in Baghdad and the extent of their applicability to Iraqi Kurdistan. Decree No. 11 of 31 August 1992⁵² states:

"All ministries, and associations in the Kurdistan Region not linked to a ministry, shall examine the laws, decrees, regulations and directives issued by the central authorities to identify what is not compatible with the welfare of the people of Kurdistan and shall submit these to the National Assembly for a decision on the legitimacy or otherwise of their enforceability in the Region." (Article 1)

"No laws, decrees, regulations and directives which were issued or which will be issued by the central government authorities after the withdrawal of the government administration from the Kurdistan Region on 23/10/1991 shall be enforced except after the legitimacy of their enforceability had been confirmed by the Kurdistan National Assembly." (Article 2)

To Amnesty International's knowledge, no legislation passed by the Iraqi Government since 23 October 1991 has been enforced in Iraqi Kurdistan. As for legislation passed before that date, the National Assembly has apparently issued a decree specifying the laws which would not be enforced in the region.⁵³ None of the laws or decrees which fall into

⁵¹ Decree No. 38 of 21 November 1992, published in *Perleman*, Issue No. 6, second half of December 1992.

⁵² Published in *Perleman*, Issue No. 1, 15 September 1992

⁵³ This decree was not published in the official gazette and Amnesty International has not had the opportunity to examine it.

this category has been formally repealed; members of the judiciary told Amnesty International that they are simply not enforced. Several members of the National Assembly's Legal Committee took the view that those laws, or specific articles within them, which were deemed "incompatible with the welfare of the people of Kurdistan" could not be repealed since the legal authority for such a measure did not exist in Iraqi Kurdistan. They told Amnesty International that the formal repeal of laws requires a republican decree (*marshum jumhuri*) by a "head of state" or, in the case of Iraqi Kurdistan, a regional decree (*marshum iqlimi*) by a "regional leader". In the absence of such a legal authority, any legislation deemed unsuitable would simply have to be "frozen" until further notice.

Among the laws which have been "frozen" is the Judicial Organization Law (No. 160 of 1979), which in December 1992 was replaced with the Judicial Authority Law (No. 14 of 1992).⁵⁴ An assessment of this new law and the extent to which it meets internationally recognized standards is not included in this report. However, its promulgation was significant in several respects: it affirmed the independence of the judiciary, it formally separated the judicial and executive authorities in the region, and it attempted to improve the employment rights of judges as well as regulating their appointment. Equally significantly, the promulgation of the Judicial Authority Law closed a gap in the legal system which arose from the severance of links between the courts in Iraqi Kurdistan and those in government-controlled Iraq after October 1991. The gap was the unavailability of a Court of Cassation to service the region: Iraq has one Court of Cassation which sits in Baghdad. Sentences passed by the criminal courts in Duhok, Arbil and Sulaimaniya and upheld by the Court of Appeal, and which require review by cassation, could therefore be taken no further. This also applied to death sentences, which under Iraqi law are automatically referred to the Court of Cassation. In December 1992 the then Minister of Justice, Ma'ruf Ra'uf Khadr, told Amnesty International that unsuccessful attempts had been made earlier that year to have a number of cases reviewed by the Court of Cassation in Baghdad. Files pertaining to several cases were dispatched to the court, requesting a ruling on them. They were returned with a note attached, saying: "We do not deal with saboteurs".

The necessity of a law authorizing the creation of a Court of Cassation for Iraqi Kurdistan was therefore one of the main driving forces behind the promulgation of the Judicial Authority Law. In addition to this court, Article 8 of the law identifies eight other types of courts, most of which were already functioning. These include the Courts of Appeal (*Mahakim al-Isti'naf*) and the Criminal Courts (*Mahakim al-Jinayat*).⁵⁵ Article 5 establishes

⁵⁴ Decree No. 44 of 28 December 1992, published in *Perleman*, Issue No. 7, January 1993.

⁵⁵ The other six types of civil courts are: Courts of Personal Status (*Mahakim al-Ahwal al-Shakhsiyya*), Labour Courts (*Mahakim al-'Amal*), Investigation Courts (*Mahakim al-Tahqiq*), Courts of First Instance, (*Mahakim al-Bada'a*), Misdemeanour Courts (*Mahakim al-Junah*) and the Juvenile Courts (*Mahakim al-Ahdath*).

Kurdish as the language of the courts,⁵⁶ and Article 6 states that all trial sessions will be held in public unless the court decides otherwise "out of regard for decency or to safeguard public order". In all cases, the explanation of the courts' rulings must be held in public session.

The Court of Cassation for Iraqi Kurdistan sits in Arbil, and its bench is composed of a president and six judges, the minimum number stipulated in Article 9. It began functioning formally on 18 January 1993. The Judicial Authority Law also created two appeal districts (*manatiq isti'nafiyya*) - Arbil and Kirkuk - thus providing for the establishment of two Courts of Appeal. One sits in Arbil and serves the Arbil and Dohuk regions, and the other sits in Derbendikhan and serves the Kirkuk and Sulaimaniya regions.⁵⁷ Each has a four-member bench.

Finally, Article 31 provides for the creation of a Judicial Council (*Majlis al-Qada'*),⁵⁸ headed by the President of the Court of Cassation with seven other members selected from senior members of the judiciary. The Judicial Council meets at least once a month, provided that at least three quarters of its members are present. Its decisions are carried by majority vote. Article 32 defines its areas of responsibility, which include the promotion, transfer and reinstatement of judges, and the investigation of their conduct and competence, as well as the supervision of the independence of the judiciary. The Judicial Council also makes recommendations to the Minister of Justice regarding the appointment of judges to the Courts of Appeal. A three-member committee within the Judicial Council, known as the Judges' Affairs Committee (*Lajnat Shu'un al-Hukkam*), is responsible for looking into disciplinary measures against judges.⁵⁹ Decisions taken in this regard by the committee can be appealed against (by the judge in question or by the Minister of Justice) within 30 days to the Enlarged Committee (*al-Hay'a al-Muwassa'a*) of the Court of Cassation. The decisions of this committee are final.

The only courts functioning in Iraqi Kurdistan at present are the civilian courts. However, legislation currently in force in the region does allow for the setting up of other courts, and some officials within the Kurdish administration have expressed support for additional courts to hear cases which they believe the existing criminal courts cannot cope with, or which are not within their proper competence. For example, Article 24(2) of the

⁵⁶ Interpreters are provided for non-Kurdish speakers.

⁵⁷ After the May 1994 events, the Kirkuk Court of Appeal was transferred to the city of Sulaimaniya.

⁵⁸ The Judicial Council replaces the Justice Council (*Majlis al-'Adl*) which existed prior to the Iraqi Government's withdrawal from the region and which was headed by the Minister of Justice.

⁵⁹ To Amnesty International's knowledge, two cases had been referred to the Judges' Affairs Committee by July 1994 but no details on them were available at the time of writing.

Judicial Authority Law allows for the establishment of a second criminal court within the same province, the competence of which is decided by the Minister of Justice. In October 1993 the then General Director of the **Asayish**, Karim Sinjari, told Amnesty International that he had requested the setting up of an additional criminal court to hear cases of a security nature. He said this was necessitated by the backlog of cases awaiting referral to the existing courts and the resulting delays in bringing defendants to trial. He maintained that he had secured agreement to his proposal from the National Assembly, the Prime Minister and the Minister of Justice, but that no practical steps had been taken towards its implementation. Article 3(9) of the Law for the Ministry of Interior provides for the establishment of an Internal Security Forces Court (*Mahkamat Quwa al-Amn al-Dakhili*), its competence being to hear cases in which both parties are members of the police or **Asayish** forces. However, no such court has been set up to date.

The only military court which current legislation allows for is a Military Court of Cassation (*Mahkamat al-Tamyiz al-'Askariyya*),⁶⁰ but to date no such court has been set up. The Minister for **Pesh Merga** Affairs told Amnesty International in October 1993 that he favoured the setting up of military courts to try members of the unified **Pesh Merga** forces accused of offences under Iraq's Military Penal Code (No. 13 of 1940 as amended). He stated that disciplinary measures were taken by the ministry with regard to less serious offences, following the provisions of Iraq's Military Code of Criminal Procedure (No. 44 of 1941 as amended). However, for serious crimes punishable with custodial sentences, accused members of the armed forces are currently referred to the Ministry of Justice in coordination with the Ministry of Interior, and tried before the ordinary criminal courts. This practice is in accordance with Iraqi law, which allows for military personnel to be tried before civilian courts where no military courts exist.

⁶⁰ Article 4(4) of the Law of the Ministry for **Pesh Merga** Affairs.

CHAPTER FOUR HUMAN RIGHTS ABUSES BY THE KURDISH ADMINISTRATION

Amnesty International has two main areas of concern regarding human rights abuses by the Kurdish administration. First, there is routine torture and ill-treatment of detainees and the continuing failure of the Kurdish authorities to investigate allegations of torture and ill-treatment promptly and impartially, to bring to justice those responsible, compensate and rehabilitate victims and take other effective steps to prevent these abuses. Second, Amnesty International is deeply concerned about the use of the death penalty, often after unfair trials. Most victims are common law detainees, who are usually held in police custody, and political detainees accused of security offences, who are usually held in **Asayish** custody. Relatively few political activists are held in police or **Asayish** custody; they are usually arrested and held by the various political parties, although in some cases they are subsequently transferred to official prisons.

Torture and ill-treatment of detainees

Since 1992 Amnesty International has received numerous allegations of torture of common law and security detainees by police and **Asayish** personnel. This chapter addresses allegations relating to personnel of the Ministry of Interior, and the role of the judiciary in the investigation of such abuses.

The victims of torture include common law detainees held on charges such as theft, armed robbery, murder and forgery as well as sexual offences such as rape or sodomy. Other victims are detainees accused of security offences - such as espionage or sabotage - who are usually held in **Asayish** custody.

The methods of torture used by police and **Asayish** personnel include beatings all over the body with fists, sticks, rifle butts, cables and hosepipes; kicking; *falaqa* (beatings on the soles of the feet); suspension from the ceiling or against the wall by the hands, which in some cases are tied behind the back; burning of the skin with cigarettes or heated metal implements; electric shock treatment; and threats of sexual torture or execution. Victims have occasionally included women and minors. In the majority of cases, torture is aimed at coercing detainees to "confess" to crimes which they are suspected of having committed, as well as to divulge the names of others who may be suspected of involvement. In other cases, torture or ill-treatment is used as punishment.

Torture is absolutely prohibited under international law, including Article 7 of the ICCPR, to which Iraq is a party and which is legally binding on all those seeking to exercise

governmental authority. Moreover, torture is prohibited under Iraqi law. Police and **Asayish** personnel are bound to abide by the provisions of the Code of Criminal Procedure with regard to the treatment of detainees in their custody. Article 127 of this law states that no illegal methods may be used to extract confessions from the accused, including ill-treatment, threats to cause harm, psychological methods or the use of drugs and spirits. Most law enforcement officials with whom Amnesty International has raised its concerns have not denied that detainees have on occasion been beaten during interrogation, and have stated clearly that this is aimed at extracting information from them. The prohibition of torture in the ICCPR is nonderogable in all circumstances (Article 4), and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) states clearly: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture" (Article 2 (2)). Nevertheless, the Kurdish authorities have sought to justify such treatment on two grounds.

Firstly, they referred to the "special circumstances" prevailing in Iraqi Kurdistan, in particular the lack of resources available to law enforcement officials. This was said to include vital equipment necessary for the proper conduct of criminal investigation, such as that used for the analysis of blood samples or fingerprints. In such cases, it was argued, where only circumstantial evidence was available against a suspect, law enforcement personnel were "obliged to resort" to beating the suspect to obtain a confession. Law enforcement officials told Amnesty International that particularly when "ugly" crimes such as murder were committed, it was deemed necessary to obtain a "confession" from the suspect, by force if necessary, where forensic and other vital evidence was not available. They added that this was better than releasing a suspect whom they believe to be a "dangerous criminal" and a "menace to the public", simply on grounds of lack of hard evidence.

The second frequently cited explanation for the use of torture or ill-treatment is that it is part of the "Ba'thist legacy". Some law enforcement personnel, including those responsible for interrogating suspects, had performed the same functions when the region was under Iraqi Government control, and had therefore come to regard torture and ill-treatment as a routine and legitimate part of interrogation. Consequently, it was necessary to re-educate such personnel and offer them appropriate training courses, which required both time and resources.

Amnesty International rejects that any such argument justifies torture, which violates international law under all circumstances. The organization recognizes the need for additional resources and training for law enforcement personnel, but it also recognizes that certain practical measures could be adopted by the Kurdish administration which would contribute significantly to combating and eventually eradicating torture. To this end, Amnesty International held discussions with ministers, law enforcement officials, members of the judiciary and political leaders. The organization recommended that the authorities

implement their obligation to investigate torture complaints, bring those responsible to justice and take practical measures to safeguard the rights of detainees and protect them from ill-treatment while in custody.

The victims

The sample cases described below illustrate the range of reports received by Amnesty International over the past three years regarding torture and ill-treatment by police and **Asayish** personnel. The information comes from many sources. These include interviews and examinations of detainees and former detainees who have been victims of torture, sometimes supported by photographic or medical evidence. Where possible, Amnesty International raised such cases with the relevant officials, among them investigating judges and law enforcement personnel. Other sources include friends or colleagues of victims, medical personnel and human rights activists, none of whom is identified at their request.

a) Common law detainees

Most cases of torture and ill-treatment known to Amnesty International involve common law detainees who have been tortured immediately after arrest at the police station or **Asayish** centre. The victims were usually not referred to a doctor for treatment or for an examination of the injuries sustained under torture. In most cases, the victims did not lodge a formal complaint, either because they were unaware of their right to do so, or for fear of being tortured again. The cases below have been selected to illustrate the nature of these abuses.

◆ On 12 and 14 November 1992, 17 people were arrested on the campus of Salahuddin University in Arbil following the theft of computer equipment. Those arrested included lecturers, administration employees and guards employed by the university. The arrests were carried out by police personnel of the Crime Combat Directorate, who held the suspects at al-Iskan police station. At least 10 of them were reportedly tortured on arrival at the station, prior to interrogation. Isma'il Ra'uf Ahmad, a KDP **Pesh Merga** employed as a guard at the university, told Amnesty International three weeks after his release:

"When we reached al-Iskan they did not ask us any questions. We were immediately blindfolded and our hands were tied. They beat us with cables and hosepipes, and subjected us to *falaqa* with our feet raised. They also punched us in our faces and trod on us with their army boots. They were telling us to confess to the theft...".

Most of the detainees were released within two or three days. They had been allowed family visits but had no access to legal representation and were not brought before an investigating judge. Upon release, they reportedly received an "apology" from the captain in charge at al-Iskan, who told them that a "mistake had been made". Isma'il Ra'uf Ahmad and his two brothers who were arrested with him were transferred to al-Mahatta Prison. Nine days later they were brought before an investigating judge, who ordered their release on bail within two days.

Figure 5 Isma'il Ra'uf Ahmad

The main suspect in the case (after whose "confession" the other detainees were released) was Munir Muhammad Mahmud, a Palestinian born in Baghdad. He was sentenced to five years' imprisonment, and in October 1993 Amnesty International interviewed him in al-Mahatta Prison. According to his testimony, he was severely beaten with cables while blindfolded and with his hands tied to force him to confess. Four days later he was taken to the Crime Combat's police station in Khanaqa:

"They told me to confess and threatened me with sexual assault... Then they suspended me against the door with my hands tied in chains. I remained at Khanaqa for two days and they continued beating me until the pain became unbearable and I said I would confess. Then they took me down from the door and called the investigating judge..."

After his statement was recorded by the investigating judge, he was taken back to al-Iskan and held there for 10 days. He told Amnesty International he was tortured again after various names were found in his address book. He was then accused of working for Iraqi intelligence. He was taken to hospital on one occasion during this period. Then he was transferred to al-Mahatta Prison. A former detainee who shared a cell with him told Amnesty International that when Munir Muhammad Mahmud was brought there, he could not walk unassisted because of the injuries sustained under torture, and could not eat for several days. A week later, he was transferred to the **Asayish** Prison where he remained until 4 April 1993, when his trial began before the Arbil Criminal Court:

"On that day a guard came and told me 'your trial is today'. Of course they had not notified me beforehand. During the trial I had a defence lawyer whom I had not seen before. I asked the judge to summon two witnesses who could testify as to my whereabouts on the night [of the theft] but he refused, saying I had

already confessed before the investigating judge... I explained that everything had happened under torture... I am still waiting to hear if my case can go to appeal."

Figure 6 Munir Muhammad Mahmud

Amnesty International did not have the opportunity to check his statement against the trial transcripts, nor to raise the case with the president of the court. However, it did express its concerns to the investigating judge, who told the organization that because neither Munir Muhammad Mahmud nor any of the other suspects in the case had lodged formal complaints with him regarding their treatment, no investigation had taken place. While conceding that Munir Muhammad Mahmud had clearly been beaten, he "judged that he was in reasonable health and not in need of medical treatment". He did not, therefore, refer him to a medical committee nor open an official investigation into the torture. He expressed doubt that the beatings had been as severe as the

testimonies obtained by Amnesty International suggested, unless the prisoner had been tortured at a later stage while in **Asayish** custody. However, Munir Muhammad Mahmud had testified that he was not tortured at the **Asayish** prison, only at the police stations where he was held.

◆ On 29 August 1993 two detainees needed intensive care at Arbil's Emergency Hospital after sustaining serious injuries under torture. Muhsin Hamad Ibrahim (born in 1968 in Koisanjaq, self-employed) and Luqman 'Abd al-Hakim 'Abd al-Rahman (born in 1973 in Koisanjaq, a student at a Science Institute) had been arrested six months earlier on a murder

Figure 7 Azadi police station, Arbil

charge and held in police custody in their home town. On 29 August, shortly after their transfer to Arbil, they were tortured while in the custody of the City Police Directorate at Azadi police station. They were rushed to the Emergency Hospital by several police personnel. Muhsin Hamad Ibrahim died four days later. His death certificate, issued on 2 September, gives the cause of death as "uraemia caused by renal failure as a result of crush syndrome, which in turn resulted from the complications of an external trauma to the body and inflammation of the urinary passages". His external injuries, according to the autopsy report, included "bruises on the right side of the abdomen and chest in the form of six wide bands of different lengths, some of which are conflated, [and] variously shaped bruises on the thighs and buttocks, some of which are diffuse while the others are in the form of four or more wide bands with some merging together...".

The other victim, Luqman 'Abd al-Hakim 'Abd al-Rahman, was discharged from hospital some 10 days later. Six policemen were subsequently identified as having taken part in the torture session. Four were arrested but the two others, both non-commissioned officers, had reportedly fled. One month later, in October, Amnesty International met the captain in charge of Azadi police station, who said that a three-member committee had been set up to investigate the incident, composed of the Minister of Justice, the Deputy Minister of Interior and a legal adviser from the Interior Ministry. He provided Amnesty International with the names of the six policemen implicated in the case, adding that he had been absent on leave when the incident took place. No details were available at the time of writing into the findings of the investigation, although Amnesty International did examine the investigating judge's file on the case. It contained, among other things, the statement given by Luqman 'Abd al-Hakim 'Abd al-Rahman before he was discharged from hospital. The following is an extract relating to the torture inflicted on him:

"My hands were tied from behind... and I was hung onto the toilet window such that my feet were lifted off the ground. My underclothes and pyjamas were removed and [name withheld] took hold of my penis and wound an elasticated string around it such that I felt extreme pain... Then he forced me to drink three jugs of hot water and asked one of the policemen to bring a hosepipe. He told me to confess to [the] killing and I said I was not in Arbil during the incident so how could I confess, and I have witnesses [to that]. He began beating me on my stomach and I felt an urgent need to urinate but I was not able to... Then he gave the hosepipe to a policeman and told him to beat me... Then [after repeated beatings every fifteen minutes] he removed the string from around my penis... When they finished beating me I heard Muhsin's voice. He was brought into the room and was tortured, I heard him shout `Allahu Akbar' [God is Great]... When their duty hours were over they left us tied up for two hours. My condition became worse and I lost consciousness. I don't know how my hands were untied and how I was transferred to hospital...".

To Amnesty International's knowledge, the four policemen arrested following this incident remain in custody but have not been brought to trial. The investigation has not been completed since the two other policemen implicated in the case remain at large. Amnesty International received allegations that the failure to apprehend the two non-commissioned officers in question was because they enjoyed protection from one of the political parties rather than because they had fled. This could not be independently confirmed.

Figure 8 Detainee tortured by *Asayish* personnel in Kifri (Kirkuk Province)

◆ A former detainee was beaten during interrogation while in the custody of the ***Asayish*** in the town of Kifri (Kirkuk province) in August 1993. Photographs of his injuries, including the one shown here, were taken shortly after his release and examined by a forensic pathologist. The pathologist commented:

"Those [photographs] show large areas of recent bruising which is purple in colour and certainly on the buttocks and thigh, it seems unlikely that they were inflicted more than a few days previously... The pattern is rather strange, with horizontal lines within the bruising on the buttocks... Possibly a multi-thonged whip or a handful of plastic tubes may have been used, as some of the

marks on the buttocks are parallel and multiple... The distribution symmetrically on the shoulders, buttocks and sides of the thighs indicates deliberate infliction...".

◆ A 36-year-old former detainee from Kalar (Kirkuk province), who was arrested at his home in January 1994 by ***Asayish*** personnel, was beaten by eight people upon arrival at the ***Asayish*** centre in Kalar. He was then transferred to the Kirkuk ***Asayish*** Directorate in Derbendikhan, where he states that he was beaten once again with cables and burned on the hands and face with a metal implement heated over a stove. Following this, he was taken to the Police Directorate in the town where he was interrogated and accused of having committed a sexual offence. He was released after being brought before an investigating judge, having spent five days in detention. The forensic pathologist's comments on photographs taken of his injuries read:

"The face shows obvious linear marks about 1cm wide across the face and neck... consistent with healing superficial burns... The hands show similar scaling, healing surface marks with a red rim which again would be consistent with the impact of a hot rod-shaped object."

b) Political detainees

Individuals who have been held in **Asayish** custody in connection with their membership of certain political groups or organizations have included members of **Rewti Comunist**, the PKK and **Têkoshin**. Members of other types of organizations, including the Union of the Unemployed in Kurdistan (**Yekîti Bêkaran le Kurdistan/Ittihad al'Atilin fi Kurdistan**) have also been arrested by the **Asayish**. In most cases, such detainees have been held without charge or trial for short periods and then released. In other cases, they are held on ostensibly criminal charges. A number of them alleged that they were tortured or otherwise ill-treated while in detention. Below are the details of one incident which serves to highlight the practices used by the **Asayish**.

On 26 August 1992 a group of 13 political activists were arrested in Arbil by **Asayish** personnel.⁶¹ They were among at least 200 men, women and children demonstrating that day against the military bombardment of Sirnak in southeastern Turkey by Turkish military forces some two weeks earlier. The participants included representatives of several small left-wing groups, such as **Têkoshin**, PAK and **Rewti Comunist**. One of the organizers of the demonstration told Amnesty International:

"We had all agreed that it would be a peaceful demonstration and our slogans were in the name of the people, not the political parties. We had applied for permission from the Ministry of Interior to hold the demonstration but they refused, telling us that there were many Iraqi government agents operating in the region and the security situation in Kurdistan does not allow [for such activities]. We set off from Shaikhallah [a popular district of Arbil]. The **Asayish** had surrounded the area and were armed with heavy weaponry. Then we heard the sound of gunfire. The **Asayish** arrested two people and said they were members of PKK and were carrying guns. They refused to let them go. Some of us tried to intervene, but the **Asayish** started hitting two men among us on their faces and they started bleeding..."

The demonstrators then headed for the Arbil **Asayish** Directorate, located opposite the Governorate building. A delegation from the demonstrators entered the Directorate and met the then **Asayish** Director, Khorshid Shira, to urge the release of the two detainees. Their request was refused. One of the delegates was Ra'uf Kamel 'Aqrawi, spokesperson for **Têkoshin**.⁶² He told Amnesty International:

⁶¹ Although the *Asayish* forces were not formally set up until October 1992, they had begun functioning as a security force several months earlier. Initially, this force was answerable to the IKF, and after July 1992 to the Ministry of Interior.

⁶² Ra'uf Kamel 'Aqrawi was assassinated in May 1993 (see Chapter 5).

"They told us that if we did not disperse, they would start firing at the demonstrators. We went outside and told everyone that the situation was dangerous and that they should disperse. I began to walk away but suddenly I was grabbed by the neck by a member of the **Asayish**. By that time they had surrounded the demonstrators. I resisted and began to struggle, but they dragged me forcefully. At that point the **Asayish** started shooting. The demonstrators were unarmed...".

Another leader of the demonstration told Amnesty International:

"All we wanted to do was to protest in front of the **Asayish** Directorate and call for the release of the two detainees. We were not being provocative. Our slogans were against the Turkish and Iraqi governments, not the Kurdish government... It was around six o'clock in the evening when our delegates came out of the **Asayish** Directorate and told us to disperse. As soon as the people started to do so, the **Asayish** began arresting some of them. I heard gunshots and immediately returned to look for Ra'uf and saw them taking him. The armed guards on the roof of the building shot dead a woman who held a responsible position in PAK... then a little girl fell to the ground after being hit with a bullet. Several others were injured."

During these clashes, two of the **Pesh Merga** guarding the **Asayish** Directorate were also killed. The authorities subsequently claimed that the woman who was shot dead during the demonstration [a Kurd from Syria identified only as Najbir, aged 25 and said to have been a PKK **Pesh Merga**] was carrying a gun and had shot the guards. In all, 13 demonstrators (nine men and four women) were arrested by the **Asayish** and charged with murder.⁶³

In December 1992 Amnesty International interviewed five of these 13 detainees in prison. At that time, the men were being held at the Arbil **Asayish** prison and the women at al-Mahatta Prison. Ra'uf Kamel 'Aqrawi described what happened following their arrest:

"They took us inside the **Asayish** Directorate and immediately started beating us. They beat us with rifle butts, cables and with their hands and also kicked us. Before taking me to a cell, I was hit on my eye with a rifle and my glasses broke. For the next three days they tortured us during interrogation, especially

⁶³ The detainees were: Ra'uf Kamel 'Aqrawi; 'Abd al-Hakim Ahmad Baban; Sami 'Ali Aziz; Sa'id 'Aziz Mahmud; 'Amer 'Areb Shaikho; 'Abd al-Rahman Saleh; Saif al-Din 'Ali; Muhammad Amin 'Uthman; Kamal Khadr Jamil (a Kurd from Syria); Tibat 'Abdullah Sulaiman; Payman Sulaiman Hamid; Dalal Hezel Adina; and Laila 'Ali Musa (the latter two are Kurds from Turkey).

Muhammad Amin 'Uthman and Sa'id 'Aziz Mahmud who were very badly tortured. After three days the torture stopped...".

Laila 'Ali Musa, who had joined the PKK's **Pesh Merga** forces two years earlier, gave Amnesty International the following testimony:

"When the shooting started I was immediately hit. Then my daughter Kurdistan was killed as a bullet shot through her head. Tibat [Abdullah Sulaiman, a co-detainee] was also injured with three bullets... After the shooting they arrested a group of us and took us inside the **Asayish** building. They tortured me for about one and a half hours in one of the offices. They beat me on the bullet wound and on my back with a hosepipe. They took the injured ones, myself and Tibat, as well as my dead daughter, to the Emergency Hospital. We stayed there two days and then they took the two of us to al-Mahatta Prison."

Tibat 'Abdullah Sulaiman, who was also a PKK **Pesh Merga**, told Amnesty International that she was injured in the left leg, stomach and chest. She testified that she was beaten with a hosepipe and a pistol butt on the shoulders by the **Asayish** before being taken to the hospital. Another woman, Payman Sulaiman Hamid, was arrested with her husband, 'Abd al-Rahman Saleh. She told Amnesty International:

"They tied my hands behind my back and then suspended me from a height against the wall. I was beaten with a hosepipe. The torture lasted for about one and a half hours. I fainted three times and each time they poured water on me to revive me. They burned me with cigarettes on my legs [the scars of which were still visible at the time of the interview]. All the time I was blindfolded. Then they threatened to assault me sexually in front of my husband. I remained at the **Asayish** Directorate for six days, but the torture was only at the beginning. Then they brought me here...".

The fourth woman, Dalal Hezel Adina, testified:

"First of all they blindfolded me and tied my hands and feet. They subjected me to *falaqa* and hit me on the back. Then they suspended me from a wooden bar fixed onto a wall by my hands, which were tied behind my back. My right shoulder became dislocated as a result. They beat me first with a hosepipe, then with a belt, on my legs and other parts of my body. Afterwards they applied electricity to my wrists. I could not see them because I was still blindfolded, but I could feel them placing the wires on my wrists. They also suspended me from the ceiling with a rope tied to my hands and made me revolve. In all, I was tortured for about two hours. All the while they were telling me to confess that I had been armed and that I had killed the two **Pesh Merga** guards."

Since their arrest, the 13 detainees had been denied access to their families and had not been brought before an investigating judge. They had not requested access to defence lawyers, apparently in the expectation that their cases would be resolved quickly. On 29 November they began a hunger-strike and submitted a petition to the Ministry of Interior asking, among other things, for a meeting with the investigating judge. This was granted on 1 December, over three months after their arrest. Ra'uf Kamel 'Aqrawi told Amnesty International:

"The investigating judge told us that a political decision had been taken by the KDP and PUK to release us as there was no evidence against us. He also told us that he had requested that those responsible for the death of the girl and the others be handed over and brought to justice."

The detainees submitted another petition asking for access to family members, a fair and public trial and to be accorded the status of political prisoners. They ended their hunger-strike on 4 December and were eventually released on 11 January 1993 without having been brought before a court of law.

Amnesty International had raised the cases of the 13 detainees with the Deputy Minister of Interior in December 1992. Ahmad Sharif 'Ali told the organization that the 13 detainees continued to be held on the basis of available evidence and were awaiting trial on murder charges. He added that the demonstration should not have gone ahead without official authorization.

In October 1993 Amnesty International sought details of any investigation which may have been set up into the killings during the demonstrations and the torture of the 13 detainees. It also requested access to their court files. The investigating judge responsible for these cases at the time told Amnesty International that he was no longer responsible for **Asayish** affairs and therefore did not have access to these files. He said, however, that the 13 detainees had been released for lack of evidence on the basis of a court order, and that the investigation had established that they had been tortured in custody. He added that he had requested that those responsible for these abuses be brought to justice but that no steps had been taken.

Amnesty International then met the new investigating judge for **Asayish** affairs, who conceded that on occasion detainees are tortured but said this was exceptional. Where it was deemed necessary to punish detainees then other methods would be used, such as depriving them of food or denying them family visits. With regard to the 13 detainees, he stated he had no objection to Amnesty International having access to their court files, which he said could be found at the Arbil **Asayish** Directorate. There, Sefin Mala Qara told the organization that he had not held the post of Arbil **Asayish** Director when the events in question had taken place and thus he had not been directly involved in them. He said that no

files pertaining to the cases of the 13 detainees remained at the Directorate, and informed Amnesty International that they could be found with the investigating judge.

To date, none of the **Asayish** personnel involved in either the killing of the demonstrators or the torture of the detainees has been brought to justice. None of the victims of torture nor the families of those killed in the demonstration has been compensated.

Investigations of torture complaints

Officials of the Kurdish administration and representatives of the judiciary with whom Amnesty International discussed its concerns recognized that "excesses" have been committed by police and **Asayish** personnel with regard to the treatment of detainees in their custody. All maintain, however, that the provisions of the Code of Criminal Procedure and the Penal Code are applied, and that complaints of torture or ill-treatment are investigated. Information gathered by Amnesty International over the past three years suggests otherwise. The organization was unable to obtain details of a single case where torture complaints were effectively and thoroughly investigated, nor of a single case where the law enforcement personnel responsible for such abuses were brought to justice.

Most of the torture complaints received by Amnesty International in 1992 and 1993 were made by individuals who had been interrogated by the same police or **Asayish** personnel who were responsible for their arrest and detention. Torture or ill-treatment is normally inflicted before suspects are brought before an investigating judge. In December 1992 the then Minister of Justice, Ma'ruf Ra'uf Khadr, told Amnesty International that one of the key problems in Iraqi Kurdistan was that there was no judicial police force (*shurta qada'iyya*) answerable to the Ministry of Justice and which could supervise the detention of suspects at this critical stage. The police or **Asayish** personnel holding the suspects at this stage are under the Ministry of Interior's jurisdiction, and the Ministry of Justice could not intervene until notified of a case through an investigating judge.

Investigating judges have told Amnesty International that allegations of torture or ill-treatment are generally investigated only when the suspect brought before them makes a formal complaint, even though international standards require investigations of reports of torture and ill-treatment in cases where there has not been a formal complaint. In that event, the complainant is referred for examination to a medical committee appointed by and answerable to the Ministry of Health. If no complaint is made, a medical examination may not be carried out even when it is patently clear to the investigating judge that the physical condition of the suspect warrants such an examination. One investigating judge told Amnesty International that there is a general reluctance to refer "too many cases" to the medical committee because doing so risked acquiring a reputation as a "troublemaker" which could mar good working relations with the police and **Asayish**.

Similarly, no legal proceedings are taken against law enforcement personnel accused of torturing or ill-treating detainees unless a formal complaint has been lodged by the victim with the Ministry of Justice. Ma'ruf Ra'uf Khadr stated that such complaints may also be lodged by the victim's family, and added that he would be prepared to consider cases brought to his attention by Amnesty International as "formal complaints". Where complaints are lodged, an investigative council (*majlis tahqiqi*) is set up, composed of three people representing the Ministry of Interior, the Ministry of Justice and, depending on the case, either the police or **Asayish** General Directorate. All three must be jurists. Preliminary investigations into complaints are conducted by the investigative council prior to the referral to the courts of any of the accused officials.

The failure of the authorities to act on reports of torture or ill-treatment in the absence of a formal complaint by the victim has meant that the vast majority of incidents are never investigated. The most common reason for suspects' reluctance to submit complaints is fear of reprisals, particularly if they are to be returned to the custody of the same authority responsible for their abuse. The likelihood of being tortured or ill-treated as punishment for having made a complaint is high. Another reason is ignorance of the law and of the rights accorded to all people deprived of their liberty. A third reason may be the perception that suspects will not be believed or that no effective action will be taken. The net result is that "confessions" extracted under torture during interrogation may subsequently be used as sole evidence for conviction in court. Article 181(d) of the Code of Criminal Procedure states that "if the accused confesses to the charge made against him and the court is convinced of the authenticity of his confession and that he recognizes its implications, it may hear his defence and pass its verdict on the case without the necessity for other evidence...". The President of the Court of Cassation told Amnesty International that in exceptional cases it is permissible to pass sentence on a defendant from whom a confession has been extracted under duress if other evidence available to the court corroborates that confession. He stressed that such confessions could never be used as the sole basis for conviction and that in all cases, the official found responsible for torturing or ill-treating the suspect would be punished according to the law. This practice violates Iraq's treaty obligations under Article 14 (3)(g) of the ICCPR, which protects defendants from being compelled to testify against themselves or to confess guilt. Moreover, international standards require judges and prosecutors to exclude all confessions induced by torture and ill-treatment.⁶⁴

The Kurdish administration has yet to bring to justice any law enforcement official found responsible for the torture or ill-treatment of detainees. Some police and **Asayish** personnel have allegedly been disciplined for abusing their authority in this manner, but such measures have been hopelessly inadequate. For example, the then General Director of the

⁶⁴ See, for example, the Convention against Torture (Article 15) and the UN Guidelines on the Role of Prosecutors (Guideline 16).

Asayish, Karim Sinjari, told Amnesty International in October 1993 that 35 **Asayish** personnel had so far been found guilty of torturing or ill-treating detainees and had been disciplined accordingly. He stated that some of them had been dismissed from the force while others had been demoted. In none of these cases, Karim Sinjari added, had the victims of torture lodged formal complaints and consequently no legal proceedings had been taken against the offenders.

In relation to the police, Colonel 'Abdullah Ma'ruf 'Abdullah, Director of the Crime Combat Directorate in Arbil, argued along similar lines while taking a different view of the appropriate disciplinary measures to be taken in such cases. He told Amnesty International in October 1993 that if a detainee alleges torture at the hands of the police, he is referred to a (Ministry of Health) doctor for a medical examination. If the examination corroborates his allegations, then disciplinary measures are taken against the accused police personnel. No other legal proceedings are instituted against them unless the victim lodges a formal complaint. As for the disciplinary measures taken, Colonel 'Abdullah Ma'ruf 'Abdullah stated that the dismissal of either police or **Asayish** personnel from their respective forces in these circumstances was "illegal" unless the offenders had been brought before a court of law. Any measures taken should be restricted to demoting the offenders or transferring them to other duties. He ended by denying that police personnel inflict torture or ill-treatment on detainees in their custody.

Police and **Asayish** personnel have frequently infringed various other provisions of the Code of Criminal Procedure. These include: delays in the referral of suspects to an investigating judge beyond the 24 hours permitted by law; failing to transfer suspects to an official prison once the investigating judge renews their detention period; and failing to implement other orders issued by investigating judges, in some cases allegedly on the orders of the Minister of Interior. Other infringements appear to have arisen as a result of varying interpretations of the law. For example, in December 1992 the then Director of the Arbil **Asayish** Directorate, Isma'il Taher Dizayee, told Amnesty International that suspects may be held in **Asayish** custody for a maximum of 72 hours before being brought before an investigating judge. He added that an arrest may be carried out on the basis of a written order issued by him rather than an arrest warrant issued by an investigating judge. Amnesty International subsequently sought to clarify this matter with the Minister of Justice, who stated that such procedures had no basis in law.

The protection of detainees from torture and ill-treatment

The need to adopt measures to improve the protection of detainees' rights while in custody, particularly as regards torture and ill-treatment, was recognized by the political, administrative and judicial authorities as early as 1992, although no practical steps were taken until late 1993 or early 1994.

With respect to the political authorities, the leaders of both the PUK and KDP told Amnesty International in December 1992 that urgent measures were needed to ensure full protection of human rights in Iraqi Kurdistan. Jalal Talabani stated that torture must be brought to an end, but that the implementation of laws which protect human rights was still at its first stage. He attributed the slow progress to the precarious security situation in Iraqi Kurdistan and the many acts of sabotage being carried out in the region. Mas'ud Barzani stated that although he had no knowledge of specific cases of torture, he would be prepared to look into any cases brought to his attention. He told Amnesty International that two meetings of the Political Bureaux of the KDP and PUK convened the previous month had focused on drawing up guidelines, in conjunction with the Ministry of Interior, to protect the rights of detainees. According to details subsequently made available by the KDP, these guidelines included measures to abolish torture and ill-treatment, improve prison conditions and provide better health and sanitation services. Amnesty International does not, however, have any details of how these guidelines were followed up or implemented.

In October 1993, during meetings with several officials of the Kurdish administration and members of the judiciary, Amnesty International was informed that certain measures aimed at safeguarding the rights of detainees in police and *Asayish* custody were being considered. These measures focused on formally separating the authorities responsible for detaining and interrogating suspects, which Amnesty International had previously recommended. Both the Minister of Justice, Qader 'Aziz Jabbari, and the President of the Court of Cassation, Rashid 'Abd al-Qader Salim, told Amnesty International that there were plans to create a judicial police force. Amnesty International understands that members of this police force would formally be under Ministry of Interior jurisdiction, but their work would be supervised by the courts, presumably through the Public Prosecutor's office. Their primary function would be to investigate crimes, which would include interrogation of suspects. Other measures being considered included the appointment of judicial investigators (*muhaqqiqin 'adliyyin*) to take over responsibility for interrogating suspects from the detaining authorities. These investigators would be civilian employees of the courts with the necessary legal qualifications.

Since the role of the judicial police overlaps in many respects with that of the judicial investigators, it was not clear how the division of responsibilities would be made. To date, no judicial police force has been established. However, in October 1993 the Minister of Justice told Amnesty International that steps had been taken to appoint 95 judicial investigators, and that 58 of them had already been deployed in various police stations and *Asayish* centres throughout Iraqi Kurdistan. He stated that they were all graduates of the Law College and had been examined and selected by a panel of three judges on the basis of their legal qualifications and experience. The Minister stressed that although these judicial investigators had not yet been trained, they now had sole responsibility for investigating crimes and questioning suspects in areas where they had been deployed. However, investigating judges later told Amnesty International that the judicial investigators were not expected to assume their new functions until they had one to two months' training. Furthermore, there appeared

to be some confusion about where they would eventually be deployed. The then General Director of the General **Asayish** Directorate told Amnesty International that there was no agreement for judicial investigators to investigate crimes falling within the jurisdiction of the **Asayish**. He added that while he had no objection to this in principle, the judicial investigators would have to be "trustworthy".

Amnesty International understands that judicial investigators have since been deployed in a number of police stations and that they received some training in early 1994. Members of the legal profession to whom Amnesty International spoke welcomed this as a step in the right direction towards affording better protection for detainees. The organization has not had the opportunity to obtain further details on the number of judicial investigators, their areas of jurisdiction, and the nature of the training they received. Moreover, it was not clear whether they could prevent detaining authorities from interrogating those in their custody, and whether "confessions" made to detaining authorities could still be used as evidence in court.

The death penalty

Amnesty International is opposed to the death penalty in all cases and works for its worldwide abolition, considering it to be a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman and degrading punishment. In the organization's view, it is inherently unjust and arbitrary, however heinous the crime for which it is provided and however scrupulous the procedures by which it is enforced. The risk of error is inescapable, yet the penalty is irrevocable. In its work over the years to promote and defend human rights in Iraq as a whole, Amnesty International has repeatedly appealed to the Iraqi Government not to execute prisoners and to abolish the death penalty in law. Similarly, in Amnesty International's view, the execution of prisoners by the Kurdish administration violates fundamental human rights.

Iraqi law and the current legal system

Iraq's Penal Code (as amended) provides for the death penalty for a wide range of ordinary criminal offences as well as political offences. The death penalty is also provided for in other legislation, such as the Military Penal Code, as well as in numerous resolutions having the force of law passed by Iraq's highest executive body, the Revolutionary Command Council. These resolutions have significantly increased the number of capital offences by amending existing legislation, such as the Penal Code, or by enacting new legislation. The law

currently provides for a mandatory death sentence for certain non-violent political offences.⁶⁵

The Iraqi Government has always maintained that offences deemed to be "political" are not punishable by death, pointing to Article 20 of the Penal Code. This Article distinguishes between "ordinary" and "political" offences, with the death sentence being commuted to life imprisonment in the case of the latter. Paragraph (a) of this Article defines "political" offences as those committed with a political motive or offences prejudicial to general or individual political rights. All other offences are deemed to be "ordinary". The same article, however, excludes six types of offences from the category of political offences even if committed with a political motive.⁶⁶ Moreover, Article 2(b) states that the competent court should indicate in its judgment whether a particular offence is deemed to be "political".

Although the ordinary courts in Iraqi Kurdistan continue to apply the provisions of the Penal Code, Amnesty International understands that in 1992 at least one amendment to one of its articles had been formally "frozen" by the National Assembly on the grounds of being "incompatible with the welfare of the people of Kurdistan". This was an amendment to Article 156, which provides for the death penalty for deliberate acts endangering the independence, unity or territory of the country. On 21 April 1984 the Revolutionary Command Council had issued Decree No. 458, which stated that the provisions of Article 156 would apply to "anyone whose membership of a party or association aiming, through its acts or in its written program, to change the system of government through armed force or in cooperation with any foreign party, is proved."

Amnesty International does not know whether any other provisions in the Penal Code relating to the death penalty have been similarly suspended. In practice, however, only one article of the Code providing for the death penalty has been invoked to date by the criminal courts in Iraqi Kurdistan: Article 406 for premeditated murder in aggravated circumstances (see below). At the same time, the National Assembly has promulgated two separate laws which provide for the death penalty for additional offences. The first of these, Law No. 6 of 1992, was passed on 1 October 1992.⁶⁷ Article 2 provides for the death penalty as a

⁶⁵ See Amnesty International's report, *The Death Penalty in Iraq: Legal Aspects*, published in May 1987 (AI Index: MDE 14/03/87).

⁶⁶ These are: offences committed with a "base and selfish motive"; offences prejudicial to the external security of the state; premeditated murder and attempted premeditated murder; attempt on the life of the President of the Republic; terrorist offences; and immoral crimes such as theft, embezzlement, forgery, breach of trust, fraud, bribery and indecent assault.

⁶⁷ Law on the Protection of Foreigners and Employees of United Nations Organizations and Humanitarian Organizations in the Iraqi Kurdistan Region, passed by Decree No. 20 of 1 October 1992, published in *Perleman*, Issue No. 5, December 1992.

mandatory punishment for the premeditated murder of a "foreigner" or "any employee of United Nations organizations [or] humanitarian organizations in the Iraqi Kurdistan Region". The law also has limited retroactive application: Article 4 states that the provisions of this law shall apply to all cases which were still pending before the courts at the time. This retroactive legislation violates Article 15 of the ICCPR. The second law, Law No. 8 of 1992, was passed on 14 November 1992.⁶⁸ It provides for the death penalty as a mandatory punishment for "anyone who uses or attempts to use explosives, with the aim of sabotage or collusion with the enemies of the people of Kurdistan, in order to put people's lives in danger, cause them grievous harm or result in their death" (Article 2).

In December 1992 Amnesty International expressed its concern to the Kurdish administration about the enactment of legislation increasing the number of offences for which the criminal courts would be empowered to pass death sentences. The organization was told that there was no desire to widen the scope of the death penalty, but it was deemed necessary to pass the new laws in response to the increasing number of attacks on foreigners and acts of sabotage perpetrated by agents of the Iraqi Government and others in the region.⁶⁹ The Deputy President of the National Assembly, Najad Ahmad 'Aziz Agha, told Amnesty International that when the draft laws were debated, the overwhelming majority of parliamentarians favoured providing for the death penalty for these offences. He added that the debates did not lead to a wider discussion about the merits or otherwise of the death penalty, and that any moves towards its abolition in the foreseeable future were unlikely. Both he and the Minister of Justice told Amnesty International that there were long-standing plans for a major review of the Penal Code, when the possibility of reducing the number of offences for which the death penalty is provided might be discussed. They said that lack of resources, however, had not made such a review possible to date.

Legal procedures

The courts empowered under the Code of Criminal Procedure to pass death sentences in Iraqi Kurdistan are the three criminal courts in Duhok, Arbil and Sulaimaniya (the latter also serves the Kirkuk region). The procedures followed by these courts are said by officials to be in accordance with Iraq's Code of Criminal Procedure. This law, although it contains some safeguards, is fundamentally flawed in a number of respects. For example, it permits the use

⁶⁸ Law on the Punishment for Possession, Manufacture and Use of Explosives, passed by Decree No.31 of 14 November 1992, published in *Perleman*, Issue No. 5, December 1992.

⁶⁹ Attacks on foreigners continued to be perpetrated, however. Among those targeted were: Stewart Cameron, an Australian national and representative of CARE Australia, killed on 7 January 1993; Vincent Pollet, a Belgian national and Director of Handicap International, killed on 22 March 1993; ; and Lissy Schmidt, a German national and correspondent for the news agency *Agence France Presse*, killed on 3 April 1994. In these three cases, the Kurdish authorities named the alleged perpetrators, who were said to have been linked to Iraqi Intelligence.

of confessions extracted under torture if the court concludes that they were truthful. No death sentences have been imposed for political offences to date. In cases where the death penalty has been imposed for murder, Amnesty International has not had the opportunity to examine closely the legal procedures followed during pre-trial detention and before the courts to assess whether they conform with the Code of Criminal Procedure. However, there have been allegations of irregularities in this regard. During a visit to the Detentions and Deportations Prison in Sulaimaniya in December 1992, for example, one prisoner under sentence of death told Amnesty International that he did not have a defence lawyer during his trial. In the case of another prisoner in Arbil, Amnesty International received reports in 1994 that the murder confession obtained under interrogation - and accepted as evidence in court - was made under threat of torture.

Death sentences passed by the criminal courts are automatically referred to the Court of Cassation for review (Article 224(d)). There is no right of appeal under Iraqi law on points of fact, only on points of law. Such a limited review only by cassation denies the right to an appeal as guaranteed by Article 14 (5) of the ICCPR. If upheld on cassation, death sentences would ordinarily be referred by the court to the Minister of Justice, who must have the sentences ratified by the President of the Republic before issuing an order for their execution (Article 286).

Initially the provisions of the Code of Criminal Procedure regarding appeals procedures and the ratification of death sentences could not be applied as there was no Court of Cassation to service Iraqi Kurdistan, and no "Leader of the Kurdish Liberation Movement" to carry out the functions of a head of state. The first problem was resolved with the promulgation of the Judicial Authority Law of 1992, which established a Court of Cassation for the region (see Chapter 3). The question of who would ratify death sentences remains a contentious issue. In December 1992 the Minister of Justice and the Deputy President of the National Assembly told Amnesty International that a proposal was being discussed to establish a "special council" composed of the Prime Minister, the President of the National Assembly and the President of the Court of Cassation (representing the executive, legislative and judicial authorities) to carry out some of the functions traditionally undertaken by a head of state, including ratification of death sentences. However, no final decision had been taken. The Minister of Justice told Amnesty International that the Kurdish authorities had not been confronted with the dilemma as no death sentences had been passed since the appointment of the Council of Ministers. However, as Amnesty International learned several days later, four death sentences had already been handed down by the Sulaimaniya Criminal Court, albeit before the formation of the Council of Ministers. Within 10 days of Amnesty International's discussion with the Minister of Justice, three other death sentences were handed down by the Arbil Criminal Court.

In early 1993 it had been decided that the responsibilities and functions of Leader should be assumed by the President of the National Assembly (see Chapter 1) and by May 1993 he had ratified three death sentences. However, the continuing challenges to his

authority has meant that no death sentences have been ratified since. During the short period of its existence, the Presidential Body for the Iraqi Kurdistan Region (see Chapter 1) had not ratified any death sentences either. At the time of writing, the issue was still unresolved. No other authority has since been empowered to ratify death sentences, although the criminal courts have continued to impose death sentences, some of which have been upheld by the Court of Cassation.

Death sentences and executions

Between March 1992 and August 1994, at least 34 death sentences were passed by the Arbil, Sulaimaniya and Duhok criminal courts (see Appendix). With one exception, all those sentenced were convicted of premeditated murder - 31 of them in accordance with Article 406 of the Penal Code and two others in accordance with Article 2 of Law No. 6 of 1992 (concerning the murder of foreigners). The remaining death sentence was passed in accordance with Article 2 of Law No. 8 of 1992 (concerning the possession, manufacture and use of explosives).

Figure 9 Order for the execution of Sadruddin Pirdawud Sama

To date, three prisoners have been executed after the death sentences imposed on them were upheld by the Court of Cassation and ratified by the President of the National Assembly. They were executed by hanging in al-Mahatta Prison in Arbil in the presence of a representative of the public prosecution, a judge, a man of religion, a doctor and the prison director. The first to be executed, in April 1993, was Sadruddin Pirdawud Sama, a 25-year-old man from Arbil. The account of his execution received by Amnesty International reflects clearly the cruel and inhuman nature of the punishment.

The prisoner was allegedly made to stand on an empty ballot box. His hands and feet were tied and a cloth sack placed over his head. A rope was placed around his neck and tied to a ceiling fan. A prison guard then pushed the ballot box from under his feet. The prisoner was said to have died from strangulation over a protracted period, during which

several of those present were reportedly unable to bear the sight confronting them and left the room, among them the representative of the public prosecution.

In mid-June, two other prisoners who had been sentenced to death by the Arbil Criminal Court were hanged in al-Mahatta prison. Bara' 'Abdullah Kadhim, a 22-year-old Arab from Ba'quba and a former soldier, and Hamza Latif Rasul, a 21-year-old man from Arbil, were executed on the same day. According to accounts received by Amnesty International, Hamza Latif Rasul took 10 minutes to die and Bara' 'Abdullah Kadhim some 15 minutes. Changes had apparently been introduced to the facilities in the prison to ensure speedy executions.

Of the 31 prisoners sentenced to death in Iraqi Kurdistan between March 1992 and August 1994, 26 of them were in custody in December 1994.⁷⁰ Four death sentences were reduced to life imprisonment upon review by the Court of Cassation, while at least 14 others were upheld and are pending ratification. The remaining sentences were still under review by the court at the time of writing.

⁷⁰ Five prisoners sentenced to death by the Sulaimaniya and Duhok criminal courts escaped from prison at different times. In December 1994, after armed clashes broke out between KDP and PUK forces, al-Mahatta Prison in Arbil was reportedly broken into and its inmates fled. It was not known whether they included some of those who had been sentenced to death by the Arbil Criminal Court.

CHAPTER FIVE HUMAN RIGHTS ABUSES BY THE POLITICAL PARTIES

A wide range of gross human rights abuses perpetrated by the political parties in Iraqi Kurdistan has been recorded by Amnesty International since 1991. The abuses include detention of suspected political opponents, among them possible prisoners of conscience; torture or ill-treatment of political and common law detainees; executions after summary "trials"; and unlawful and deliberate killings of unarmed prisoners captured in battle, political opponents and demonstrators.

Torture and unlawful and deliberate killings were widely reported in December 1993 when military clashes broke out between PUK and IMIK forces. Such abuses reached a climax during and after May 1994, when widespread military clashes broke out between KDP and PUK forces, with the IMIK forces also taking part in opposition to the PUK.

Amnesty International has raised many of the abuses highlighted in this chapter with leaders of the relevant political parties and administration officials. The responses have been, at best, unsatisfactory. In some cases the political parties denied the allegations made against them; in others, they expressed willingness to cooperate with any official investigations and stressed that any of their members found guilty of abuses would be brought to justice.

In the past three years several investigations have been set up into specific incidents, either by the IKF when it possessed *de facto* authority or subsequently by the Kurdish administration. However, the political parties have not cooperated with any of them. In fact, they have blocked such investigations through direct or indirect means, or have discontinued them for the sake of political expediency. Amnesty International is not aware of a single case where the perpetrators of any of the abuses referred to have been brought to justice. The failure to do so has, in Amnesty International's view, contributed significantly to the deterioration of the human rights situation in Iraqi Kurdistan. It has enabled elements within the political parties to continue perpetrating abuses with total impunity. Against this background, the protestations of the political leaders and their frequently expressed commitment to human rights remain unconvincing.

The perpetrators of human rights abuses

Prime responsibility for human rights abuses lies with the two parties holding the reins of power in Iraqi Kurdistan - the KDP and PUK. Their effective control of large stretches of territory (Bahdinan and Sulaimaniya respectively), the military means at their disposal and their special security and intelligence apparatuses, have enabled them to perpetrate abuses against each other's members as well as against other perceived opponents. Their control of the Kurdish administration's machinery has also meant the absence of any authority which could hold them accountable for their actions. The IMIK also bears responsibility for a significant share of the abuses, particularly since December 1993. The IMIK controls large stretches of territory along the border with Iran, and has a sizeable fighting force as well as intelligence and security apparatuses.

Other political parties have committed human rights abuses, namely the torture or ill-treatment of detainees in their custody. These parties, some of which have since been dissolved, include the KPDP, ICP, KSP-I, KUP, KTP and PASOK. The KSP-I and Kurdish Revolutionary *Hizbullah* are also believed to have been involved in unlawful and deliberate killings.

The forces within KDP and PUK forces which have committed human rights abuses are:

a) the regular ***Pesh Merga*** forces: each party has a sizeable armed force consisting of tens of thousands of ***Pesh Merga*** fighters. When the Ministry for ***Pesh Merga*** Affairs was formed, each party contributed an agreed number of fighters to form the unified forces under the ministry's jurisdiction. However, the estimated 12-15,000 fighters which each party put forward represented only a small segment of its total fighting forces, and even these were not "unified" in any real sense - they remained under the leadership of their respective parties. While some of these forces are veteran ***Pesh Merga*** fighters, they also include the ***Jash*** (Kurdish mercenaries) who had fought alongside Iraqi Government forces against the Kurdish opposition during the 1980s. After the uprising, many of them remained in Iraqi Kurdistan and were gradually absorbed into the KDP and PUK forces.

b) the Special Brigades: two special brigades were formed in 1992 as part of the unified ***Pesh Merga*** forces. Each consisted of an estimated 2,000 fighters provided by the two parties, their primary role being the personal protection of Mas'ud Barzani and Jalal Talabani. In theory the Special Brigades were under the jurisdiction of the Ministry for ***Pesh Merga*** Affairs. In reality they remained answerable only to the two leaders. Additional Special Brigades were formed by the KDP and PUK after the December 1993 and May 1994 clashes. These Special Brigades have committed human rights abuses both during armed conflict and in non-violent situations.

c) the security and intelligence apparatuses: the KDP and PUK each have security and intelligence apparatuses whose functions include: gathering intelligence on the activities of

Iraqi Government agents and those of neighbouring countries in Iraqi Kurdistan; gathering information on political parties and organizations in Iraqi Kurdistan; preventing and combating infiltration of their respective parties; and surveillance of individuals within their own parties as well as members of other parties. These apparatuses also control the unacknowledged prisons or places of detention maintained by each party, and the interrogation of detainees held in such places.

The main apparatus within the KDP is known as *Rêkhistini Taybeti* (*al-Tanzim al-Khass*/the Special Organization), also referred to as *Parastin* ("protection"). The *Parastin* was set up by the KDP in 1968 to "protect the revolution", its creation coinciding with the seizure of power in Iraq by the Ba'th Party. Primary responsibility for the *Parastin* from the start lay with Mas'ud Barzani. The apparatus continued to function until 1975, when the Algiers Accord between Iraq and Iran led to the collapse of the Kurdish opposition movement. After the 1991 uprising the apparatus was reconstituted and renamed, and remains ultimately answerable to Mas'ud Barzani. It is headed by Karim Sinjari, a Central Committee member, but Nichirvan Idris Barzani (Mas'ud Barzani's nephew), is believed to be the most powerful figure within *Rêkhistini Taybeti*.

The principal apparatus within the PUK is *Dezgay Zanyari* (*Jihaz al-Ma'lumat*/the Information Apparatus) which was reconstituted after the 1991 uprising from the party's previously existing security and intelligence machinery. It is headed by Qader Haji 'Ali, a Political Bureau member, although it is believed to be effectively controlled by another Political Bureau member, Nêwsherwan Mustafa Amin. Others with positions of responsibility within both *Rêkhistini Taybeti* and *Dezgay Zanyari* are said to include key officials in the Council of Ministers, several parliamentarians, and senior personnel in the police and *Asayish* forces. Some of these officials head the branches of their respective apparatuses in the provinces of Duhok, Arbil, Sulaimaniya and Kirkuk. Both *Rêkhistini Taybeti* and *Dezgay Zanyari* are said to have sections which carry out so-called "special operations", including assassinations (see below).

Torture and ill-treatment

Some prisons run by the political parties, including in Khalifan, Arbil and Shaqlawa, operated in the name of the IKF which possessed *de facto* authority until mid-1992. Detainees held in IKF prisons had some measure of protection as the judicial structure established by the IKF involved the eventual referral of detainees to the special courts. This meant that written records, albeit rudimentary, were kept of detainees' names, dates of arrest and charges against them. IKF prisons were also acknowledged places of detention, to which on occasion representatives of the KHRO and others were permitted access. In this way, the families of the detainees were on the whole able to ascertain their whereabouts.

By contrast, detainees held in the custody of the political parties, both those within the IKF and those outside it, were deprived of even this minimal protection. They were held in unacknowledged places of detention, outside the framework of any judicial process, and for the most part without access to the outside world. Under such circumstances, party officials denied holding detainees when their families made inquiries. It also meant that detainees could be held indefinitely, their fate dependent on the whim of the political party in question. It created conditions in which the detainees' basic rights, including the right not to be tortured or ill-treated, could be violated with impunity.

The detention facilities used by political parties and groups varied in size and nature. They ranged from several cells on the premises of the political parties' bases holding a few detainees, to separate, purpose-built detention centres, accommodating several hundred detainees, some of which had been used as prisons by the Iraqi Government.

The KDP maintained a major prison in al-Qadesh (Duhok Province), although it was ostensibly operating in the name of the IKF. According to reliable sources, it held over 200 detainees in early 1992. The KDP ran other detention centres during 1991 and 1992 in Zawita, Salahuddin and Shaqlawa. The PUK's major detention facilities were in Sulaimaniya

Figure 10 Bakrajo detention centre (Sulaimaniya Province)

Province, including in Qala Cholan, Bakrajo and Tanjaro, and held scores of detainees. The KDP and PUK both continue to maintain some of these and other places of detention.

To Amnesty International's knowledge the smaller political parties within the IKF did not maintain separate prisons but did have detention facilities at their main party headquarters and other bases: the KSP-I in Rania as well as in Nalparez on the Penjwin-Sayyid Sadeq road; the ICP in Shaqlawa; PASOK initially in Qala Cholan and then in Sulaimaniya; the KPDP initially in Rawanduz and then in Arbil; the KTP initially in Shaqlawa and then in Arbil; the ADM in Merga Sur and Khalifan; and the KUP in Rania.

Among the political parties outside the IKF, the IMIK was said to have various places of detention, including in Shaqlawa, Halabja, Chwar Qurna and Diyana.

Given the difficulties in identifying and gaining access to unacknowledged places of detention in Iraqi Kurdistan, many cases of torture and other abuses only came to light in late 1992, following the large-scale transfer of detainees from IKF prisons and those of the political parties. A large proportion of detainees who were interviewed testified that they had been tortured under interrogation while held by one of the political parties or the IKF. Among them was a 17-year-old youth from Koisanjaq [name withheld] who was arrested in December 1991 on charges of sodomy and held in IKF custody in Arbil. By June 1992 he had been sentenced to six years' imprisonment and transferred to al-Mahatta prison, where he told Amnesty International:

"I was beaten with cables and threatened with the bottle [a form of sexual torture]. I stayed three days without food or drink. They threw cold water on me, tied my hands behind my back and kicked me in the head and used the *falaqa*. They wanted me to confess and tortured me for one week. Then I confessed... my cell had about 10 other people in it, and some of them were also tortured. There was an Arab from al-Najaf who became a *Pesh Merga*. He was accused of working for Iraqi Intelligence and was very badly beaten."

In December 1992 Amnesty International spoke to some of the 30 to 35 detainees who were being held at the *Asayish* prison in Sulaimaniya. Most had been transferred there from political party prisons after having been held for several months in untried detention. Several stated that they had been tortured during interrogation, including by the KDP, PUK, PASOK and KPDP. They had been accused of a variety of criminal offences, such as murder and theft, but said that no formal charges had been brought against them and no legal procedures followed.

In many of these cases, it was not possible for Amnesty International independently to verify testimonies made by detainees, particularly as regards claims of torture. In the majority of cases, torture was said to have been inflicted during the initial period following arrest. Their transfer to official prisons some months later meant that most traces of such treatment were no longer visible. However, the number and consistency of the testimonies suggested that torture of detainees held by the political parties was widespread and routine. The KHRO has received and recorded numerous complaints of this kind.

Those detainees who were referred to the special courts established by the IKF (see Chapter 3) were frequently convicted on the basis of "confessions" extracted under torture. A judge who served on the bench of one of the special courts told Amnesty International that he had personally ordered that five detainees be beaten in order to extract "confessions" from them. He said this was necessary to obtain further "evidence" against the suspects in question. The use of torture for this purpose was apparently discussed by the IKF's Political Leadership Acting Body with regard to detainees accused of serious offences and whose cases were being heard before the Supreme Special Court for the Revolution in Shaqlawa.

Two officials on the Acting Body told Amnesty International that the difficulties facing members of the court's bench in fully and effectively investigating such offences had led in late 1991 to the sanctioning of the use of torture by the Acting Body in certain circumstances.

Figure 11 The IMIK's main base in Arbil, where detainees have been held

Since the transfers in late 1992, leaders of the political parties have stated that they no longer maintain prisons or other detention facilities, and that they no longer hold detainees. Amnesty International's information suggests otherwise. The organization believes that some political parties, notably the PUK and KDP, continue to hold detainees, albeit in

smaller numbers. Such detainees are arrested outside the framework of laws which the political leaders have pledged to uphold. They are arrested without a warrant issued by an investigating judge, they are denied access to legal counsel and in some cases to their families, and they may remain held indefinitely in detention without trial. They may also be tortured. Some detainees arrested by forces acting under the authority of a political party are subsequently handed over to the police or *Asayish*, but this tends to be the exception rather than the rule. Detainees held by the political parties outside the IKF, notably the IMIK, are in an even more precarious situation. To Amnesty International's knowledge, they were never transferred to official prisons under the Ministry of Interior's jurisdiction. The IMIK has continued to hold detainees while denying that it has any places of detention.

In December 1992 Mas'ud Barzani told Amnesty International that all KDP prisons had been closed and their inmates transferred to the official prisons. Several detainees said to be held thereafter by the KDP were subsequently brought to the organization's attention. Among them was 'Abd al-Aziz Waysi (born 1968 in the village of Bani, Duhok Province). A member of PAK, he was first arrested by KDP forces on 12 December 1991 with 25 others said to be affiliated to PAK and the PKK, and then held in Zawita. Twenty-three of them, all Kurds from Turkey, were released eight days later; the other three, among them 'Abd al-Aziz Waysi, were Iraqi Kurds and they remained in detention. 'Abd al-Aziz Waysi was held without trial for nine months and denied access to his family and defence counsel. He was released on 15 July 1992, reportedly on the orders of Mas'ud Barzani and on condition that he resides in Salahuddin where he was to be kept under surveillance. He did

so for two months, and then obtained permission to visit his family in Duhok. Six days after his arrival in Duhok, IKF forces attacked PKK forces stationed in the border regions in Iraqi Kurdistan. An estimated 1,400 PKK fighters and their families were captured by IKF forces by October 1992 and were later transferred to Zalé in Sulaimaniya Province. Among those captured was 'Abd al-'Aziz Waysi, who had reportedly made contact with the PKK in Duhok. He was arrested by the KDP and returned to Salahuddin.

During the following months his family knew nothing of his fate or whereabouts despite repeated requests for information from KDP officials in Salahuddin. Amnesty International raised his case with Mas'ud Barzani in October 1993 and requested access to him. Mas'ud Barzani told the organization that 'Abd al-'Aziz Waysi had joined the PKK, assisted it in identifying the locations of four KDP centres, and led a military operation in which several KDP members were killed. Mas'ud Barzani said he had been rearrested at the end of October 1992 and handed over with other PKK detainees to the *Asayish*.⁷¹ Mas'ud Barzani denied that 'Abd al-'Aziz Waysi was being held in KDP custody or that his family had made inquiries about him.

The following day Amnesty International checked with the Arbil *Asayish* Directorate and found that 'Abd al-'Aziz Waysi had not been transferred there. He was not to be found in *Asayish* custody in Duhok either. The organization later learned that his family had been allowed to visit him that month and that he was being held in a detention facility at Mas'ud Barzani's headquarters in Seri Resh (a short distance from Salahuddin). 'Abd al-'Aziz Waysi was released in July 1994. According to information received, his mother had just been to Seri Resh to visit him again, and while returning to Arbil she was involved in a car accident and died. Mas'ud Barzani reportedly authorized 'Abd al-'Aziz Waysi's release in order to attend to her funeral rites. It was not clear whether he had been released only for the mourning period. KDP officials later told Amnesty International that he had not been rearrested, but this could not be confirmed.

Another PAK member held by the KDP in October 1993 was Mahdi Saleh Rashid (also known as Mahdi 'Arif Saleh). He had also been held since October 1992 following the defeat of PKK forces. He had reportedly given himself up following an agreement between the IKF and PKK. He was being held at the KDP's First *Liq* (Branch) in Duhok, where Amnesty International requested access to him. Officials there said that the request could not be granted without authorization from senior officials. When authorization was sought from the office of Fadel Mirani (known as Fadel Mutni), the KDP's representative in Bahdinan at the time, Amnesty International was told that Mahdi Saleh Rashid was not being held at the First *Liq* after all; he had been "transferred elsewhere". Amnesty International

⁷¹ Of the estimated 1,400 PKK fighters and their families arrested at the time, over 200 were held at the *Asayish* prison in Arbil for several months and later released.

raised the matter with Mas'ud Barzani, who said he knew nothing about the case but would make inquiries. The organization learned that Mahdi Saleh Rashid was later transferred from the First *Liq* to the *Asayish* prison in Duhok, where he was visited by friends. At the time of writing, Amnesty International had no further information on his case.

A more recent case is that of a PUK *Pesh Merga* [name withheld] who was arrested by the KDP in Salahuddin on 5 May 1994. He was held in unacknowledged places of detention in the town for nearly four months. According to his testimony and those of fellow inmates, he was tortured shortly after his arrest. For the first three days he was held with other detainees at a detention centre located near the KDP's Political Bureau premises, and then moved to a different location. Representatives of the ICRC were apparently informed of his case by other detainees on 2 June 1994 but, to Amnesty International's knowledge, did not gain access to him. He was being held in the custody of the KDP's security apparatus, *Rêkxhistini Taybeti*. Amnesty International was granted access to him on 25 July 1994. Karim Sinjari, head of the security apparatus, told the organization that the detainee was being held as a suspected member of an assassination squad directed by a senior member of the Council of Ministers [a PUK official, name withheld] and that he had been involved in the assassination of KDP members. The detainee told Amnesty International that he had been interrogated about the killing of two KDP members and the attempted killing of another, but denied any involvement or membership in any assassination squad. He stated that he was being held in isolation at a secret location, which he indicated was a hotel in Salahuddin, and that he had not seen anyone except his captors and interrogators since being transferred there. He showed Amnesty International marks on his legs which he said had been caused by torture, and said:

"On the first day of my arrest I was beaten with the butt of a Kalashnikov rifle and severely whipped with a hosepipe and belt. Later I was hit on the back of my neck with a cement block. They tied something tightly around my neck and then beat me."

The PUK official rejected the accusations made against both himself and the detainee, who was eventually released uncharged on 3 September 1994.

Jalal Talabani also gave Amnesty International assurances that PUK prisons had been closed and their inmates transferred to official prisons. The organization was given access in December 1992 to Bakrajo detention centre near Sulaimaniya, and saw four detainees, all Iranian nationals, who were said to be the only ones held there. All other inmates were reported to have been taken to police or *Asayish* prisons. Officials said that Bakrajo would be closed within days. Information obtained since suggests that both Bakrajo as well as other places of detention under PUK control continue to be used, albeit on a smaller scale. When Amnesty International visited Bakrajo in July 1994, it was shown five detainees who were said to be members of the PUK's *Pesh Merga* forces. Several had reportedly

committed military offences and one was accused of murder. Officials at Bakrajo said they were being held there on the orders of the Minister for *Pesh Merga* Affairs.

Several former detainees have testified that they were held in unacknowledged places of detention by the PUK in 1991 and 1992, notably in Qala Cholan. They include members of political parties or groups, including the IMIK and *Rewti Komunist*. Jalal Talabani has repeatedly denied the existence of a prison in Qala Cholan and told Amnesty International that it could "search the area" if it wished. The organization declined, despite receiving details of the prison's reported location and interior. The only detainees said by Jalal Talabani to have been held in Qala Cholan were Iraqi army officers who had been captured by, or surrendered to, PUK forces during the March 1991 uprising. He said that all were later released under ICRC auspices. According to information received by Amnesty International, the PUK also held detainees in Shaqlawa. Among them was said to be Tawfiq Nuri 'Abd al-Rahman, formerly a PASOK member who was allegedly abducted by the PUK in Sulaimaniya on 12 January 1992. The bodies of two other men who were with him at the time were allegedly found in the streets the following day. Tawfiq Nuri 'Abd al-Rahman's family unsuccessfully sought information from PUK officials on several occasions. His fate and whereabouts remain unknown, and Amnesty International fears that he may have been killed in custody.

More recent testimonies by former detainees indicate that Qala Cholan prison was used to hold KDP and IMIK fighters captured during the May 1994 clashes, as was Bakrajo detention centre (see below). One former detainee, an IMIK member said to have been arrested by the PUK shortly before these clashes, testified to Amnesty International:

"I was held in Qala Cholan for two months. For one month I did not see daylight and they used to cut off the electricity... There were about 30 people there, and they would take three or four people out at a time. Some of them did not come back... We were beaten with cables and rifle butts, and we were kicked and punched... Another method of torture was to tell us that an order for our execution had been issued, or that they would force us to drink poisoned yoghurt... We were beaten during interrogation. One detainee told me that they covered his head with a blanket and repeatedly banged it against a wall... There was a woman held in the prison... She was pregnant when they arrested her and then she had a miscarriage... I stayed there two months, but there was a person there who had been held there for one year and seven months. He was an Arab from Baghdad called [name withheld]... accused of espionage...".

Others believed to have been held more recently in Qala Cholan are four detainees arrested in Sulaimaniya in connection with the events of 13 June 1994 in the city (see below). They were detained there for over one month and then taken to the *Asayish* prison in Sulaimaniya, where Amnesty International interviewed two of them.

Several of the IMIK's leaders told Amnesty International in February 1994 that outside the context of the December 1993 clashes, they had held no detainees and had no prisons or other detention facilities. The organization raised the case of a detainee who had been in IMIK custody and released only two months earlier.

Ahmad Muhammad Ibrahim, a 28-year-old clothes vendor from Arbil, was arrested on 20 March 1993 and held for nine months in untried detention at the IMIK's base in Arbil. He was cut off from the outside world and tortured while held in a dark underground cell. He was freed on 28 December 1993 when PUK forces took control of the base. Ahmad Muhammad Ibrahim, who is affiliated to the PUK, told Amnesty International:

Figure 12 Ahmad Muhammad Ibrahim, victim of torture by the IMIK

"I was in the basement. There was no investigation committee, they just used to come in to interrogate us. They tortured me a lot by beating me... it continued for about forty days and then they burned my skin... They used to beat me with cables and tie my hands from behind and suspend me while my feet were tied. They beat me while I was suspended... One day they slapped me twenty times and told me 'We are twenty and we will beat you. If you can bear it, it means you are innocent, and if you cannot bear it, it means that you are an atheist'. They beat me and I lost consciousness... About forty days after my arrest... they came to me and took off my shirt. They poured kerosene on me and set it alight. Then they poured water on me and put out the fire. There were three or four of them. I suffered greatly, and after the fire was put out they left me. I was in great pain and asked for help, and they told me I must die... They took me out [of the basement] in July and they used to make me carry stones on my back... My mother used to come to plead with them and I could hear her voice. I shouted several times but she did not hear my cries...".

Having denied holding any detainees, the IMIK then conceded that Ahmad Muhammad Ibrahim had been detained but that his was the only case. 'Abd al-Qader Brayati, military spokesperson for the IMIK at the time, also denied that Ahmad

Muhammad Ibrahim had been tortured. He told Amnesty International that the burns had been caused by the detainee accidentally knocking over a kerosene lamp, a claim rejected by the victim. Amnesty International subsequently sought the opinion of a forensic pathologist on photographs of his burns it had taken some eight months after infliction. His comments were:

"The chest clearly shows extensive keloid scarring... which extends across the middle abdomen over the umbilicus and bilaterally under both nipples, together with scattered patches elsewhere. This a typical late result of burns... The distribution in the midline and symmetrically on both sides of the chest indicate deliberate application at specific sites, thus virtually ruling out accidents...".

Ahmad Muhammad Ibrahim was in fact not the only detainee held by the IMIK at its base in Arbil. When he was freed in December 1993, five other detainees were with him. Among them was 'Adel Isma'il, a 17-year-old youth from Arbil. He testified that he had been held there for three months, having been arrested after a fight with an IMIK member:

"They beat me severely so that I could not move my hands or fingers ... They did not allow me to go to the toilet... The weather was very cold and I had nothing to protect me. I tore up my tracksuit and made it into socks to keep warm. I didn't see my parents for three months. I used to shiver from the cold...".

In July 1994 Amnesty International raised the cases of five people said to have been arrested by the IMIK and whose fate and whereabouts remain unknown. The organization was concerned that they may have been tortured or killed in custody. All were members or former members of the IMIK, four of whom are believed to have been arrested in 1991. According to information submitted to the organization, they are:

◆ Bahzad Amin Haidar; born 1971 in Diyana, single. He was arrested in Arbil by IMIK members on 10 March 1991 during the mass uprising and initially held at the *Awqaf* Directorate in the city which was under IMIK control. He was later transferred to Rania and then to a prison in Diyana. Bahzad Amin Haidar had joined the IMIK in 1988 but subsequently renounced his affiliation. In late 1993 he was said to have been held at the IMIK's headquarters in Betwata.

Figure 13 Bahzad Amin Haidar

Figure 14 Fakher As'ad Nader

◆ Fakher As'ad Nader: born 1968 in Shaqlawa, married with one child. He went missing on 6 August 1991 in the Diyana region, where he had gone to obtain authorization from the IMIK to travel to Iran for commercial purposes. On the way he was reportedly stopped by IMIK members driving a Landcruiser, who took him with them. Fakher As'ad Nader joined the IMIK in 1987, working clandestinely in Arbil. A year later he joined the armed opposition in the mountainous border regions. In 1988 he was held for six months by the PUK and then returned to his family in Arbil. After the March 1991 uprising he rejoined the IMIK. He and others allegedly received warnings from the IMIK leadership that any member leaving the party or divulging its secrets would be arrested. There were unconfirmed reports that after he went missing he was seen in IMIK custody at Kawlukan garrison in the Diyana region.

◆ Maghdid As'ad Mustafa: born 1966 in Shaqlawa, married with four children. He went missing on 6 August 1991 in the Diyana region while on his way to Iran. His car was reportedly seen near the IMIK base in Diyana. Maghdid As'ad Mustafa had been an IMIK member for several years, but had left the party and joined the PUK. He had reportedly been warned not to divulge information on the IMIK and pressurized into rejoining.

Figure 15 Maghdid As'ad Mustafa

◆ Muhsin Hassan Ibrahim: he deserted from military service in 1987 and fled to Iran, where he joined the IMIK. In 1989 he was arrested by Iraqi security forces in Rania while carrying out clandestine activity for the IMIK. After almost seven months in detention he was released as a result of an amnesty and returned to military service. When Kurdish forces seized control of the major cities during the March 1991 uprising, Muhsin Hassan Ibrahim made contact with the IMIK at the *Awqaf* (Religious Endowment) Directorate in Arbil. There, he was arrested and accused of betraying the IMIK and revealing information about its organizations in 1989. In mid-1992 he was being held at an IMIK prison in Rawanduz military garrison near Kawlukan, where his family was able to visit him. Shortly afterwards, he was transferred to another place of detention at the IMIK's base in Hawara Barza (Sulaimaniya Province), where he was reportedly put on trial.

IMIK officials told Amnesty International in July 1994 that they had no knowledge of these cases but undertook to investigate them and inform the organization of their findings. By January 1995 no response had been received.

Unlawful and deliberate killings

Hundreds of people have been unlawfully and deliberately killed in Iraqi Kurdistan since the region fell under Kurdish control. Many others have survived attempted assassinations. It has not been possible for Amnesty International to investigate all cases brought to its attention, particularly where no political motive was apparent or where the alleged perpetrators were neither linked to any of the political parties or organizations in the region nor acting on their behalf. These include numerous revenge killings and murders during robberies. However, responsibility clearly lies with the forces of the political parties in incidents involving the killing of unarmed prisoners. Scores of combatants captured during military clashes are reported to have been deliberately killed, either immediately after surrender or later after being taken into custody. Other killings have been perpetrated outside the context of any armed clashes. These include the killing of unarmed civilian demonstrators and the assassination of political activists.

Most allegations implicate three political parties - the PUK, KDP and IMIK. The organization raised its concerns with the parties' leaders and, in several cases, with the party officials who were allegedly directly responsible for the killings. Their responses consisted as a rule of outright denials. While internal investigations have been set up into a number of incidents involving unlawful and deliberate killings, these have been largely cosmetic and to date have not resulted in the perpetrators being brought to justice.

The killing of combatants after surrender

Most incidents involving the killing of combatants after surrender or in custody took place during the armed clashes of December 1993 and May 1994. These are discussed separately later in this chapter.

Figure 16 Some of the estimated 60 Iraqi soldiers killed after surrender in Sulaimaniya on 7 October 1991 © *Popperfoto*

One major incident, however, took place on 7 October 1991, prior to the withdrawal of Iraqi Government forces from the region. Two days earlier, the Iraqi armed forces had indiscriminately attacked civilians in the towns of Kifri, Kalar and 'Arbat, and then in Sulaimaniya, using helicopter gunships and heavy artillery. Several hundred people, most of them civilians, were reported to have been killed or wounded. In an apparent act of retaliation, an estimated 60 unarmed Iraqi soldiers who had earlier surrendered to Kurdish forces in Sulaimaniya were shot dead. A correspondent of *Reuters* news agency, who stated that he had witnessed the killings, said:

"Six were shot without warning as they knelt together in the dirt with their hands in the air. Several others were killed individually. A large group, estimated to number more than 50, were mowed down by automatic weapons fired at close range inside a building where they had surrendered".⁷²

Both Jalal Talabani and Mas'ud Barzani publicly condemned the killings at the time. They announced that an inquiry would be set up and declared that those responsible would be brought to justice. On 18 October Amnesty International appealed to Mas'ud Barzani, as head of the IKF, to call for an end to such practices and asked to be informed of the

⁷² *Reuters* despatch of 8 October 1991.

findings of the inquiry. In December 1991 Mas'ud Barzani informed the organization that although a preliminary investigation had been conducted by the IKF committee in Sulaimaniya, it had been agreed on 15 December that a new commission of inquiry representing the IKF Political Leadership would be set up:

"... having made an initial inquiry to identify the fighters who were present at the scene, the new commission is authorized to see the due process of law take its place. A court hearing [will] take place [in] the second half of January 1992, to bring all culprits to justice... The outcome of the inquiry and hearing [will] be made public".

An invitation was extended to Amnesty International to observe the proceedings. Amnesty International declined but requested details of the investigation's procedures and the steps taken against the alleged perpetrators; results of the commission of inquiry; details of the composition, terms of reference and procedures of the commission; and details of the composition of the court before which the accused were due to appear, the procedures it would follow and the penal law to be applied. The organization sought assurances that the defendants be granted full rights of defence and, if convicted, of appeal to a higher court. It also urged, in the event of conviction, that none be sentenced to death or executed. No response was received.

In fact, the findings of the commission of inquiry were not made public nor was a trial held. In May 1992 Amnesty International obtained a copy of an internal report prepared by members of the commission of inquiry, dated 26 January 1992. The report gave details of the progress of the investigation, and identified 14 *Pesh Merga* said to be suspected of the killings. Seven of them were said to be affiliated to the PUK and six to the KSP-I.⁷³ The commission members proposed that the 14 suspects be summoned by the IKF Political Leadership for questioning by the commission. To Amnesty International's knowledge, the suspects were held in custody for a period but by May 1992 all had been released in accordance with an IKF decision not to pursue the investigation. None of the perpetrators has since been brought to justice.

During the 1991 uprising, tens of thousands of Iraqi army personnel were captured by or surrendered to Kurdish opposition forces. The majority were disarmed and allowed to return to government-controlled areas. Several thousand, however, mainly officers and other senior army personnel, were detained by Kurdish political parties for several months. Most were subsequently released under the auspices of the ICRC, while others were released by the IKF in exchange for money following appeals from their families. However, the fate and whereabouts of a small number of Iraqi soldiers remains unknown. In May 1992

⁷³ The KSP-I at that time was led by Rasul Mamand.

Amnesty International received from Kurdish sources the names of 37 soldiers who went missing in March or between July and October 1991 and who remain unaccounted for. The organization has also received allegations suggesting that scores of Iraqi soldiers were executed in secret while in the custody of Kurdish forces. Some of these allegations were made by former detainees who were held in the same places of detention as the soldiers, including in PUK custody in Qala Cholan. One former detainee, a member of **Rewti Comunist** held in Qala Cholan in early April 1991, testified that dozens of soldiers were executed in the detention centre. He stated that he did not witness the executions but that he subsequently saw the bodies of some victims in the courtyard of the detention centre. In May 1992 Jalal Talabani told Amnesty International that all Iraqi soldiers who were in PUK custody had been handed over to the ICRC. It was not possible for Amnesty International to independently verify either account.

The killing of civilian demonstrators

Over the past three years there have been several incidents involving the killing or wounding of unarmed civilian demonstrators by the forces of one or other of the political parties. Below are details of three such incidents:

◆ Clashes broke out in December 1993 between KDP and KSP-I forces in Arbil and Sulaimaniya against a background of rising tensions between the leaderships of the two parties. On 10 December KSP-I forces under Muhammad Haji Mahmud's authority attacked and took control of the headquarters of the Unified **Pesh Merga** forces' 24th Brigade in Sulaimaniya, taking weaponry and other military equipment. The following day KDP forces took control of two KSP-I bases in Arbil and arrested 11 people. On 13 December KDP forces attacked KSP-I bases in Sulaimaniya and in the ensuing clashes several civilians were killed and others injured. An estimated 15 KSP-I members were arrested after KDP forces took control of the bases. On the same day several hundred apparently unarmed and peaceful civilians demonstrated in Sulaimaniya against the inter-party fighting. According to information received by Amnesty International at the time, attempts by KDP forces to disperse the demonstrators resulted in shots being fired, killing four people and injuring over 60 others.

On 22 December Amnesty International sent a communication to Mas'ud Barzani requesting information about the incident, including the findings of any investigation into the identity of the perpetrators, and about all KSP-I members in KDP custody. The following day Mas'ud Barzani replied that Amnesty International's information was "misrepresented and distorted by the sources of the reports". His letter stated:

"On 13 December, when two offices of the group [the KSP-I] were controlled in Sulaimaniya city, a number of civilians were hurt in the cross-fire. Yet the armed group bears most of the responsibility for the civilian casualties due to its use of mortar shells in the city... A demonstration was organized with the

backing and support of... the PUK to agitate people against the KDP and take advantage of the situation for party interest objectives. Attempts to discourage city officials, who are mainly from the PUK, from organizing the demonstration failed. The demonstration, attended by a few hundred, marched to the KDP office in Sulaimaniya [the KDP's Fourth *Liq*], and when some agitators tried to attack the party property, shots were fired by the guards overhead to discourage them and nobody was hurt. I absolutely deny the allegation that the KDP shot at peaceful demonstrators. The figure of four people killed and 60 others injured is unfounded... KDP officials [representing the Council of Ministers] went to the governorate building to involve the local authorities in controlling the security situation in the city. There, a group of hostile armed youth attacked them with threatening behaviour and damaged their cars. The bodyguards of the officials - the Deputy Minister for *Pesh Merga* Affairs and the Commander of the Unified *Pesh Merga* Army in Sulaimaniya - fired shots in the air to disperse the agitators... in the chaotic situation that ensued, three people were injured by firearms."

Figure 17 Sulaimaniya Governorate building

In February 1994 Amnesty International talked to KDP and KSP-I representatives as well as eye-witnesses in Sulaimaniya. The new information did not support the original reports it had received regarding the circumstances in which four civilians were said to have died. Testimony obtained from a variety of people was consistent in suggesting that the

deaths had occurred during armed clashes between the two sides. In other respects, however, the accounts of events differed from that presented by the KDP - specifically in relation to the incidents which took place both outside the Governorate building and the KDP's Fourth *Liq* in the city. In both cases, the accounts suggested that the demonstrators had not been armed, and that shots fired by KDP guards did wound several civilians.

During its February 1994 visit, Amnesty International discussed its concerns about this incident with the Prime Minister, Kosrat Rasul 'Ali. It sought information about the findings

of the investigation initiated by the Council of Ministers and which involved the Ministers of Interior and *Pesh Merga* Affairs. The Prime Minister told the organization that while an official investigation was ongoing, it was unlikely to be effective or yield results due to the political sensitivities between the KDP and PUK. No findings, if any were arrived at, were communicated to the organization.

With regard to KSP-I detainees arrested by the KDP in both Arbil and Sulaimaniya in December 1993, Amnesty International established that all were released within two weeks. None had been handed over to police or *Asayish* jurisdiction while in detention, despite Mas'ud Barzani's statement in his letter to Amnesty International that all action taken by KDP forces against the KSP-I had been "fully authorized by the administration's top officials...".

◆ A funeral procession of several thousand people was held in Sulaimaniya on 13 June 1994 for 'Uthman Qader Munawwar, a KDP military commander killed four days earlier during clashes with the PUK in Penjwin. Shooting broke out before the funeral procession was over, and dozens of people were killed or injured. The PUK announced that 14 people had been killed and 46 others wounded; the KDP initially said 51 had been killed but later published the names of only 22. Among those killed and whose names were submitted to Amnesty International by their families were: Aras Qader Ahmad, Jamal 'Aziz Hikmat, Bahruz Ahmad 'Abdullah, Qaraman Mahmud Saleh, Sardar Mahmud Ma'ruf and Muhammad Karim Sufi Ahmad.

In July 1994 Amnesty International interviewed 29 men and women who had taken part in the procession. Some had been injured, while others had been with relatives who were killed. Several had also assisted in carrying the dead and injured to hospitals. According to their accounts, as the peaceful procession approached the Kawa roundabout, close to the KDP's former Fourth

Liq, the shooting started. Most of the firing was reportedly carried out by PUK forces stationed on the roof of the Fourth *Liq* as well as from other nearby buildings. A number of people were killed and others injured, among them several who were carrying 'Uthman

Figure 18 Participants in the funeral procession carrying one of the wounded to hospital, Sulaimaniya, 13 June 1994

Qader Munawwar's coffin. The coffin was then taken away to the cemetery for burial. PUK forces stationed on rooftops, as well as members of the PUK Special Brigades deployed in the streets, were said to have continued firing at random into the crowd, injuring a number of people who were carrying the wounded. Eye-witnesses at Sulaimaniya's Emergency Hospital described seeing scores of dead and wounded there. Amnesty International received numerous allegations that some of the injured were denied adequate medical treatment at the hospital by senior doctors sympathetic to the PUK, and that several had died as a result. These allegations could not be independently verified.

PUK officials denied that their forces had deliberately fired into the crowd. They stated that the procession had not been peaceful and that the participants were hostile, chanting anti-PUK slogans. The Governor of Sulaimaniya, Salar 'Aziz (a PUK official), told Amnesty International that some of those in the crowd had been armed with hand grenades and Kalashnikov rifles hidden under their clothes, and that their true intent had been to take control of the Fourth *Liq*. He stated that PUK forces had acted in self-defence when they opened fire, and that four of them had been injured after a hand grenade was thrown in their direction.

Amnesty International asked to meet these four men, but none was made available. PUK officials later told the organization that only one PUK *Pesh Merga* had been wounded; the other three were said to be civilians affiliated to the PUK who were in the crowd and had been injured. Amnesty International asked to meet with them too, but again none was made available. PUK officials then informed Amnesty International that it could have access to four detainees who were being held in *Asayish* custody in Sulaimaniya. All were accused of being agents of the Iraqi Government's intelligence service charged with carrying out acts of sabotage in Iraqi Kurdistan, and of having planned and triggered the clashes during the funeral procession. They were said to have confessed to the charges. Amnesty International interviewed two of the four detainees, including the main suspect in the case, Qassem Karim Ahmad (known as Qassem Darayi). The organization also discussed their cases with the investigating judge responsible for *Asayish* affairs in Sulaimaniya.

The organization learned that Qassem Darayi, who is affiliated to the KDP, had been arrested on the night of 13 June 1994 and held for over one month in PUK custody at an unacknowledged place of detention. He was interrogated by PUK officials while being denied access to his family, a defence lawyer and an investigating judge. The PUK then announced that Qassem Darayi had "confessed" to the charges against him, and broadcast extracts from his "confession" on television. He was then transferred to *Asayish* custody on 18 July, three days before Amnesty International interviewed him. On that day, he was brought before an investigating judge for the first time. His statement was taken down by the investigating judge in the presence of one of the PUK officials who had interrogated him. When Amnesty International saw him at the *Asayish* prison, his physical condition was frail

and his appearance strongly suggested that he had been tortured. The following day Amnesty International raised his case with the Prime Minister, Kosrat Rasul 'Ali. The organization requested that Qassem Darayi and his co-defendants be transferred to Arbil where they might stand a better chance of receiving a fair trial, and that they be medically examined by an independent doctor. The Prime Minister agreed to both requests. It was not known, at the time of writing, whether these requests had in fact been met.

Following the events of 13 June, scores of people who had taken part in the funeral procession were rounded up from their homes by the PUK. Among them were people who had been identified from photographs taken by the KDP of the procession and which were published in the party's newspapers. Most were held for short periods and then released. A number of them told Amnesty International in July 1994 that they had left their homes in Sulaimaniya for fear of further reprisals. The KDP accused the PUK of carrying out an "appalling massacre of innocent civilian mourners", while the PUK charged that the KDP "was intent on using the funeral to destabilize the situation in the city [and that] large numbers of KDP gunmen were shipped into [Sulaimaniya], taking advantage of recent cease-fire measures...". Both parties called for independent judicial investigations into the incident, but no such investigation was subsequently carried out.

◆ A demonstration organized by the Kurdistan Workers' Federation (*Fidrasyonî Krêkaran le Kurdistan/Federaliyyat al-Ummal fi Kurdistan*)⁷⁴ was held in Sulaimaniya on 1 September 1994. Several hundred people were said to have participated in protest against a decision by the Governor of Sulaimaniya to knock down makeshift shelters which had been erected illegally in the city. The majority of people living in these shelters were Kurds from Kirkuk who had been forcibly expelled from their homes by the Iraqi Government. The demonstrators had gathered in front of the Governorate building, demanding that the decision be rescinded until the people concerned had been rehoused. According to accounts received by Amnesty International from two participants, PUK forces fired into the crowd in an attempt to disperse them. Bakr 'Ali, a representative of the Union of the Unemployed and one of the organizers of the demonstration, was wounded and then allegedly pursued and shot dead by members of the PUK's Special Brigades. A PUK representative told

Figure 19 Bakr 'Ali, shot dead in Sulaimaniya on 1 September 1994

⁷⁴ The Kurdistan Workers' Federation is composed of several associations representing workers employed in construction, textiles and cement enterprises, as well as some private sector workers and the unemployed.

Amnesty International in October 1994 that after scuffles had broken out outside the Governorate building, a guard stationed there opened fire, killing one person. He rejected claims that Special Brigade forces had been present during the demonstration or that anyone had been deliberately killed. He added that the guard, said to be a member of the civilian police, was under arrest pending an investigation. At the time of writing, Amnesty International had not received details of its findings.

Assassinations

Scores of people have been assassinated in Iraqi Kurdistan since the region fell under Kurdish control. Many such killings have been attributed to agents of both the Iraqi and Iranian governments operating in the region. Others, however, were said to have been carried out by forces or individuals working under the authority of some of the political parties in Iraqi Kurdistan. These parties are principally the PUK, KDP and IMIK, all of which have denied that their forces have perpetuated such crimes. The victims include political activists, men of religion and members of the legal and other professions.

Amnesty International has also received information on a number of women who were said to have been assassinated on the grounds of allegedly having provided sexual favours, whether under duress or otherwise, to members of the Iraqi intelligence service. There were allegations of political party involvement in some of these killings but Amnesty International was unable to obtain further information on these cases. In other cases, it was difficult to determine whether the killings were politically motivated. Among such victims was Ahmad Janbaz, a lawyer and member of the Iraqi National Turkman Party who was shot dead with his son Mustafa in Arbil on 15 June 1994. Some victims were said to have been killed by political party forces but for personal or financial reasons, while others appear to have been killed for political considerations. Those listed below are a sample of the scores of cases brought to Amnesty International's attention which appeared to have been politically motivated.

◆ **Mustafa 'Ali al-Barzanji:** a Sunni Muslim religious cleric who in early 1992 published a book in Arbil under the title "The Words of God." In it he claimed that he was a prophet (the "awaited imam") and that his book contained messages he had received through divine inspiration. His dismembered body was found near the Maternity Hospital in Arbil on 13 September 1992. In December 1992, the Ministry of Interior told Amnesty International that arrest warrants had been issued for three IMIK members suspected of having carried out the killing, among them was said to be a member of the IMIK's Political Bureau. The Ministry said, however, that it had not been possible to apprehend them.

◆ **'Aziz Muhammad Khoshnaw:** born 1932 in Sulaimaniya, married with three children, assistant general director of the Sulaimaniya cigarette factory. He was shot dead by armed

assailants on 7 April 1993 as he left his home in Sulaimaniya. His body was reportedly riddled with over 30 bullets. No suspects were subsequently apprehended.

◆ Ra'uf Kamel 'Aqrabi: born 1952 in 'Aqra (Duhok Province), married with three children. He was the main spokesperson for *Têkoshin* (see Chapter 1). Following five months in detention without trial in Arbil in late 1992 (see Chapter 4), he began publishing a newspaper, *Rêgay Rendjderan*, as the main organ of *Têkoshin*. He was shot dead by armed assailants on 25 May 1993 as he was returning to his home in Duhok. No suspects were subsequently apprehended. Shortly before he died, Ra'uf Kamel 'Aqrabi had published an article in *Rêgay Rendjderan* critical of the KDP and PUK's "50-50 policy".

◆ Francis Yusuf Shabo: born 1951 in Mangesh (Duhok Province), married with four children. An Assyrian Christian of the Chaldean sect, he was an active member of the ADM. He became a member of parliament after the May 1992 elections and was a member of the National Assembly's Economic Committee. He was also responsible for dealing with complaints submitted by Assyrian Christians regarding disputed villages in Bahdinan from which they had been forcibly evicted by the Iraqi Government and subsequently resettled by Kurds. He was shot dead by armed assailants on 31 May 1993 as he approached his home in Duhok. No suspects were subsequently apprehended.

◆ Lazar Mikho Hanna (known as Abu Nasir): an Assyrian Christian born 1933 in Mangesh, married. He was a member of the ICP's Central Committee for the Iraqi Kurdistan Region and was also a member of a three-person committee responsible for the IKF's financial affairs. He was shot dead by armed assailants on 14 June 1993 near his home in Duhok. No suspects were subsequently apprehended.

◆ Tahsin 'Ali Nayef: born 1956 in Duhok, married with five children. He was an investigating judge in the town of Zakho, and was responsible for issuing arrest warrants and bringing legal proceedings against a number of people believed to have been involved in the drugs trade in the Bahdinan region. He had reportedly refused to respond to pleas for the release of some of them. He was shot dead by armed assailants on 17 July 1993 at his home in Zakho, in the presence of his wife and children. A suspect affiliated to the PUK was arrested shortly after but was subsequently released (see below).

◆ Soran 'Uthman Hama Saleh: born in Sulaimaniya, he was affiliated to the ICP and was a member of its local committee in the city. He was killed by armed assailants in Sulaimaniya on 22 July 1993 and was allegedly tortured prior to his death. No suspects were subsequently apprehended.

◆ Qais Muhammad Ahmad (known as Rénas): born 1959 in Arbil, married with two children. A political activist since 1974, he was elected to the KTP's Central Committee in April 1992 and was transferred to Duhok, becoming the party's representative in Bahdinan.

He was shot dead on 29 July 1993 at the KDP's base in Duhok, in the presence of his wife, by KDP forces, scores of whom had surrounded the base prior to the killing. Similar attacks on KDP bases in nearby Zakho and Sumail were said to have been carried out the same day. Several KDP members were arrested after the killing (see below).

◆ Mulla 'Abd al-Rahman Qader Yunis: born 1933 in Arbil. He was head of the Union of Religious Scholars. He was shot dead in Arbil on 5 August 1993 as he left the premises of the Union of Religious Scholars. Two men in a taxi drew up behind him and shot him at close range with a gun fitted with a silencer. Several people were reportedly summoned for interrogation by the Ministry of Interior which opened an investigation into the incident, but to date no one has been convicted of the crime.

Victims of political assassination

Fig.20 'Aziz Muhammad
Khoshnaw

Fig.21 Ra'uf Kamel 'Aqrawi

Fig.22 Francis Yusuf Shabo

Fig.23 Tahsin 'Ali Nayef

Fig.24 Soran 'Uthman Hama
Saleh

Fig.25 Qais Muhammad
Ahmad (Rénas)

Fig.26 Mulla 'Abd
al-Rahman Qader Yunis

Fig.27 Nazhir 'Umar 'Ali
(Aram)

Fig.28 'Ali 'Abdullah Boskani

Mulla 'Abd al-Rahman was said to be close to the KDP although not affiliated. He was said to have criticized in his sermons the IMIK's interpretation of Islam and the use of religion for political ends.

◆ Nazhir 'Umar 'Ali (known as Aram): born 1964 in Sumail (Duhok Province), single. He was a leading member of *Rewti Comunist* and the IWCP (see Chapter 1), and helped produce the IWCP's newspaper, *Bo Pêshewe*. He was also a spokesperson for the Union of the Unemployed in Kurdistan. On 28 August 1993 he left his home in Sumail, apparently to join friends, but never returned. His body was found three days later on the outskirts of Sumail: he was said to have been shot in the head and chest and his body burned. No suspects were subsequently apprehended. His family accused the KDP of having had him killed through its members attached to the Duhok *Asayish* Directorate. Nazhir 'Umar 'Ali, according to his family and colleagues, had been summoned on at least two occasions in the months prior to his death by *Asayish* personnel, who reportedly attempted to pressurize him into abandoning his activities and renouncing his political affiliation (see below).

◆ 'Ali 'Abdullah Boskani: born 1933 in Sulaimaniya, married with children. A wealthy businessman, he was affiliated to the ICP for many years although he reportedly had left the party some time before his death. He was shot dead on 29 August 1993 in a busy street in Sulaimaniya by armed assailants. No suspects were subsequently apprehended (see below).

◆ Adam Zrar 'Uthman: born 1973 in a village near Arbil, single. A student of industrial studies, he was reportedly associated with the IMIK. He was abducted by four armed men in a crowded marketplace in Arbil on 12 February 1994. His body was found lying in the streets of Arbil five days later; it showed numerous gunshot wounds and his right arm had been partially severed. Amnesty International was not able to substantiate allegations it had received that PUK forces had carried out the killing.

Figure 29 Adam Zrar 'Uthman

◆ Muhammad Rahim 'Abdullah (known as Khala Haji): born 1947 in Sulaimaniya, married with nine children. A former member of the KDP, he joined the KSP-I in 1979 and was elected to its Central Committee in May 1981. He remained with the KSP-I when it was reconstituted under the leadership of Muhammad Haji Mahmud in October 1993 (see Chapter 1). He was gunned down in Sulaimaniya on 11 March 1994 by armed assailants and died in hospital several hours later. No suspects were subsequently apprehended.

Figure 30 Muhammad Rahim 'Abdullah (Khala Haji)

◆ Fu'ad 'Abd al-Rahman al-Chalabi: a senior member of the Muslim Brotherhood, a group which operates under the name of the Kurdistan Islamic Union (*Yekgertuy Islami Kurdistan/al-Wahda al-Islamiyya al-Kurdistaniyya*). He was shot dead in Arbil on 6 October 1994.

◆ Mulla 'Abd al-Rahman 'Abd al-Qader: Deputy Head of the Union of Religious Scholars and preacher at the 'Umar bin al-Khattab mosque in Arbil. On 26 November 1994 he was attacked by an assailant armed with an axe and later died in hospital.

◆ Nuri Isma'il Nanakali: a lawyer and active PUK cadre who served as president of the Arbil Sector Court and the Supreme Kurdistan Court in 1991 (see Chapter 3). He was shot dead together with a companion in the streets of Arbil on 27 November 1994.

No effective or meaningful investigations into these and other killings have been carried out to date. All the above victims were killed after the Kurdish administration was established. In most of these cases, the Council of Ministers set up committees, headed by investigating or court judges, to gather and examine the evidence. None have so far resulted in any convictions.

Amnesty International has received numerous allegations attributing these killings to special forces within the KDP, PUK and IMIK. The security apparatus of the KDP, *Rêkhhistini Taybeti*, and that of the PUK, *Dezgay Zanyari*, are said to have units akin to assassination squads, whose members receive orders from senior party officials. There is also widespread conviction that such unlawful and deliberate killings could not have been perpetrated without the knowledge, consent or acquiescence of the leaders of these two parties, to whom the security and intelligence apparatuses are ultimately responsible. The names of individuals alleged to be members of assassination squads within the KDP and PUK have been submitted to Amnesty International, including by officials of both parties who supplied information about the other's security and intelligence activities. Some of this information was supported by documents which each party said it had seized from the other's bases during the May 1994 clashes. While the authenticity of these documents could

not be independently verified by Amnesty International, some of the details were consistent with information received from other sources. Similarly, the authenticity of documents said by the PUK to have been seized from IMIK bases during the December 1993 clashes could not be independently verified, but some of their contents were equally consistent with information from other sources. The documents did not identify individual IMIK members involved in killings, but there were details of extensive surveillance operations of named individuals, as well as references to killings and attempted killings by the IMIK. The PUK subsequently published extracts from some of these documents in their newspapers. The IMIK responded by stating that the PUK had forged the documents.

In October 1993 Amnesty International met officials from the Ministries of Justice and Interior to obtain information regarding the official investigations into some of the above mentioned killings. Both ministries said that separate investigations had been set up into the Sulaimaniya and Duhok killings. Amnesty International met the President of the Duhok Criminal Court, who was heading the investigation in that province. He said that the committee enjoyed the same powers as investigating judges, and that the families of the victims and others had been summoned and their testimonies recorded. He said that two suspects were being held pending further inquiries. He also informed Amnesty International that he was no longer responsible for the matter, as the investigation was being transferred to Arbil.

The families of the victims whom Amnesty International met, both in Duhok and Sulaimaniya, confirmed that they had been summoned but some complained that the suspected perpetrators had not been called for questioning. They said that they did not expect the investigations to yield any results. Some believed that the real perpetrators would not be brought to justice since they were protected by their respective political parties. Amnesty International shares that conviction.

In Arbil, the Minister of Justice told Amnesty International that the investigations had been transferred there for the sake of effectiveness, since progress had been slow. Another member of the Council of Ministers told the organization privately that in Duhok, "pressure" had been applied to the investigation committee such that it could not proceed. A new committee was to be set up in Arbil to investigate both the Duhok and Sulaimaniya killings as well as those which subsequently took place in Arbil. In the event, no such committee was formed and, to Amnesty International's knowledge, responsibility for the whole matter now rests with one investigating judge whose progress, understandably, has been slow.

Even in the one incident where the alleged killers were identified and apprehended, the case has been fraught with difficulties. Qais Muhammad Ahmad (Rénas), a member of the KTP Central Committee, was assassinated in front of eye-witnesses, and three members of the KDP's First *Liq* in Duhok were named as his killers. Two of them were arrested shortly after; the third suspect was said to have been injured during the incident and was

hospitalized. However, he remained at liberty for several months and was only apprehended following pressure and intervention by the KTP leadership. By July 1994, one year after the killing, the case had not gone to trial. The three suspects were transferred from Duhok to Arbil and were being held at al-Mahatta prison. On 9 July 1994, four days before Qais Muhammad Ahmad's wife was due to identify them as her husband's killers, the third suspect was removed from prison. He was reportedly taken by people claiming to represent the Salahuddin police force who said that the suspect was wanted there for questioning. This transfer apparently took place without the knowledge or consent of the investigating judge responsible for the case, and the suspect's whereabouts could not be confirmed. On 25 July the Minister of Interior told Amnesty International that a committee composed of three officers had been set up to investigate the incident and that Amnesty International would be informed of its findings. The same day Mas'ud Barzani told the organization that he had no knowledge of the incident but would make inquiries. At the time of writing, Amnesty International had not received any information concerning the outcome of these investigations.

In October 1993 Amnesty International raised some of the killings highlighted in this report with Mas'ud Barzani and Jalal Talabani, and in February 1994 other cases were raised with Shaikh 'Uthman 'Abd al-'Aziz and several IMIK leaders. Mas'ud Barzani said that the KDP was opposed to political assassinations. He said he had proposed a special committee to investigate the killings and that if it proved the involvement of any KDP members, they would be brought to justice. He acknowledged that politically motivated assassinations had taken place but said these were largely the result of personal feuds. Regarding the killings in Duhok province, Mas'ud Barzani said that both he and Fadel Mirani (the KDP's representative in Bahdinan), had advised the victims' families to initiate legal proceedings against any KDP official against whom they had evidence.

The cases raised with Mas'ud Barzani, apart from that of Qais Muhammad Ahmad, included: Fransis Yusuf Shabo, Ra'uf Kamel 'Aqrawi, Lazar Mikho Hanna (Abu Nasir) and Nazhir 'Umar 'Ali (Aram). In the first three cases, the organization had received the names of people said to be linked to the KDP's First *Liq* who were allegedly responsible for the killings.

Amnesty International expressed its scepticism to Mas'ud Barzani about the families' ability to produce hard evidence of KDP complicity, about their willingness to initiate legal proceedings, and about the effectiveness of the official investigations. The organization said that the killings themselves deterred the victims' families, eye-witnesses, other informants and members of the judiciary from taking any measures for fear of meeting the same fate. At the same time, some families did hold the KDP responsible for the killings and had asked Amnesty International to convey this to the party's leader. Among them were the parents of Nazhir 'Umar 'Ali. Mas'ud Barzani said he did not "even know the family". However, he undertook to visit Duhok again and to meet the families concerned. Amnesty International subsequently learned that such a visit did take place and among the families visited was that

of Nazhir 'Umar 'Ali. However, no one has since been apprehended and brought to justice for his death or that of the other victims named. In February 1994 Mas'ud Barzani told Amnesty International that the KDP had evidence of Iraqi Government complicity in the killing of Fransis Yusuf Shabo, and that the alleged perpetrators were in Mosul. The organization requested the evidence but did not receive it. In June 1994 a public statement by Amnesty International on the human rights situation in Iraqi Kurdistan referred to political killings by the KDP. The KDP responded by issuing a public statement and sending a letter to the organization's Secretary General. The following is an extract from that letter:

"As to the killing of rival political activists, there may be some circumstantial evidence that some murder cases have taken place in the KDP stronghold of Bahdinan region (Duhok province), yet to link these cases to the party itself is inaccurate..... These assassinations have taken place not only in Bahdinan, but in other Kurdish provinces of Erbil and Sulaimaniya as well. But to single out the KDP and directly hold it responsible is unfair judgement. We have looked into the 3 to 5 cases... and we believe the killings grew out of old, personal feuds. We do condemn political killings and their perpetrators and we welcome any further inquiry into the case".

Amnesty International's concerns regarding political killings were also put to PUK leader Jalal Talabani in October 1993. The specific cases raised, which had been attributed to the PUK, were those of 'Aziz Muhammad Koshnaw and 'Ali 'Abdullah Boskani. Jalal Talabani expressed the PUK's readiness to cooperate with official investigations into these and other killings. He added that the PUK had also initiated its own "internal investigation" into these two killings, and that anyone found responsible would be brought to justice. Amnesty International does not know if such an investigation was ever conducted and, if so, it has not been provided with its findings. What is known is that no one has been brought to justice for these two killings. In early 1994 the PUK published extracts from a document said to have been among those seized from IMIK bases during the December 1993 clashes. The document referred to several attempts by the IMIK to assassinate 'Ali 'Abdullah Boskani, a claim which the IMIK then refuted.

Another case in which the PUK was said to have been implicated is that of Tahsin 'Ali Nayif, the investigating judge who was killed in Zakho. Shortly after the incident a PUK member was apprehended on suspicion of involvement. He was initially held in police custody, but was later handed over to the Ministry for *Pesh Merga* Affairs on the grounds that he was a military man (he was a deputy battalion commander based in Duhok), and was held on the Ministry's premises in Erbil. The Minister for *Pesh Merga* Affairs, Jabbar Farman, told Amnesty International in October 1993 that he had requested the setting up of an *ad hoc* military court to put the suspect on trial, arguing that he should not be tried before a civilian court. This did not happen, however. Complaints were subsequently made to the

Ministry of Justice that the suspect was not in detention and had been seen walking freely on the Ministry's premises. The Minister of Justice took up the matter with Jabbar Farman in a letter dated 10 November 1993. However, the suspect was released uncharged. The PUK has denied involvement in killing Tahsin 'Ali Nayef, and some of its officials accused the KDP of having perpetrated the crime and of seeking to implicate the PUK in the Duhok killings. The KDP refuted this claim. Amnesty International has not been able to obtain further information about other killings attributed to the PUK, among them that of Soran 'Uthman Hama Saleh.

In February 1994 Amnesty International raised with Shaikh 'Uthman 'Abd al-'Aziz its concerns regarding killings attributed to the IMIK, specifically the cases of Mustafa 'Ali al-Barzanji and Mulla 'Abd al-Rahman Qader Yunis. Shaikh 'Uthman and other officials present said that "such acts are against Islam and are not perpetrated by the Movement". With regard to Mustafa 'Ali al-Barzanji, Shaikh 'Uthman said that he had deemed him to be "insane" and his book to be "blasphemous" but that the IMIK was not responsible for killing him and had condemned the act. He denied IMIK responsibility for the killing of Mulla 'Abd al-Rahman Qader Yunis, adding that he had personally issued a statement deploring the crime. He also denied that the IMIK had threatened or intimidated other religious clerics.

The events of December 1993

Armed clashes broke out in the third week of December 1993 between PUK and IMIK forces against a background of mounting tension between the two parties. Initially the clashes were confined to the Kifri region (Kirkuk province), but they spread rapidly to cities and towns in Kirkuk, Sulaimaniya and Arbil provinces, and lasted some two weeks. By the end of December, IMIK forces had suffered a heavy military defeat and were forced to retreat to their strongholds in the border regions. Both the PUK and IMIK reportedly sustained heavy casualties although the number of combatants killed or wounded could not be reliably verified. Civilian casualties were also said to have been high, particularly after the conflict spread to Arbil and Sulaimaniya. It is almost certain, however, that the number of combatants and civilians killed or injured during the two-week period ran into several hundred, perhaps as many as 500. Homes and public places, including mosques, were destroyed in the major cities and towns, in large part due to the heavy weaponry used.

Serious human rights abuses were committed by both sides during and after the clashes. Hundreds of combatants as well as civilians were taken prisoner, the vast majority of them by the PUK. Both parties issued public statements accusing the other of having sparked off the conflict and of committing abuses. These included torture of detainees, unlawful and deliberate killings of prisoners after surrender and, in some cases, mutilation. The IMIK also charged the PUK with conducting widespread arrests of suspected IMIK members or supporters both during and after the clashes. To Amnesty International's

knowledge, the only other political party in Iraqi Kurdistan which took part in the conflict was the Kurdistan Communist Party, whose forces were said to have fought alongside the PUK in the Kalar region.

On 23 December 1993 Amnesty International sent communications to the PUK's leader and the IMIK's Spiritual Guide, expressing its concern about the numerous alleged abuses and appealing for their end. The organization sought verification of the allegations, requested details of all those taken prisoner, and urged that they be handed to the Kurdish administration authorities. Amnesty International also wrote to the Prime Minister, Kosrat Rasul 'Ali, urging that the Council of Ministers initiate prompt, thorough and impartial investigations into all reported abuses and to bring to justice those found responsible in accordance with international norms. The organization urged the Council of Ministers to take immediate steps to transfer all detainees held by the PUK and IMIK into the custody of the Kurdish administration, to ensure that they be protected from torture or ill-treatment and to promptly release all those who are not to be charged with a recognizable criminal offence. No response was received to any of Amnesty International's communications.

In February 1994, during a visit to Iraqi Kurdistan, Amnesty International interviewed several of the small number of IMIK members and supporters still being held by the PUK (the majority had been released the previous month) as well as former detainees held by both sides. Testimony was obtained from torture victims and staff at several hospitals, where autopsy reports were examined. The families and friends of some victims of alleged unlawful and deliberate killings, as well as eye-witnesses, were also interviewed. Amnesty International raised its concerns with representatives of the PUK and IMIK and with officials of the Council of Ministers.

Background to the human rights abuses

On 16 December 1993 an IMIK member was apprehended by PUK armed fighters in the town of Kifri (Kirkuk province). Ihsan Jabbar Ibrahim, imam of a mosque in the town and a teacher of English at Kifri Secondary School, was held at the local PUK base for two days and then released after intervention by senior IMIK officials. Two days earlier, according to accounts received, clashes had taken place between an IMIK and a PUK member in the town, which resulted in the latter being shot and injured. On 18 December, prior to Ihsan Jabbar Ibrahim's release, the IMIK announced it had abducted two PUK members to use as leverage to secure his release. Relatives of the two men retaliated by attacking a car belonging to the IMIK, resulting in the death of four people and the injury of others.

In the interim, efforts were made by senior officials from both sides to contain the situation. Between 16 and 19 December, joint PUK-IMIK committees were set up to normalise relations and bring the clashes under control. Agreement was reached on the exchange of prisoners held by each party, among other things. However, on 17 December, PUK fighters reportedly ambushed six IMIK members on the outskirts of Kifri, killing four of them. Four days later the body of a PUK member, Azad Karim Samin, was found in the streets of Kifri (see below); he was among 11 PUK detainees who were held at an IMIK base in the town, ten of whom were released on 19 November.

On 19 December, the funeral of Hiwa Raniayi, one of the four IMIK members killed on 17 December near Kifri, was held in his home town of Rania. Several hundred people reportedly took part in the funeral procession, including women and children. Shooting started as the participants passed in front of the PUK's main base. The IMIK later stated that PUK fighters stationed at the base had fired the first shots, killing one IMIK fighter and injuring another. The PUK denied this, adding that there were numerous armed IMIK fighters among the crowd and that their intentions were not peaceful. In the event, IMIK fighters attacked the PUK base, killing five PUK cadres (see below). Between 12 and 18 other cadres were captured, according to the PUK, while the IMIK announced it had taken 57 prisoners.

Following the events in Rania, the situation escalated markedly. The PUK announced that on 19 December Kamaran Ahmad, deputy commander of one of its battalions, was assassinated by the IMIK in Koisanjaq, and that an anti-IMIK demonstration in Halabja was dispersed when IMIK fighters shot at the crowd, killing one civilian and injuring another. In the ensuing days, armed clashes spread to a number of towns in Kirkuk, Sulaimaniya and Arbil provinces. PUK forces launched attacks on IMIK bases in Rawanduz, Shaqlawa, Harir and Diyana on 21 December. In turn, IMIK forces attacked PUK bases in Qala Diza, Haji Awa and Chwar Qurna, and temporarily cut off the Arbil-Sulaimaniya road at Haibat Sultan.

A cease-fire agreement signed by both sides on 25 December did not prove binding. Armed clashes continued in a number of places including Koisanjaq, Halabja, Kifri and Kalar, and spread to the cities of Arbil and Sulaimaniya. The following day PUK forces took control of Betwata, the IMIK's main headquarters, capturing several of its senior officials who were

Figure 31 Part of the IMIK's headquarters in Betwata after it fell under PUK control

in the vicinity at the time. Among them was Shaikh 'Uthman 'Abd al-'Aziz who was taken to Arbil by Jabbar Farman, the Minister for *Pesh Merga* Affairs and field commander of the PUK forces during the conflict. From there, he was escorted to Salahuddin where he and other senior IMIK officials remained under the protection of the Iraqi National Congress (INC).⁷⁵

None of those detained by either side during the conflict was held in acknowledged places of detention under the Kurdish administration's jurisdiction. For the most part, detainees were held in cells or makeshift places in the respective parties' bases and centres. Some IMIK bases captured by the PUK were also used as temporary places of detention. Detainees in PUK custody who were interviewed by Amnesty International said that they were permitted family visits during the latter part of their detention, while those held in IMIK custody said they had been denied such access. The circumstances in which detainees in both PUK and IMIK custody were held, and the absence of any judicial supervision of their cases, made them highly vulnerable to abuse. Allegations of torture, deaths in custody and unlawful and deliberate killings were rife.

⁷⁵ The INC, a coalition of most of the major Kurdish and Arab opposition parties in Iraq, was established in June 1992 in Vienna. It was renamed the Unified Iraqi National Congress at a conference held in Salahuddin in November 1992, when several other opposition groups joined it. It has a three-member Presidential Council: Sayyid Muhammad Bahr al-'Uloom (representing the Shi'a Muslim opposition), General Hassan al-Naqib (representing the Sunni Muslim opposition) and Mas'ud al-Barzani (representing the Kurdish opposition). The head of its 30-member Executive Council is Ahmad al-Chalabi.

Scores of people were also arrested outside the context of armed conflict. Most of these arrests were carried out by the PUK, particularly in the aftermath of the defeat of IMIK forces. Those arrested included civilians who were suspected of having taken up arms and participated in the clashes, and those who were known or suspected supporters of the IMIK.

In February 1993 Amnesty International received from the PUK lists of detainees held by the party during the conflict and in its aftermath. According to these lists, over 900 people with known or suspected connections with the IMIK had been arrested by, or surrendered to, the PUK between 21 December 1993 and 10 January 1994. In some lists, the detainees are

Figure 32 IMIK detainees held by the PUK in Sulaimaniya, February 1994

described as combatants, while in others there was no indication as to whether they were combatants or civilians. The largest group, 442 in total, appears to have been arrested and held in the Sulaimaniya region, with a further 269 held in the Arbil region. The remainder were listed as having been held in Derbendikhan, Kifri, Kalar and Smud. The lists also suggest that some detainees were released shortly after their arrest and interrogation. Most, however, were apparently held for several days or weeks and then released in batches between the last week of December 1993 and the third week of February 1994.

Upon requesting access to those still detained in February 1994, Amnesty International was initially told by PUK officials that none remained in detention. They subsequently acknowledged that a small number were still being held and granted the organization access to 22 of them. Five were being held at the PUK's Political Bureau headquarters in Arbil, 13 at a former IMIK base in Sulaimaniya and four others at the PUK's Second *Melbend* (Centre) in Derbendikhan. Amnesty International was also informed that a small number of detainees were still held in Kalar and was offered access to them. It was not possible for the organization to assess the veracity of the information provided by the PUK, although it was evident that the large majority of detainees had in fact been released. However, the relatives and friends of some detainees who were said to have been released told Amnesty International that they had no knowledge of their fate or whereabouts. Moreover, in several cases the names of individuals who had been held in PUK custody for a

period and who were subsequently found dead did not appear on the lists provided by the PUK.

Details regarding PUK combatants and members held by the IMIK were more difficult to obtain. Statements issued by the IMIK during the conflict made only brief references to the numbers of people taken prisoner or released. In a statement dated 20 December 1993, 57 people were said to have been captured in Rania, but a statement issued one week later gave the number as 75. A further statement dated 7 January 1994 announced that the IMIK had released over 100 detainees, who were said to include senior PUK officials and 65 others who had been arrested in Rania. A further 20 detainees were also said to have been released in Halabja on 2 January. In early February 1994 the IMIK told Amnesty International that all such detainees had been released. This assertion was contradicted by the PUK, which announced that four of its members who were held by the IMIK in areas close to the border with Iran were only released in the second week of February in Khormal. Amnesty International did not have the opportunity to interview them, however.

Following its investigation into the December 1993 events Amnesty International concluded that serious human rights abuses were committed by both PUK and IMIK forces. It was not possible to follow up all allegations of human rights abuses, and those on which information was received are too numerous to be adequately addressed here. These include torture testimonies submitted by former detainees held by both sides; in several of these cases, supporting medical evidence was obtained. This report focuses on one area of concern: the unlawful and deliberate killing of combatants after surrender and of others arrested outside the context of armed conflict.

Unlawful and deliberate killings by PUK forces

Amnesty International has received the names and details of scores of people who were said to have been deliberately and arbitrarily killed by PUK forces in December 1993 and January 1994. The victims include combatants killed after surrender, targeted individuals arrested outside the context of armed conflict and subsequently killed, and injured combatants who were reportedly deprived of medical treatment or dragged out of hospitals and shot. In a number of cases, the bodies of the victims were allegedly mutilated. Many of the allegations could not be substantiated. In some cases, however, information obtained strongly suggested that unlawful and deliberate killings had been perpetrated. Such information includes consistent eye-witness and other testimony and forensic evidence.

One incident involved the reported deliberate killing of 18 IMIK combatants after surrender near Kifri on 28 December. According to information received, the group was among many combatants who had begun to withdraw from their bases following the defeat of IMIK forces at Betwata two days earlier. The 18 combatants were said to have been

pursued by PUK forces and then surrendered to them. Their bodies were recovered the following day by residents of Kifri. The PUK told Amnesty International that the 18 men had been killed in battle.⁷⁶ However, a number of people from Kifri who said they had seen the bodies told the organization that the gunshot wounds appeared to have been inflicted at close range, suggesting that the victims had been killed after surrender. Photographs of some of the victims' bodies appear to support these statements. The following are extracts from comments made by a forensic pathologist who examined these photographs:

On the case of Kamaran Zarayani, one of the victims:

"The appearances are suggestive of a close gunshot wound, possibly contact, which has disrupted the tissues on the left side of the head. When a weapon is placed very close to the skin or actually pressed against it, the discharge of gas usually lacerates the tissue in a very irregular fashion, often star-shaped, as opposed to the neater hole when a gun is fired from a distance and only the bullet causes entrance damage...".

Figure 33 Kamaran Zarayani, an IMIK combatant killed after surrender in Kifri, December 1993

⁷⁶ The 18 men killed were: Nazem Muhammad Tawfiq; Jalal 'Ali Qader; Sherzad 'Ali Qader; Hashem Muhammad Kakamand; Ibrahim Muhammad Kakamand; Nawzad Muhammad Khan; Luqman Muhammad Amin; Sabah Jassem Hassan; 'Umar Fadel; Hassan Rif'at Hussain; Muhammad Rahim; Saman Majid; Goran Haidar Rustum; 'Abbas Mahmud; 'Adnan Hakim Taher; 'Adel 'Uthman Rasul; Ayyub Chemchemali; and Kamaran Zarayani.

On the case of another of the 18 victims:

"The disruption of the face and the large wound on the right side of the neck indicates a gunshot wound which has probably smashed the upper spine, lower jaw and possibly interior skeletal structures in the face and the base of the skull. The wound is very large and this suggests a contact wound, possibly not at right angles to the skin, but tangentially which has extended the wound upwards... This is likely to be a very close range or contact wound from a rifled weapon..."

Figure 34 An IMIK combatant killed after surrender in Kifri, December 1993

Amnesty International was also given the names of 11 PUK combatants attached to the Second **Melbend** who were allegedly responsible for the death of the 18 men.

In another incident, eight IMIK combatants were allegedly killed after surrender on 27 December after PUK forces took control of the IMIK's headquarters at Betwata.⁷⁷ Nine IMIK fighters were said to have been ambushed by PUK forces on Makok mountains near Betwata as they sought to escape. PUK forces allegedly disarmed them, tied them up and shot them. One of the nine, Hassan Babakr Ahmad, survived. He identified four PUK military commanders who were said to be present at the time. He testified:

"They took us to [name withheld], so he ordered that our hands be tied from the back.

Then he said to us: 'you took part in the battles at Chwar Qurna and we will execute you'... He ordered his troops to disperse far away and kept about 20 of his supporters... They took us to a place about 100 metres away from the main road. Suddenly all their **Pesh Merga** started firing at us with different weapons and we all fell quickly to the ground. They thought we were dead... I knew I had been hit with a bullet [but] I didn't die..."

⁷⁷ Seven of the eight men were identified as: Mulla Sharif Hussain Mustafa; Mulla Wirya Kirkuki; Nabi Mina Hassan; Ahmad Babakr Ahmad; Dana Muhammad; 'Ali Hussain; and Barzan Koyi (the body of the latter was apparently not found subsequently).

Figure 35 Nabi Mina Hassan

The families of two of those killed, Mulla Sharif Hussain Mustafa and Nabi Mina Hassan, told Amnesty International that when they collected the bodies, they saw marks on the wrists where they had been tied, and that the index finger of the right hand of both men had been severed. The body of Nabi Mina Hassan was also said to bear knife wounds and his right arm severed. In February 1994 the Minister for *Pesh Merga* Affairs told Amnesty International that PUK forces had not ambushed any IMIK fighters, and had been heading for the Bazyan region to fetch the IMIK's Spiritual Guide. On the way, they had encountered the nine IMIK fighters and a battle ensued in which some PUK *Pesh Merga* were wounded and the nine killed. He added that he was not present during the battle, but had heard shooting and by the time he arrived on the scene, the IMIK fighters had already died.

Amnesty International also received the names and details of scores of other members or supporters of the IMIK who were allegedly killed by PUK forces after arrest outside the context of armed conflict. It was not possible to investigate many of these cases or to establish the circumstances surrounding the deaths. Below are two sample cases:

◆ Ahmad As'ad Isma'il: born 1972 in Arbil, owner of a recording studio. He was arrested on 24 December together with his brother-in-law and a friend after PUK fighters surrounded his sister's home in the Zanyari district of Arbil. His family inquired about him at the PUK's Third *Melbend* but obtained no information. Three days later two of the detainees were released but the whereabouts of Ahmad As'ad Isma'il remained unknown. All three had apparently been taken to the PUK's Political Bureau headquarters in the city but he had been separated from them. The family was then apparently told by the PUK that Ahmad As'ad Isma'il was at al-Jumhuri Hospital, then at Rizgari Hospital, then at the Third *Melbend*, then at the Political Bureau. His fate remained unknown until 2 January 1994, when his body was found in the streets of Arbil. According to two witnesses, the victim's body had five gunshot wounds and his left arm had been severed. They stated that the victim's stomach gave the appearance of having been crushed with a heavy object. His name did not appear on any lists given to Amnesty International by the PUK of IMIK detainees arrested in the Arbil region.

Figure 36 Ahmad As'ad Isma'il

◆ Bestun 'Abd al-Rahman 'Abdullah: born 1971 in Koisanjaq, a student of geography at Salahuddin University. On 26 December he left his home in Arbil after being told that PUK forces intended to arrest those living there. He hid and the following day headed for Koisanjaq with 11 others, but encountered a PUK patrol before reaching the town. Six from the group reportedly fled while the remaining six, among them Bestun 'Abd al-Rahman 'Abdullah, were captured. According to accounts received, they were blindfolded, lined up and shot. None of them was said to be carrying weapons. Bestun 'Abd al-Rahman 'Abdullah's body reportedly had two gunshot wounds, one in the eye and the other in the stomach.

Figure 37 Bestun 'Abd al-Rahman 'Abdullah

Amnesty International also received allegations that some IMIK combatants were deliberately killed by PUK forces after being dragged out of hospitals. The names of several alleged victims in Arbil were given to Amnesty International but there was no opportunity to investigate these and similar cases. However, numerous people in Arbil, Sulaimaniya and Kirkuk provinces testified that on the whole, injured IMIK combatants were treated privately in homes rather than in hospitals for fear of being killed or captured. As a result, some were said to have died because of lack of adequate treatment. In other cases, PUK forces were said to have taken control of hospitals to prevent the injured being brought there. For example, two employees at Kalar Hospital told Amnesty International that PUK forces were stationed around the building and on the roof for several days to prevent the injured from the IMIK from being brought there.

Unlawful and deliberate killings by IMIK forces

Figure 38 Azad Karim Samin

The IMIK was also said to have committed unlawful and deliberate killings during the December 1993 clashes. The body of Azad Karim Samin (see above), a PUK member who had been held in IMIK custody until 19 December, was found in the streets of Kifri two days later. He had reportedly been battered to death and his body was wrapped in a large cloth with the words "There is no God but Allah" written on it. The IMIK denied responsibility for his death.

Eye-witness testimony and other information obtained regarding the events in Rania on 19 December (see above) suggested that the five PUK cadres who died that day were killed by IMIK fighters outside the immediate context of armed

clashes. IMIK officials had told Amnesty International that they had died as a result of an exchange of fire between the two sides. The five victims were: Muhammad Sultan, 'Ali Mam Qader, Salman Fakhri, Bakhtiar Muhammad Majid and Mustafa Hassan. The first to be killed was said to be Muhammad Sultan, who emerged from the base and was apparently attempting to calm the situation down. However, the testimonies obtained by Amnesty International did not support later statements issued by the PUK which accused the IMIK of refusing initially to hand over the bodies of the five men to their families, of dragging the bodies through the streets of Rania, and declaring the five men to be "sinners" so they could not be buried in a Muslim cemetery.

Six PUK combatants were allegedly shot dead after surrendering to IMIK forces in Khormal (Sulaimaniya Province) in the third week of December. According to accounts received, they were taken prisoner at the PUK's *Komite* (local committee) building in the town and detained there.

One of them was reportedly injured. The six men, who were said to have been killed on 25 or 26 December in the Hawraman region (close to the border with Iran), were: Abu Bakr Majid Karim, head of the PUK's Khormal *Komite*; Bakhtiar Ahmad; Kamal Ahmad Hamad Amin; Sherwan Muhyiddin Ahmad; Saheb Ja'far Muhammad; and Jalal Babala Ma'ruf. A seventh person captured, detained and killed with them, Fairuz Rahman Hama Sa'id, was a KDP *Pesh Merga*. The bodies of all seven were allegedly mutilated by having their ears cut off. Amnesty International could not substantiate these allegations, although it did receive from the PUK film footage showing a number of bodies which had clearly been mutilated. The victims, who were unidentified, were said to be PUK combatants killed by IMIK forces. These claims were rejected by the IMIK.

Figure 39 A PUK combatant killed in December 1993 (showing severed right ear)

Figure 40 Lawran Rahman Walukhan, aged 17

In another incident, seven PUK combatants were captured by IMIK forces following an attack on their unit near the village of Sosakan (a border region in Sulaimaniya Province) on the night of 28 December. Ten other PUK combatants with them reportedly fled. Five of those captured were said to have been shot dead that night: Sharif 'Ali Bakr (aged 16), Lawran Rahman Walukhan (aged 17), Mustafa Ahmad, 'Abd al-Rahman 'Abd al-Qader Muhammad and Hussain 'Ali Hama. One of the two detainees who survived, 'Umar Haji Hussain, told Amnesty International:

"When we had spent all the ammunition we had, they surrounded us on the hill and captured us. Then they blindfolded us, tied our hands from behind and took us inside... and shot dead five of the prisoners...".

The family of one of the victims, Sharif 'Ali Bakr, told Amnesty International that his body bore gunshot wounds in the head and limbs as well as bayonet wounds in the neck and back. His face was said to have been mutilated. An autopsy was performed on 30 December at a Sulaimaniya hospital, which said the victim's external injuries included a stab wound in the skull and mutilation of the face. The family of another victim, 'Abd al-Rahman 'Abd al-Qader Muhammad, also testified that his body bore gunshot wounds and bayonet wounds in the face and stomach.

Figure 41 Sharif 'Ali Bakr, aged 16

'Umar Haji Hussain testified that after the five victims had been killed, both he and his co-detainee, 'Abdullah Haji 'Umar, were taken the following morning to a border region inside Iranian territory (in the district of Paveh). He stated that upon arrival, they were blindfolded and their hands tied, and that they were punched, beaten with rifle butts and threatened with execution. Their subsequent release was apparently in exchange for the release of nine IMIK detainees by the PUK.

The events of May 1994

Widespread military clashes erupted in Iraqi Kurdistan on 1 May 1994 between the armed forces of the KDP, PUK and IMIK. They continued intensely throughout the month, and while there were intermittent clashes in June and July, they were relatively contained. In August clashes erupted again until the end of the month when a ceasefire was agreed and observed.

Widespread and gross human rights abuses were committed by all sides during the conflict and in its aftermath, and hundreds of prisoners were captured. Combatants were killed after surrender or capture and others were tortured while in custody. Civilians not involved in the clashes were arbitrarily arrested on the basis of their political affiliation, held in unacknowledged places of detention and tortured. The clashes caused upheaval in the lives of hundreds of innocent civilians who were either forced out of their homes or fled. Many people died - civilians and combatants - largely because of the use of heavy artillery and other weapons in the major cities. Amnesty International could not obtain a reliable number of casualties, although estimates ranged from 600 to over 2,000 dead.

On 1 June Amnesty International publicly called on leaders of the political parties involved in the conflict to "stop deliberately killing and mutilating prisoners in their custody, and abducting, killing and torturing civilians based on their political ties". The organization had received the names and some details of 51 KDP members allegedly executed by the PUK after arrest between 2 and 23 May in eight locations, and 49 PUK members allegedly executed by the KDP after arrest between 4 and 28 May in five locations. In one of the latter incidents, IMIK forces were reported to have carried out some killings alongside the KDP. Some of the alleged victims on both sides were said to have been tortured prior to execution or their bodies subsequently mutilated. Numerous civilians were also reported to have fallen victim to arbitrary arrest, torture or deliberate killings.

No response was received from either the PUK or IMIK as intermittent clashes continued. The KDP, however, issued a press release on 3 June 1994 responding to Amnesty International's statement and sent a letter to the organization's Secretary General. The letter stated:

"The PUK allegation, as repeated in Amnesty's press release, that the KDP killed 49 PUK party members is completely unfounded. We emphatically deny any killing of PUK prisoners by our forces between 4 and 28 May or during the whole course of the latest tragic and self-destructive events. The allegation is an absolute fabrication by the PUK and it is passed to AI solely to counterbalance the killing of 51 KDP prisoners. The names and details of our victims have been published before sending them to AI. The PUK has not published or raised the case of their alleged names. Executing prisoners goes against a

long-standing KDP tradition. It has been our policy since the 1960s to strictly observe the Geneva conventions pertaining to the treatment of prisoners of war and civilians".

The PUK had in fact submitted to Amnesty International the names of 39 of its members who were said to have been killed after capture; the names of 10 others were received from other sources in Iraqi Kurdistan. In its letter the KDP said that while "it must take exception to several allegations made against it, it nevertheless welcomed the organization's "attention to the problem and its statement", and invited Amnesty International "to send a fact-finding mission to investigate the case and all other abuses raised in [its statement]".

Amnesty International visited the region in July 1994 for three weeks to investigate a range of human rights abuses reported since 1 May. During the visit, none of the senior PUK officials with whom the organization met addressed the general allegations made in Amnesty International's 1 June statement. They did respond to specific cases raised with them during the visit, references to which are made below. IMIK officials, on the other hand, strongly objected to allegations of human rights abuses attributed to their forces, in particular the killing of prisoners which they stated was "contrary to Islamic principles upheld by the Islamic Movement". They said they intended to issue a statement refuting allegations made by Amnesty International against the IMIK, which the organization undertook to make public in any report it published on Iraqi Kurdistan. At the time of writing, no such statement had been received.

Background to the human rights abuses

No attempt is made here to trace exhaustively the sequence of events of 1 May and the following months, nor is there an assessment of where responsibility lies in both igniting and prolonging the conflict. Amnesty International has focused on establishing the facts about those human rights abuses falling within its mandate, identifying their perpetrators and putting pressure on the Kurdish leadership to bring those responsible to justice.

The land dispute which sparked off clashes in Qala Diza on 1 May involved a KDP military commander, 'Ali Hasso Mirkhan, who claimed ownership of a piece of land in the district. He arrived with some 20 **Pesh Merga**, and after efforts by local officials to settle the dispute peacefully had failed, firing broke out and continued into the following day. Two PUK military

Figure 42 The KDP's Eleventh *Liq* building in Rania after it fell under PUK control, May 1994

commanders were killed in separate incidents during these clashes. Attacks by PUK forces on the local KDP base resulted in 'Ali Hasso Mirkhan and one other from his group being killed in the exchange of fire, while 19 other KDP **Pesh Merga** were taken prisoner. All were then allegedly executed (see below). Clashes between the two sides spread on 2 May to the town of Rania, from where PUK reinforcements had been dispatched to Qala Diza. PUK forces succeeded in taking control of the KDP's Eleventh **Liq** in Rania and arrested a number of party officials and combatants. Two of them were allegedly shot dead shortly after arrest (see below).

By that evening tensions had spread to both parties' strongholds in Sulaimaniya and Duhok. In the city of Sulaimaniya, PUK forces took control of the KDP's Fourth **Liq** and other offices and over 90 KDP members were later arrested. Among them were 14 senior KDP officials, including Qader Qader, Deputy Minister for **Pesh Merga** Affairs. Similarly, KDP forces took control of PUK bases in Duhok, Zakho and 'Amadiyya, arresting those inside. By the end of the first week of May, armed clashes had spread to a number of towns, including Derbendikhan, Chemchemical, Halabja, Khormal, Biyara, Kifri, Kalar, Salahuddin, Shaqlawa and 'Aqra. There were numerous reports of the killing of prisoners by both sides, including on 5 May when six PUK combatants were allegedly killed after capture by KDP forces in Salahuddin and 16 KDP detainees were allegedly killed by PUK forces in Halabja. Three other PUK detainees were allegedly killed by KDP forces in the 'Aqra area on 7 May and at least eight others after capture by joint KDP/IMIK forces in Khormal on 4 May and later (see below).

Figure 43 The PUK's *Komite* building in Salahuddin after it fell under KDP control, May 1994

Armed clashes erupted elsewhere during the second week of May: KDP forces took control of PUK bases in Diyana, Khalifan and Harir, while in Sayyid Sadeq, Hawraman, Penjwin and Halabja PUK forces clashed with the joint forces of the KDP and IMIK. PUK and IMIK forces also clashed in Tawela, Biyara and Khormal. On 17 May armed clashes erupted in the Haj Omran area and the following day in Koisanjaq. Four PUK combatants captured near Haj Omran by joint forces in Koisanjaq were allegedly killed on 19 May (see below). By 29 May the armed clashes had spread to the city of Arbil and lasted some three days. While the city had not witnessed significant fighting until then, forces of both the KDP and PUK were already present there, occupying a number of public buildings. On 3 May, PUK forces had taken control of the National Assembly building, ousting the guards stationed there and positioning themselves around and on the roof of the building. They also took control of the Maternity and al-Jumhuri hospitals, while KDP forces were stationed at Rizgari Hospital. Other public buildings were also occupied.

The principal negotiating role throughout the conflict was played by the INC, which was responsible for bringing senior KDP, IMIK and PUK officials round the table on a number of occasions. Under its auspices, several agreements were reached on the withdrawal of forces, on effecting an immediate cease-fire and on exchanges of prisoners. These agreements were frequently flouted, but the INC did succeed in diffusing tensions in some instances, thereby preventing further escalation of the conflict. By consent of all sides, the INC also assumed responsibility for deploying neutral forces under its control to strategic locations and checkpoints previously controlled by either PUK or KDP forces.

One of the first agreements negotiated by the INC on 8 May involved establishing a Committee for the Exchange of Prisoners (*Lajnat Tabadul al-Asra*), through which many prisoners were subsequently exchanged. The committee was hampered by its lack of powers of enforcement and dependence on the cooperation of the conflicting parties to gain access to detainees and ensure their actual release. A number of former detainees later told Amnesty International that they had been hidden from the committee's members or had not

been handed over to them as agreed. Nevertheless, Amnesty International believes that the INC's efforts were critical in at least identifying the names and whereabouts of many detainees, and may have been instrumental in preventing further deliberate killings at the height of the conflict. Representatives of the ICRC present in Iraqi Kurdistan were also granted access to detainees.

Considerable efforts at mediation were also made by political parties in Iraqi Kurdistan which had remained neutral. Chief among these were the Kurdistan Communist Party, KTP and the ADM, whose forces also assisted in other ways. In Arbil, for example, joint KTP/KCP forces were stationed at al-Mahatta Prison to prevent inmates from escaping: from the outset, the vast majority of police and *Asayish* personnel who were affiliated to either the KDP and PUK had joined the forces of their respective parties as combatants. In Sulaimaniya, the KCP bases were used as "neutral ground" for the exchange of prisoners. Both the Council of Ministers and the National Assembly were paralysed by the conflict; the National Assembly did not meet as a body between 3 May and 2 July.

On several occasions civilians demonstrated in Arbil and Sulaimaniya against the inter-party conflict, calling for an immediate end to the fighting. During one such demonstration in Arbil on 7 May, two civilians (Khaled Khalil Hama Amin and Hamid Hassan) were killed and several others injured as shots were fired into the crowd. Responsibility for this incident has not been established: the KDP accused the PUK, while the PUK said that the demonstration "came under fire from an unknown car". Between 24 and 27 May over 200 women marched from Sulaimaniya to Arbil calling for an end to the fighting. In both cities, committees were formed by professionals which appealed for peace.

Armed clashes continued intermittently during June and July in a number of areas, albeit on a much reduced scale and were quickly contained. However, relations between the two sides remained tense and widespread arrests of known or suspected members of each party by the opposing side continued, many of whom were tortured in custody. Unarmed civilians taking part in a funeral procession in the city of Sulaimaniya on 13 June were also killed as PUK forces fired into the crowd (see above).

On 12 August armed clashes broke out again in Qala Diza, and in Shaqlawa in the ensuing days. The town of Qala Diza, under PUK control at the time, came under heavy bombardment from areas controlled by KDP and IMIK forces. Most casualties were civilians. The clashes reached a climax between 23 and 26 August during which heavy artillery was used by both sides. According to INC sources, an estimated 600 people, both civilians and combatants, were killed during these three days of fighting. Fierce clashes also broke out in 'Arbat, Sayyid Sadeq and Halabja between 26 and 28 August, involving all three sides. According to information received, joint KDP/IMIK forces attacking PUK positions on the outskirts of Halabja succeeded in encircling a large number of the party's combatants on the shores of Derbendikhan lake, cutting them off from the main road. While many

surrendered to the KDP and IMIK, scores of others attempted to escape by swimming into the lake and were said to have drowned.

On 29 August, Mas'ud Barzani and Jalal Talabani attended a special session of the National Assembly, during which they made pledges to honour prior agreements concluded by their respective parties. Less than 48 hours later, clashes had broken out again north of Arbil, allegedly instigated by PUK forces.

The range of human rights abuses committed between May and August 1994 are too numerous to be adequately addressed here. This report consequently focuses on two areas of concern: torture and ill-treatment of detainees and unlawful and deliberate killings of combatants after surrender. Several sample cases of torture are highlighted from among those on which medical evidence was obtained by Amnesty International and where the findings are supported by expert forensic opinion. The cases of alleged unlawful and deliberate killing of unarmed prisoners detailed below include the major incidents said to have taken place. In these cases, no forensic evidence was obtained by or made available to Amnesty International, and it was not possible for the organization to examine the remains of the alleged victims during its visit to Iraqi Kurdistan in July 1994. The details set out below are based on testimonies from eye-witnesses, former detainees, relatives of the victims, party officials and others. All the cases warrant thorough and impartial investigation at the highest level. Leaders or representatives of the KDP, PUK and IMIK with whom Amnesty International raised its concerns in this regard denied that their forces had killed unarmed prisoners. The sole exception was Jalal Talabani, who acknowledged to Amnesty International that PUK forces had committed such crimes in two separate incidents in Rania and Koisanjaq (see below).

Human rights abuses by PUK forces

a) Torture and ill-treatment of detainees

Scores of former detainees held in PUK custody - both combatants and civilians - told Amnesty International that they had been tortured or otherwise ill-treated while in custody. The majority were known or suspected members or supporters of the KDP. In 15 cases, Amnesty International obtained solid evidence to support the claims of torture: eight victims interviewed, examined and photographed by Amnesty International still bore scars, and in seven other cases the organization obtained photographic evidence. An examination of the photographic evidence by a forensic pathologist concluded that the injuries sustained in each of the 15 cases were consistent with the allegations made by the victims. Below are four sample cases:

◆ **Haji Taqiddin Muhammad Amin:** born 1951 in 'Aqra (Duhok Province), married with eight children, a KDP cadre. He was arrested on 28 June 1994 in Arbil by several armed

men from the PUK. He had come to Arbil from 'Aqra to deliver letters on behalf of the KDP. The armed men identified him by name and told him to get into their vehicle:

"When I asked what for, they didn't reply but hit me in the chest and face with a rifle. They blindfolded me very tightly and forced me to lie down in their Landcruiser. My hands were tied too. They insulted and humiliated me, and asked me about the killing of someone from the PUK. I replied that I had nothing to do with it and that I had resigned from the KDP. They said 'we will only believe you if you curse Mas'ud Barzani'. I was taken to a place under PUK control. I was still blindfolded so I didn't know where I was. When I refused to curse the KDP, one of them said 'Bring the hosepipe'. I thought he was going to beat me but he used it to tie my legs to the Landcruiser. They dragged me along the ground and said 'Curse'. I refused so he kicked me in the back of my head, and blood flowed from my left ear and nose. They dragged me again and said 'We will kill you'. After about three hours I was released as a result of interventions made on my behalf....".

◆ Jalil Hamad Sur 'Umar: born 1968 in Sulaimaniya, married with one child, a graduate from a technological institute and a former boxing champion. He was arrested on 26 June 1994 in Sulaimaniya by three armed men from the PUK:

"They blindfolded me and tied my hands and feet in front of everyone and pushed me in their car... They took me to Bakrajo. Six or seven of them beat me with cables and weapons, then they put me in a solitary cell. Half an hour later I was tortured again. They wouldn't let me say anything, they beat me everywhere. Twice they applied electricity to my tongue. Then they hit my head six or seven times against the wall till I lost consciousness. When I opened my eyes again I was back in the cell. They told me 'Join us and curse Barzani and we will release you'... I was released after my brother-in-law paid them money. I was held there from 9.30 in the morning till 4.00 in the afternoon. If I had stayed the night they would have executed me, that is what they told me...".

◆ Ali Mahdi Saleh: born 1944 in Khaniqin, married with 10 children, a driver and former KDP **Pesh Merga**. He was arrested on 4 June 1994 at a PUK checkpoint in Sayyid Sadeq (Sulaimaniya Province). He had been on a minibus heading for Halabja:

"At Sayyid Sadeq we stopped at the checkpoint. I was wearing a yellow shirt and they told me 'You are from the KDP'. They took away all the men in the Coaster [minibus] and left the women. They took us to the Ninth **Melbend** in Sharazur. When we entered they blindfolded us and the head of the **Melbend** told us to sit down... I was beaten with cables and a

wooden stick and a hosepipe. Before the beating they told me 'You are from the KDP' and I replied that I had been in the past... They said 'Say that you are from the KDP' and I refused... In the end I said it... After three or four days they transferred me to 'Arbat to the former KDP base there which they had converted into a prison... There I was put in a communal cell. There were between 50 and 70 prisoners in two communal cells, most of them from the KDP and a few were from the [Islamic] Movement. I didn't see the others being tortured but I saw them after they returned to the cell following the torture. There was a young boy there, 15 or 16 years old. His left hand had been broken twice from the beatings. They sent him to a doctor who put his hand in plaster. When he came back they put him in another room. He was from Chemchemal... They hid him from the Committee for the Exchange of Prisoners... Then they released him... I was released in a prisoner exchange on 12 June at the Communist Party base [in Sulaimaniya]...".

◆ Daraghayi [full name withheld]: a trader born in Sulaimaniya in 1960. On 12 July 1994 in 'Ain Kawa, he was accosted by six armed men who forced him into a nearby house. He stated that the letters 'PUK' were on his assailants' Kalashnikov rifles. He was tortured after various documents were found in his possession which apparently linked him to the KDP. He told Amnesty International:

Figure 44 Daraghayi [full name withheld], victim of torture by the PUK, July 1994

"... he began to hit me [and] the other *Pesh Mergas* hit me with the butts of their Kalashnikovs. The beating intensified and I was kicked and punched... While they were hitting me I saw two large paintings on the wall. One of them was a portrait of the martyr Aram and the other was of 'Ali 'Askari.⁷⁸ Then I knew that I was in PUK hands...

I heard the person interrogating me tell the others to bring a hosepipe... He bent it in half and began to hit me. I fell in a corner. There, he beat me without stopping... In the garden he continued beating me with the hosepipe. When he beat me he was drinking 'Araq [alcoholic drink]. After each glass he beat

⁷⁸ Shaswar Jalal (known as Aram) was a well-known political figure within the PUK; he was killed in 1977 by Kurdish agents of the Iraqi Government. 'Ali 'Askari was a senior PUK military commander who was executed by the KDP in 1978.

me... I think he drank about one and a half bottles... He beat me in the garden until four or five in the morning... Around midnight I sensed that the neighbours had heard my screams but no one intervened. The house was located in a residential area, close to the UN. When he became tired of beating me he insulted me...".

Local residents in 'Ain Kawa apparently heard his screams and informed staff of one of the UN agencies, who in turn informed Amnesty International. By that time, however, he had been released and was receiving treatment at Rizgari Hospital in Arbil. Amnesty International interviewed him several days later and photographed his injuries. The forensic pathologist commented that "... the injuries are very recent and some of the beating was severe in intensity, causing extensive haemorrhage into the tissues, the overall appearance of prolonged, repeated severe whipping with objects of varying width".

b) Unlawful and deliberate killings:

◆ Qala Diza, 2 May: Nineteen KDP combatants were said to have been killed by PUK forces following their arrest on 2 May. As noted earlier, clashes had broken out between forces affiliated to the PUK and KDP forces led by 'Ali Hasso Mirkhan after the failure to settle a land dispute. According to accounts received by Amnesty International, PUK forces attacked the KDP's **Nawche** (local committee) building in the town, where 'Ali Hasso Mirkhan and other **Pesh Merga** had taken refuge. Following the attack, the KDP forces retreated to an area outside the town known as Gurdi Husni, where a battle ensued and two KDP combatants, including 'Ali Hasso Mirkhan, were killed. Nineteen others were captured and, according to eye-witnesses, were brought back to Qala Diza and held at the PUK's **Komite** building.⁷⁹ A 24 year-old man from Rania testified:

"That evening they brought out five of the detainees, drove them to Gurdi Husni and executed them. Then five others, and then the rest, in groups. It was about seven o'clock in the evening. I didn't witness the killings but people in the town could hear shots being fired. The bodies were brought by local people in Qala Diza. Some of them had their hands cut off and the eyes of others had been gouged out... The body of 'Ali Hasso had been burned and they had dragged it through the streets of Qala Diza".

The bodies were reportedly taken to Rania and from there to Merga Sur for burial. A KDP **Pesh Merga** testified that he had assisted in the burial of the bodies, and told Amnesty International:

⁷⁹ Among them were: Hamad 'Abdullah Saleh; Amir 'Abdullah Saleh; Khano Majid Wali; Amir Muhyiddin Lashkaryani; and Fakhri Hamad Ibrahim Khan.

Figure 45 Hamad 'Abdullah Saleh

"Ali Hasso's face and chest were burned and his teeth wrenched out... There were traces of rope marks around his neck... and [other injuries suggesting he had been dragged on the ground] on his back and buttocks... The bodies of Amir and Hamad 'Abdullah [two brothers who were among those killed] had been dismembered. I put their remains in plastic bags and buried them... The stomach of Khorshid Ahmad [another of those killed] had been slit open and his legs, hands and arms had been cut... but not dismembered. Amir Muhyiddin Lashkaryani [another victim] had one bullet wound in his back. His face had been mutilated with a bayonet and his eyes gouged out..."

◆ Rania, 2 May: That day PUK forces attacked and took control of KDP bases in the town, including the premises of the party's Eleventh *Liq* and the *Nawche*. Among those arrested at the *Liq* and killed shortly thereafter were Ahmad Saleh Beg, head of the KDP's *Nawche* in Rania, and Azad Muhammad Qader, a *Pesh Merga*. Both were said to have been shot dead in front of eye-witnesses. One witness, an 18-year-old student from Rania, told Amnesty International:

"I was standing in front of the *Liq*. There was little resistance and within a few minutes [PUK forces] had entered the building.

Ten minutes later they brought out Ahmad Saleh Beg and Azad [Muhammad Qader]. Azad was a simple *Pesh Merga*. He was wearing yellow. Two of them shot him dead in front of the door. They were ... [names withheld] from Rania. Ahmad Saleh Beg was taken to the home of [the head of PUK's Eighth *Melbend*] which is almost facing the *Liq*. Five minutes later he was brought out of the house and taken round to the back. There were many people around. They hit him with the butts of their rifles... and then shot him. The people were afraid

Figure 46 Ahmad Saleh Beg

and some were crying. Even supporters of the PUK were against it... Three of them had hit him with their weapons and he fell into a pool of dirty water on the ground. He was shouting: 'Don't kill me... What do you want?'"

The bodies of the two men were left there until they were collected by their families. PUK officials in Rania told Amnesty International in July 1994 that the KDP's Eleventh *Liq* had not been attacked by PUK forces but by local people from the town, among them supporters, friends and relatives of a PUK military commander killed in Qala Diza earlier

that day. The officials denied that any KDP member had been killed after capture. Jalal Talabani, however, admitted that the victims had died in such circumstances and that PUK forces were responsible for their death.

◆ **Koisanjaq, 18 and 19 May:** Armed clashes broke out in the town of Koisanjaq on 18 May, during which PUK forces attacked and took control of the KDP's **Nawche** building. An estimated 50 to 60 KDP members, the majority of them **Pesh Merga**, emerged from the **Nawche** and surrendered to the PUK. However, one of them, Jamal Hama Saleh, remained inside as he had been wounded. Several of the KDP members who surrendered later told Amnesty International that they had appealed to PUK officials to release him. Among them was a **Nawche** official, who said:

"I intervened on Jamal's behalf with the head of the PUK **Komite**, asking for his release as he was injured. They agreed, but about 10 minutes later we heard shots being fired. The PUK later took his body to the al-Jum'a mosque".

Jamal Hama Saleh's family told Amnesty International that he had gone to Koisanjaq that day, was caught up in the fighting and took refuge at the **Nawche** after being wounded. He was said to have received some medical treatment by a KDP doctor shortly before the surrender. The doctor told Amnesty International:

"I treated Jamal when he arrived at the **Nawche**. He was injured in his upper legs and penis, and lost two fingers. He couldn't move his legs".

Five other KDP detainees were killed by the PUK the following day. They were: Sherwan 'Abd al-Rahman Karim, a **Pesh Merga**; Hawez Hassan Risha; Halgurd 'Uthman (known as Mam Yahya) and his two brothers, Karokh and Asos. All five had been among the KDP members who had surrendered after PUK forces took control of the **Nawche**. They were held in Koisanjaq for one night, and on 19 May were made to board a Coaster together with 15 guards from the PUK, ostensibly to transfer them to a place of detention in Sulaimaniya. On the Koisanjaq-Sulaimaniya road, near Haibat Sultan, the five detainees were shot dead by their guards and their bodies left by the roadside. That evening, PUK forces buried them in a pit on a nearby hillside. They were subsequently recovered by their families and brought back to Koisanjaq for burial. A brother of Sherwan 'Abd al-Rahman Karim testified to Amnesty International:

Figure 47 Halgurd 'Uthman
(Mam Yahya)

"Sherwan and Hawez were taken to the PUK's **Komite** after their arrest and the other three were held somewhere else. We later learned that Sherwan had been threatened with death by [a senior PUK official, name withheld]. Knowing he was to be killed, Sherwan asked to see his mother and his eldest son [aged three]. They went to see Sherwan's wife and asked for the boy, saying his father wanted to see him. They took him away for 24 hours and did not return him to his mother until after Sherwan was executed. On the afternoon of that day [19 May] someone told us that they were to be executed... So I took my car and headed for Salahuddin. There, I spoke to Sami 'Abd al-Rahman, who informed Ahmad al-Chalabi and Kak Mas'ud. Both of them spoke to Kosrat by telephone.⁸⁰ Kosrat promised that they would not be executed. The following day, at 4.30 in the afternoon, I arrived back in Koyê [Koisanjaq] and went to my home. I was told they had already been executed... People had heard the sound of gun shots coming from the Haibat Sultan area... Some firemen from Koyê went that evening to put out a fire in a wheatfield and they saw the five bodies on the side of the road, but they did not dare take them. That night some PUK **Pesh Merga** removed the bodies. The following morning we went to the place where the executions took place... There were traces of blood on the ground... I found Sherwan's pen and recognized his shoes which had been left there. Later, we were informed that the five bodies were buried a short distance away. We went there and found the bodies. They were covered with a blanket which itself was covered with soil. The families of the others had come too. We took the bodies back with us to a mosque in Koyê and removed their clothes. Each of them had at least 30 bullet wounds... some had rope marks on their wrists, others were still tied with rope...".

A close relative of Halgurd 'Uthman and his two brothers told Amnesty International:

"After the **Nawche** had fallen, the PUK told Mam Yahya that he could go home... But they came to see him later that evening. They asked him to join the PUK or face imprisonment in Sulaimaniya. He replied that he was ready to go to Sulaimaniya. Then they brought Asos and told him he was to go with his brother to Sulaimaniya... Then they brought Karokh, who used to be a PUK member. They asked him to join again but he said he wanted to go with his

⁸⁰ Sami 'Abd al-Rahman, member of the KDP's Political Bureau; Ahmad al-Chalabi, head of the INC's Executive Committee; Mas'ud al-Barzani, KDP leader; and Kosrat Rasul 'Ali, Prime Minister.

brothers. All three were unarmed... I saw their bodies later. They had been shot at close range and each had about 30 or 40 bullet wounds in the head and chest. Their brains had been blown out of their heads...".

Amnesty International received the names of four senior PUK officials who were said to have been in Koisanjaq on 18 and 19 May and to have been present when the five detainees boarded the Coaster. The decision to execute them were allegedly taken by one or more of these officials, two of whom are members of the PUK's Political Bureau. However, PUK officials maintained that the five detainees had been armed with a hand grenade, and that after attempting to overpower the guards in the Coaster, they were shot dead. One PUK official in Koisanjaq told Amnesty International that after the incident, a decision was taken not to return the bodies to the town "for fear of exacerbating the situation". The official said that it was decided to bury the bodies elsewhere "temporarily" until the situation had calmed down. He stated that he had personally chosen the location for their burial, and showed Amnesty International the pit. Jalal Talabani subsequently acknowledged to Amnesty International that the detainees had been shot dead while unarmed.

◆ **Halabja, 4-5 May:** Eleven people were reportedly arrested and deliberately killed on 5 May shortly after PUK forces entered Halabja. Most of the victims were said to have been suspected members or supporters of the KDP and, in one or two cases, IMIK. The victims were allegedly arrested in their homes or on the streets of Halabja by the PUK's *Pesh Merga* and Special Brigades forces on 4 or 5 May. Their bodies were recovered in the ensuing days: they had been dumped in various locations on the outskirts of the town. Their families testified that the condition of the bodies suggested that large amounts of blood had been taken from them before they were shot, and that this had been carried out at Halabja al-Shahida Hospital. However, it was not possible to verify this claim. The 11 people killed, who included three minors, were:

◆ Fariq Tawfiq 'Ali: born in Halabja on 6 June 1982. His body was found on 6 May near the village of Hassan Awa.

◆ Keykawas Muhammad Ramadan: a farmer born in Halabja in 1957; married with four children. His body was found in a field on the outskirts of Halabja on 6 May.

◆ Kamal 'Abdullah Nader: born in the village of Nijla in the district of Halabja in 1969; married with four children. His body was found near Zamaqé resettlement camp on 5 May.

◆ Soran Ma'ruf 'Abd al-Rahman: a student born in Halabja in 1970. His body was found near Bakrawa on 6 May.

◆ Faisal Ghaffur Muhammad and Nawzad Ghaffur Muhammad: Two brothers born in Halabja in 1973 and 1977 respectively. Their bodies were found in a field near the village of Zamaqé on 7

Figure 48 Fariq Tawfiq 'Ali, aged 12

May.

- ◆ Fu'ad Jamil: a secondary school student from Halabja aged about 15. His body was found in a nearby field on 7 May.
- ◆ Baqi Qader Rashid: born in Halabja in 1963; married with four children. His body was found near Zamaqé resettlement camp in the second week of May.
- ◆ Nateq 'Izzat 'Abd al-Karim: a student born in Halabja in 1971. He was arrested with his three brothers and taken to the PUK's *Melbend* in the town. There, Nateq 'Izzat 'Abd al-Karim was separated from the others and his body was found several days later near Zamaqé resettlement camp.
- ◆ Siddiq Taqi 'Abd al-Rahman: born in Halabja in 1968. His body was found near Bakrawa on 6 May.
- ◆ Saifuddin Ahmad Muhammad: born in Halabja in 1954. His body was found on the outskirts of Halabja several days after his arrest.

Human rights abuses by KDP and IMIK forces

a) Torture and ill-treatment of detainees

Some of the former detainees from the PUK interviewed by Amnesty International in July 1994 stated that they had been tortured or otherwise ill-treated while in KDP or IMIK custody. Only a few cases, however, still had visible physical evidence to support their claims at the time they were interviewed. The organization did obtain photographic evidence to support claims of torture in 12 other cases, and where the clearly visible scars on the victims' bodies were found to be consistent with the allegations made. The following are four sample cases:

Figure 49 Qader Haji Karim, tortured after capture by KDP and IMIK forces, June 1994

◆ Qader Haji Karim: a PUK combatant from Sulaimaniya who was captured with other combatants by joint forces of the KDP and IMIK in the Khormal region on 6 June. He stated that upon capture, some KDP members were about to shoot them when an IMIK combatant prevented any killings:

" After they tortured me my strength gave way because of the severity of the beatings. Then they transferred me to Khormal and there I was subjected again to severe torture until the evening. On the night of 11 June they took me out of the detention centre after having spent two nights there, and during that time the torture had become less severe. I was the first one to be called out of the detention centre. They did not say they were going to torture me - they said they were going to execute me. They asked me to divulge information before the execution was carried out."

♦ 'Adnan 'Abd al-Qader: an artist born in 1971 in Kalar. He was arrested by armed men of the KDP in Arbil at the Medea Hall on 13 June and held for several hours. He testified:

"I had gone to the Hall to make some enquiries but I found no one there except a KDP patrol... I was alone when they arrested me. They asked me to show them my identity card and I gave it to them. As I was walking away they called me back, and when I returned they searched me and found the identity card of the PUK's Second *Melbend*... I didn't know the people who arrested me. You cannot imagine what the situation was like... They knew nothing except violence. There were 12 armed men. They used all kind of methods during the torture. They used their hands and cables and anything else that they found. They didn't want anything from me. It was only because they had found a PUK identity card on me and that I belonged to the other side... After they arrested me they took me to the KDP's Second *Liq*... and then to [another prison near] Salahuddin University...".

◆ **Jawad Taher**: he was arrested at his home in Halabja on 14 June by IMIK armed men. He testified:

"They told me they wanted to talk to me for five minutes and then they would let me go. But they held me for two days and I was subjected to severe and harsh torture. They tortured me badly using a military belt, they kicked me and beat me with the butts of their rifles... the reason for my arrest was that my relatives and family are with the PUK, like my uncle, and they beat me because of them. I am not with the PUK."

◆ **Barham Kamal Shahzaman**: a non-commissioned officer with the police in Sarchinar, Sulaimaniya. He was accosted by armed men of the KDP in Arbil on 6 July at a health centre. He stated:

"There were several armed men from the KDP. They had with them a yellow flag and a photograph of Mas'ud Barzani. They asked me for my identity card so I gave them my police identity card. They said they wanted my membership card and I said I didn't have one. They searched me and found my gun and my PUK identity card. They took me to the Second *Liq..* and there they began beating me severely. They also took my car...".

b) Unlawful and deliberate killings

◆ **Khormal, 4 May**: Armed clashes broke out in and around the town of Khormal on 4 May between PUK forces and the joint forces of the KDP and IMIK. According to accounts received, the clashes lasted several hours and resulted in the death of a number of PUK combatants and the capture of others.

Those taken prisoner fell into two groups. The first had reportedly come under armed attack at the PUK's *Komite* in Khormal and were forced to withdraw outside the town where they were captured by IMIK forces. Two of them testified in July 1994 that the IMIK killed two of their fellow detainees soon after arrest. One of them, a member of the Hawraman *Komite* of the PUK, testified:

"After four hours of fighting, we retreated from Khormal towards the village of Takya. Before getting there we fell into an ambush set up by the Islamists. We were 25 *Pesh Merga..* They said we would come to no harm. As we had been dispersed, one of our *Pesh Merga* hid in the little river of Zala. He stood up and put up his hands in surrender but they immediately killed him. His name

was 'Ali and he was 23 or 24 years old. They took us to one of their bases in the village of Yalan Pê. Before getting there, they killed one of our **Pesh Merga** called 'Umar, who had been wounded in the battles. He was in the back of the car. Several times he had cried out that he was in pain. He had been wounded in his leg".

According to their accounts, the detainees were then taken from Yalan Pê to an IMIK base in Wishkanaw, where they were held in a cave for 44 days. None was tortured, but all said they were kept blindfolded for the first 10 days and then brought out of the cave to carry out work. During this period, three of the detainees were allegedly executed. A 31-year-old **Pesh Merga** from Khormal, who was among those held in the cave, told Amnesty International:

"About a week after we arrived here, they took away Falah Isma'il and 'Amer 'Aziz Ghulam; both are from Garmian. It was about 2 o'clock in the morning. They called out their names and took them out of the cave. We didn't hear anything more about them. A few days later they took out Jalil Ramadan Sa'id, who has been a **Pesh Merga** for a long time, in the same manner. It was about 8 o'clock in the evening... The three bodies were later found in the vicinity of Yalan Pê, a village near Khormal".

The remaining 20 detainees were eventually released on 16 June in an exchange of prisoners organized by the INC. Several of them told Amnesty International that some 10 days before their release, IMIK officials had told them that ICRC representatives would be coming to see them, and that consequently the conditions in which they were being held were improved. They were allegedly told to say that they had been held in tents, not in a cave. When the ICRC representatives arrived on 14 June, however, they were apparently not given access to the detainees, being told that they had already been released.

The second group of PUK combatants captured on 4 May had surrendered to KDP and IMIK forces after a battle around the fortress of Khormal. One of them, a **Pesh Merga** aged 40 from Penjwin, told Amnesty International:

"After we had run out of ammunition, we surrendered. When they came they treated us badly. They shot dead in front of us three people - my brother Karim Muhammad Rahman, aged 24, my cousin Mahmud Muhammad Karim, aged between 25 and 27, and one of my relatives, Jamal Faraj, aged 30. All three had been disarmed. We had been 18 people in all, and after the three executions, 15 of us were left. They divided us into two groups. We were nine taken by the KDP and the other six went to the Islamists. This took place in the fortress. We nine were taken out of the fortress. Later the KDP **Pesh**

Merga told us that the Islamists had tied the hands of the six prisoners and started hitting them with blocks and stones and then executed them....".

According to another PUK detainee, a **Pesh Merga** from Penjwin aged 27, the first three executions were also carried out by IMIK forces. He told Amnesty International that the IMIK wanted to execute them all, but were prevented from doing so by the commander of the KDP's Khormal forces. Until their release, the detainees were held in KDP bases in several areas, including Biyara, Darêmar and Karajal.

◆ **Salahuddin, 5 May:** Armed clashes broke out on 5 May after KDP forces attacked the PUK's **Komite** in Salahuddin. The clashes lasted several hours, with KDP forces taking control of the **Komite** and arresting some of the PUK combatants inside. The PUK later published the names of six of their combatants who were allegedly killed after surrender. Several PUK **Pesh Merga** who were in the **Komite** at the time told Amnesty International that the KDP had initiated the clashes despite assurances from senior party officials that no attack on the **Komite** would take place. They said that there were 29 PUK **Pesh Merga** inside the building who sought to defend themselves against a large KDP force. According to their accounts, five of their fighters were killed during the clashes, seven others killed after surrender (five of them having been wounded), and the remaining 17 arrested and taken into custody. The five who were wounded and then allegedly killed were identified as: Rizgar Wasman Khadr, Khadr Rahman, Mukhlis Ghaffur Hussain, Ahmad Qader Mahmud and Hiwa Sulaiman 'Abdullah. Two others, Muhsin Muhammad Mawlud and Farhan Mustafa Hamad, were allegedly taken into the grounds of the **Komite** building, tied to an electricity pylon and shot dead. One of the **Pesh Merga** interviewed said he had not witnessed the killings but that he had seen the two men surrender and a few minutes later he heard the sound of gunshots.

Figure 50 Farhan Mustafa Hamad

In addition to the PUK combatants, a secondary school student aged about 15 was also killed in the incident. Bahzad Muhammad Muhammad's father told Amnesty International that he went to the **Komite** late that afternoon, after the fighting had ended, and found his son's body riddled with bullets. The **Pesh Merga** alleged that Bahzad Muhammad Muhammad had been killed after capture, along with the seven combatants mentioned above. The boy's father stated that he and others had gathered five of the bodies, including the two who were tied to the electricity pylons, and had taken them to the Mulla Hamza mosque.

KDP officials rejected these allegations, stating that all the deaths had occurred during the exchange of fire. They also stated that the attack on the **Komite** was not unprovoked,

and had been in response to a hand grenade being thrown at a group of their armed men. It was not possible for Amnesty International to independently verify either the PUK or KDP account of events.

◆ **Bardarash and 'Aqra, 7 May:** Three PUK combatants were said to have been killed after arrest following armed clashes in 'Aqra on 5 and 6 May: Rif'at 'Abdullah (known as Rêbaz), a military commander; and two **Pesh Merga**, Salam Saleh and Farhad Hamad Amin. KDP forces took control of the PUK's **Melbend** in 'Aqra on 6 May and a number of officials and **Pesh Merga** were arrested. Three PUK combatants who were involved in the clashes told Amnesty International that Rêbaz and several others evaded capture and sought refuge in Girdasel, an area inhabited by the pro-PUK Harki tribe. There, they were joined by other PUK **Pesh Merga** and went to the nearby village of Mam Dawda. The following day they attempted to go to Arbil. One of them, a 44-year-old **Pesh Merga** from Arbil, told Amnesty International:

Figure 51 Rif'at 'Abdullah (Rêbaz)

"We were 28 in all... We sent six **Pesh Merga** to contact someone from another village to show us the way. They were arrested soon after they had set off... We dispersed in the wheat field. We didn't know that we were almost surrounded. I, with seven others, was separated from Rêbaz and the rest. Then firing began from all directions. They arrested us... and took us to the village of Dala Rê on the river, facing the village of Ifraz. Most of the [KDP] **Pesh Merga** there belonged to the clans. We were afraid... We thought they wanted to kill us... I wanted them to take us to the KDP **Liq** as soon as possible, as there were officials there with whom we could talk... A little while later, they brought Rêbaz and Isma'il, my

brother. They had been arrested. Rêbaz was wounded in the foot... At about 10 or 11 the next morning, 7 May, several armed men came and said they were taking Rêbaz for treatment... I said 'No, You are going to kill him'. I said 'We will come with him'. They pushed me away and took Rêbaz, dragging him along on the ground and treading on his wound. They put him in a car... He was executed in a place about 200 metres away from where we were...".

The circumstances in which the two other PUK detainees, Salem Saleh and Farhad Hamad Amin, were killed are not known to Amnesty International. Those held in Dala Rê, as well as six others held in the village of Dara Tu, were taken back to 'Aqra. Five days later they were released in a prisoner exchange organized by the INC. KDP officials denied that Rêbaz had been killed by their forces after capture. They stated that he had resisted arrest and was killed in the exchange of fire. However, they apparently refused to hand over his

body to his family, who told Amnesty International that they were not allowed to see it. Rêbaz, Salem Saleh and Farhad Hamad Amin were buried on the outskirts of 'Aqra.

◆ **Haj Omran, 17 May:** Hassan Kwestani, a senior PUK official and head of the PUK's Fourth *Melbend*, was allegedly killed after capture in the Haj Omran region on 17 May. The PUK stated that he and the *Pesh Merga* accompanying him were ambushed by the joint forces of the KDP, IMIK and Kurdish Revolutionary *Hizbullah*. He was said to have been wounded, captured and then executed. The PUK also stated that Hassan Kwestani's body was subsequently mutilated, photographed and filmed, and then buried close to the area where he had been killed.

A PUK military commander who was among those ambushed told Amnesty International that Hassan Kwestani had been directed by the PUK's Political Bureau to go to the Haj Omran region in order to consolidate PUK control there. On the road between Haj Omran and Choman they were ambushed by the KDP, IMIK, Kurdish Revolutionary *Hizbullah* and a number of Iranian *Pasdaran* (Revolutionary Guards). The military commander testified that Hassan Kwestani had been accompanied by four civilians and 24 *Pesh Merga*, who were overpowered after a brief skirmish. He stated that three among them had been killed during the clashes, eight had fled, four had been captured and then killed, and the others had been taken prisoner. Those allegedly killed after capture, in addition to Hassan Kwestani, were identified as Mahmud Ahmad 'Abdullah, his brother; Yusuf Ibrahim Khadr, his cousin; and Mina Ahmad Isma'il. Hassan Kwestani was said to have been wounded in the hand before being captured.

Figure 52 Hassan Kwestani

KDP officials denied that Hassan Kwestani and the others were killed after capture, stating that they had died during a battle south of Haj Omran. On the other hand, 'Abd al-Qader Brayati, a senior IMIK military commander, told Amnesty International that Kurdish Revolutionary *Hizbullah* forces were responsible for killing Hassan Kwestani in the ambush. He stated that the IMIK had photographs and video footage showing his body lying against his car with numerous bullet wounds. He undertook to provide copies of the photographs and film but did not do so. Hassan Kwestani's body was not returned to his family and he was said to have been buried in the Haj Omran region. Amnesty International was unable to obtain further corroborating evidence about the incident.

CONCLUSIONS AND RECOMMENDATIONS

If human rights abuses are to be prevented in the future, effective steps must be taken now to address their causes. The chief responsibility for action rests with the Council of Ministers and with the leaders of the political parties in Iraqi Kurdistan.

In this report, Amnesty International has sought to highlight some of the structures, policies and behaviour which lie behind human rights abuses in the region. Two principal factors stand out: the impunity enjoyed by the political parties' armed and special forces which has meant that perpetrators of abuses have not been brought to justice; and the active undermining of the judiciary and lack of respect for its independence by the political parties. The main political parties in Iraqi Kurdistan have not only ignored, but have also encouraged, human rights abuses by the forces under their authority as a means of settling political differences. In allowing the use of illegal methods, they have intensified the spiral of political violence which has characterized the region for more than a year.

The Kurdish leadership has failed to ensure that the *Pesh Merga* forces and the security and special forces, whether operating in the name of the Council of Ministers or individual political parties, act within the rule of law. These forces continue to arrest people arbitrarily and to torture detainees. They continue to kill civilians. They have killed combatants and others after capture, surrender or after such combatants have been incapacitated by wounds. All such acts violate international humanitarian law, in particular as recognized in common Article 3 of the Geneva Conventions of 1949. Despite evidence of the responsibility of these forces for widespread human rights abuses, not one single individual has been brought to justice. The failure to implement human rights safeguards effectively, to tackle continuing problems of impunity or to bring under control their forces raises serious questions about the Kurdish leadership's political will to end human rights abuses.

Victims of human rights abuses, their relatives and society at large all have a vital interest in the truth about past abuses and in the clarification of unresolved human rights crimes. Furthermore, bringing the perpetrators to justice is not only important for the individual case; it also sends a clear message that human rights abuses will not be tolerated and that those responsible will be held accountable. A new approach is required by the Kurdish leadership if it is to succeed in breaking the self-perpetuating cycle of violence and in building institutions based on mutual respect and protection of fundamental human rights.

The political and administrative authorities in Iraqi Kurdistan have declared the region under their control to be an integral part of the State of Iraq. They took over existing state structures, including the courts, and have largely continued to apply existing Iraqi legislation.

In continuing to carry out state functions, Amnesty International believes that they are bound by the provisions of international human rights treaties which Iraq has ratified, namely the ICCPR, and should conform to other international human rights standards. The Kurdish authorities have, both in public statements and through legislation passed by the National Assembly, repeatedly committed themselves to upholding those human rights standards set out in the Universal Declaration of Human Rights and international human rights treaties and covenants. These standards prohibit any derogation from fundamental rights and guarantees, including the right to life and the prohibition against torture, even in emergencies. To translate these principles into practice requires a resolute and public commitment to the protection of human rights at the highest political level, prompt and effective investigations, and sanctions when abuses are committed, coupled with rigorous training and control of the armed and security forces.

Amnesty International submits the following recommendations to the Council of Ministers and leaders of the political parties. If implemented, these measures could help to reduce human rights abuses in Iraqi Kurdistan and would demonstrate a genuine commitment to the promotion of international human rights standards and their effective implementation.

Recommendations to the Council of Ministers:

1. Conduct thorough, prompt and impartial investigations into any reported incidents of unlawful and deliberate killings, torture or other human rights abuses committed by officials of the Kurdish administration or the political parties (including those cited in this report). They should be conducted by a body which is independent of those allegedly responsible and has the necessary power and resources to carry out this task; such investigations should satisfy the same strict standards applicable to investigations of extrajudicial executions by states. The methods and findings of these investigations should be made public.
2. Make special efforts to protect the security of relatives, witnesses, lawyers and others assisting with investigations of human rights abuses.
3. Bring to justice law enforcement personnel and members of the political parties' forces responsible for unlawful and deliberate killings, torture or other human rights abuses. All investigations and trials should be held before ordinary criminal courts in accordance with international standards for fair trial. There should be no amnesties or other similar measures which have the effect of preventing the emergence of the truth and subsequent accountability before the law.
4. Take steps to ensure that investigations establish chain-of-command responsibility for human rights abuses; anyone suspected of having ordered, committed or covered up human rights abuses should be brought to justice.

5. Prohibit explicitly all unlawful and deliberate killings and torture, and ensure that any such abuses are recognized as criminal offences and are punishable by penalties which take into account the gravity of the crime. Such penalties should be consistent with international standards and exclude the death penalty and other cruel, inhuman or degrading punishment.
6. Take effective steps to ensure that the prohibition of unlawful and deliberate killings is reflected in the training of all personnel involved in the arrest and custody of detainees and of all personnel authorized to use lethal force, and in the instructions issued to them. Such personnel should be instructed that they have the right and duty to refuse to obey any order to participate in a deliberate killing, and that an order from a superior officer or a public authority must never be invoked as a justification for taking part in such a killing.
7. Establish clear guidelines regarding the use of lethal force by the police as well as the armed and security forces carrying out law enforcement functions in accordance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials; ensure that effective steps are taken to implement these guidelines.
8. Take effective steps to ensure that law enforcement personnel cooperate with investigations and that members of the judiciary investigating human rights abuses are given adequate resources and protection.
9. Provide fair and adequate compensation to the victims of human rights abuses and their families.
10. Ensure that all detainees are held only in officially recognized places of detention, and that accurate information about the arrest, detention and whereabouts of any person is made available promptly to relatives, lawyers, doctors and the courts.
11. Ensure that all detainees are brought before a judicial authority without delay after being taken into custody, as required by Iraqi legislation, and that relatives, doctors and lawyers have prompt and regular access to them; and take steps to establish regular, independent, unannounced and unrestricted visits of inspection to all places of detention.
12. Ensure that all detainees have the right to have the legality of their detention promptly determined by a judge and to be released if that detention is unlawful.

13. Take all necessary steps to ensure that statements made as a result of torture or other ill-treatment cannot be admitted as evidence during any proceedings.
14. Establish and maintain local and central public registers of all detainees, in accordance with international instruments such as Rule 7 of the UN Standard Minimum Rules for the Treatment of Prisoners and Principle 12 of the UN Body of Principles on the Protection of All Persons under Any Form of Detention or Imprisonment, to be updated on a frequent and regular basis and made available on request to relatives, Ministry of Justice officials, judges, lawyers and representatives of human rights organizations.
15. Ensure that members of the judiciary and human rights defenders receive the full protection of the law so that they can carry out their vital work; all instances of human rights abuses directed against such persons must be fully investigated and the perpetrators brought to justice.
16. Commute all outstanding death sentences to lesser penalties, including death sentences passed by special courts; refrain from imposing death sentences under existing legislation and from passing any new legislation extending the scope of this punishment.

Recommendations to the Kurdish political parties:

1. Put an immediate end to the killing of combatants after surrender or capture by forces under the authority of the political parties and any other unlawful and deliberate killing; make explicit that individuals who have violated international humanitarian law will be brought to justice in proceedings which satisfy international standards before courts which are competent, impartial and independent.
2. Take immediate steps to remove members of the political parties' forces known or suspected of being implicated in unlawful and deliberate killings, torture or other human rights abuses from any position of authority and from all duties in which they have contact with detainees or others at risk of abuses, pending the outcome of human rights investigations.
3. Disband "assassination squads" and other forces operating outside the political parties' chain-of-command but with their support or acquiescence; make explicit that members of such groups who have perpetrated unlawful and deliberate killings will be brought to justice.

4. Ensure that all detainees captured during armed conflict are treated humanely and protected from torture or execution in accordance with international humanitarian law, including common Article 3 of the Geneva Conventions of 1949.
5. Put an immediate end to all forms of torture and other cruel, inhuman or degrading treatment or punishment by forces under the authority of the political parties.
6. To improve protection from torture and killings, transfer all criminal and political suspects currently in the custody of the political parties to the jurisdiction of the Kurdish administration's courts for a prompt judicial determination of their legal status. If the courts determine that they should be detained, they should be held only in officially recognized prisons under the jurisdiction of the Council of Ministers.
7. As a further step to protect such detainees, close all prisons and other detention facilities under the jurisdiction of the political parties and ensure that no one is held in secret detention.
9. Take immediate steps to end threats and intimidation against human rights defenders, lawyers and members of the judiciary, and put an end to all political interference in the administration of justice; make explicit that all incidents involving the unlawful and deliberate killing of lawyers and members of the judiciary, including those cited in this report, will be promptly, thoroughly and impartially investigated and the perpetrators brought to justice.
10. Ensure that forces under the authority of the political parties fully cooperate with investigations by the Council of Ministers into human rights abuses, including those cited in this report.

APPENDIX

DEATH SENTENCES PASSED IN IRAQI KURDISTAN (MARCH 1992-AUGUST 1994)

SULAIMANIYA CRIMINAL COURT

No.	Name of prisoner	Offence/Legislation	Date of sentence	Other information
1.	Kamaran Hussain Rasul	Premeditated murder Article 406 of Penal Code	15/3/1992	Sentence upheld; pending ratification.
2.	Sa'id Salar Majid+	As above	2/7/1992	Sentence upheld; pending ratification.
3.	'Adel 'Aref 'Ali+	As above	2/7/1992	Sentence upheld; pending ratification.
4.	Muhammad 'Abd al-Qader 'Ali+	As above	2/7/1992	Sentence upheld; pending ratification.
5.	Mu'tasim Muhammad Amin	As above	7/2/1993	Sentence upheld; pending ratification.

6.	Rizgar Hama Saleh *	As above	7/2/1993	Sentence upheld; pending ratification.
7.	Yusuf Hussain 'Arab	As above	19/7/1993	Sentence reduced to life imprisonment.
8.	Ako Karim Ahmad	As above	8/6/1994	Sentence reduced to life imprisonment.
9.	Keywan Hama Rashid	As above	8/6/1994	Sentence reduced to life imprisonment.
10.	Halgurd Fadhluddin	As above	8/6/1994	Sentence reduced to life imprisonment.
11.	Muhammad Tawfiq Rashid	As above	28/4/1994	Sentence upheld; pending ratification.
12.	Rizgar 'Aziz Ahmad	As above	28/4/1994	Sentence upheld; pending ratification.
13.	Ghaffar Farhan Sultan	As above	23/6/1994	Sentence pending before Court of Cassation.
14.	Zaki Sa'id 'Abbas	Premeditated murder Law No. 6 of 1992	11/8/1994	Sentence pending before Court of Cassation.

15.	Isma'il Hama Mustafa 'Aziz	As above	11/8/1994	Sentence pending before Court of Cassation.
-----	----------------------------	----------	-----------	---

ARBIL CRIMINAL COURT

No.	Name of prisoner	Offence/Legislation	Date of sentence	Other information
1.	Sulaiman Hamad 'Abdullah Sulaiman	Premeditated murder Article 406 of Penal Code	18/5/1992	Sentence upheld; pending ratification.
2.	Azad Brayem Ahmad Rasul	As above	18/5/1992	Sentenced to life imprisonment; Court of Cassation increased sentence to death and referred case back to Criminal Court for re-sentencing. Criminal Court imposed death sentence, which was upheld by Court of Cassation.
3.	Bara' 'Abdullah Kadhim	As above	16/12/1992	Sentence upheld on 10/3/93 and ratified on 12/5/93. Executed on 16/6/93.
4.	Hamza Latif Rasul	As above	16/12/1992	Sentence upheld on 14/3/93 and ratified on 1/5/93. Executed on 16/6/93.

5.	Sadruddin Pirdawud Sama	As above	19/12/92	Sentence upheld on 16/2/93 and ratified on 4/4/93. Executed on 20/4/93.
6.	Dilshad Nabi Rasul	As above	13/6/1993	Sentence pending before Court of Cassation.
7.	Khalil Mustafa Ibrahim	As above	12/7/1993	Sentence pending before Court of Cassation.
8.	'Ali Hussain Isma'il	As above	12/7/1993	Sentence pending before Court of Cassation.
9.	Zhaheer Bahram Pirdawud	As above	5/10/1993	Sentence pending before Court of Cassation.
10.	Ardalan Sa'di 'Oula	As above	5/10/1993	Sentence pending before Court of Cassation.
11.	Bilal Qader Saleh	As above	4/12/1993	Sentence upheld; pending ratification.
12.	Rahim 'Ali Rasul	As above	4/12/1993	Sentence upheld; pending ratification.
13.	'Azima Rahman Mawlud (female)	As above	9/12/1993	Sentence upheld; pending ratification.
14.	Dara Bapir Qader	Possession, manufacture or use of explosives. Law no. 8	14/6/1994	Sentence pending before Court of Cassation.

		of 1992		
--	--	---------	--	--

DUHOK CRIMINAL COURT

No.	Name of Prisoner	Offence/Legislation	Date of sentence	Other information
1.	Hamid Hassan 'Ali	Premeditated murder Article 406 of Penal Code	23/9/1992	Sentence upheld; pending ratification.
2.	Ahmad 'Abbas Ashkah *	As above	18/10/1992	Sentenced <i>in absentia</i> . Sentence upheld; pending ratification.
3.	Ramadan Mikha'il Ramadan *	As above	8/11/1993	Sentenced <i>in absentia</i> . Court of Cassation quashed sentence and referred case back to Criminal Court for re-sentencing.
4.	Mas'ud Khalil Mustafa *	As above	8/11/1993	Sentenced <i>in absentia</i> . Court of Cassation quashed sentence and referred case back to Criminal Court for re-sentencing.
5.	Isma'il Muhammad Isma'il *	As above	8/11/1993	Sentenced <i>in absentia</i> . Court of Cassation quashed sentence and

				referred case back to Criminal Court for re-sentencing.
--	--	--	--	--

- + Received two death sentences for multiple murder
- * Escaped from prison and remains at large