

MIDDLE EAST WATCH OVERVIEW

Human Rights Developments

Nineteen ninety-one was a tumultuous year for the Middle East. The six-week Persian Gulf war, pitting Iraq against a twenty-eight-nation alliance led by the United States, traumatized the entire region. Neighboring states became bitter enemies; old alliances were rent asunder; peoples were set against their governments. In its wake, the original adversaries, Iraq and Kuwait, reverted to their old patterns of recriminatory bloodletting. Iraqi President Saddam Hussein suppressed a serious challenge to his rule by armed Kurdish and Shi'a Muslim insurgents with great ruthlessness, while Sheikh Jaber al-Sabah condoned a settling of scores with Kuwait's once-large foreign population.

When the war halted on February 27, only one clear-cut accomplishment had been achieved: Iraq had been compelled to reverse its forcible acquisition of Kuwait, and the government of the Sabah royal family had been restored to power. President Bush proclaimed this military victory a triumph of the "New World Order" that he has espoused. The rule of law as a guiding principle for international relations had been upheld, he claimed, and the world community had shown rare unanimity in acting in concert, rebuffing a bully whose ambitions were beginning to alarm even the most ardent supporters of pan-Arabism.

In terms of human rights, however, the war and its aftermath were a disaster. The only mitigating aspect was the precedent set by the United Nations Security Council resolution authorizing military intervention by Western forces in northern Iraq, to provide for the basic needs of displaced Kurds and protect the 3.5 million-strong minority from further slaughter at the hands of vengeful government troops.

With the passage of this resolution, the long-standing principle of nonintervention in another nation's internal affairs, used by abusive governments around the world to protect their human rights record from external scrutiny, was breached. In the following months, the U.N. resolution and the allied military shield covering Kurds and other Iraqis living north of the thirty-sixth parallel provided a unique opportunity for human rights workers, and the Kurds themselves, to investigate the extent of the Iraqi government's past repression. The evidence is still being gathered, but at the time this report went to press it appeared that mass killings during Baghdad's campaign in the 1980s to depopulate the Kurdish

countryside were far more extensive and systematic than had been previously estimated.

Grave abuses of the Fourth Geneva Convention, covering the treatment of civilians in occupied territory, were a norm of Iraqi behavior in Kuwait from the beginning of the occupation in August 1990. When war broke out on January 17, 1991, with massive allied bombardment of Iraqi targets, the Kuwaitis and foreigners living under occupation faced a renewed round of repression, including summary extrajudicial executions, arbitrary detention, torture, and the pillage of public and private property. In a last-minute bid to seize bargaining chips before the ground war began, Iraqi occupation forces rounded up about two thousand Kuwaiti men and transported them back across the international border to Iraq. They joined an estimated eight thousand other prisoners-of-war and civilian detainees seized from Kuwait throughout the crisis.

As defeat became inevitable, Iraqi forces retreating from Kuwait indulged in a final orgy of wanton destruction and looting. Most cataclysmic were the 735 oil fires, which cost the returning Kuwaiti government many billions of dollars in lost revenue and caused an environmental disaster.

During the air war, public rhetoric by the United States and its allies as to their strict adherence to the rules of war, and a carefully stage-managed television presentation of the conflict, was contradicted by evidence discovered on the ground by journalists and human rights groups, including Middle East Watch. Up to one-third of the estimated 2,500 to 3,000 Iraqi civilians killed as a direct result of the bombing raids were the victims of the allies' failures to take all required precautions to avoid civilian casualties.

On the Iraqi side, Saddam Hussein's decision to target major Israeli and Saudi population centers for attacks with modified Scud missiles was in clear violation of the laws of war. Other Iraqi violations of the Geneva Conventions included the mistreatment of Kuwaiti and allied prisoners of war, and the failure to provide access to them by the International Committee of the Red Cross.

During the course of the air war in January and February, Middle East Watch had noted a range of human rights violations committed by regional allies of the United States, in response to actual or anticipated public reactions to the conflict in the Gulf. The Israeli-occupied West Bank and Gaza Strip were placed under round-the-clock curfew for most of six weeks, creating considerable personal suffering and economic hardship. The Egyptian authorities arrested students and other political activists opposed to the Gulf war. Morocco banned several rallies and meetings planned by war opponents. Syria detained scores of lawyers, intellectuals and other citizens who opposed President Hafez al-Asad's decision to dispatch troops to the warfront. Saudi Arabia and other Gulf states expelled

hundreds of Palestinian residents, with little or no due process, as collective punishment for the Palestine Liberation Organization's decision to side with Iraq.

Even model democracies such as the United Kingdom and Denmark were guilty in 1991 of violating the rights under international law of some of their Arab residents. After the war broke out, fifty-four Iraqis and Palestinians were detained by British authorities and ordered deported without due process; another thirty-five Iraqi students were seized as prisoners-of-war on dubious grounds. In all, nearly 170 Arabs of various nationalities were served with deportation orders by the United Kingdom between August 1990 and February 1991. During the fall of 1991, the Danish government moved to deport to Lebanon 125 Palestinians who had been given temporary refuge, despite fears that they would be in danger of arrest by the Lebanese or Syrian authorities on their return.

On the Kuwaiti government's reckoning, 2,100 of its detainees were still unaccounted for at the end of 1991, and were believed still being held by Iraq. In fact, the real number of missing former Kuwait residents is probably substantially higher; the government's figure was cynically reduced to eliminate those long-term residents of Kuwait, such as Palestinians and the stateless Bedoons, whom Kuwait is refusing to take back. The refusal to accept responsibility for these people derives from the grand restructuring of pre-war Kuwaiti society now underway, the goals of which are to create a majority of Kuwaiti citizens in as short a period as possible and to force out virtually all Palestinians, who are collectively considered to be politically unreliable because of the sympathy they are alleged to have shown for Saddam Hussein. By the end of 1991, Kuwait's pre-war Palestinian population of about 350,000 had been reduced by nearly eighty percent, through a mixture of deportations, economic pressure, a refusal to renew work permits, and a ban on the reentry into Kuwait of the many Palestinians who fled to safety elsewhere during the war. Tens of thousands of persons have in the process been forced to abandon their lifetime's savings.

Bearing most of the burden of the Kuwaiti policy was Jordan, adding further economic and social strain to that already impoverished country. Despite the enormous pressures generated by the Gulf war and the rise of a militant strain of Islamic fundamentalism during 1991, King Hussein stuck to the program of political liberalization that he initiated two years earlier. At times, however, such as during the October Madrid peace conference, in which Jordan participated, the government took a firm line against public dissent, banning rallies and arresting activists. Press freedoms have also been curbed occasionally when they conflicted with government foreign policy concerns. But the process of establishing a parliamentary democracy, under a monarch who retains sweeping powers, appears to be making progress.

In contrast, as of the year end, promises made during the heat of the crisis by several conservative Arabian Peninsula states to introduce limited forms of popular participation in government, such as consultative assemblies, had not been met. Oman did form an advisory assembly chosen by Sultan Qabus, but neither Saudi Arabia nor Qatar made good on pledges to follow suit. Nor did Bahrain revive its suspended National Assembly, as it had said it would. Led by Saudi Arabia, the big brother of the Peninsula, it and the smaller Gulf sheikhdoms reverted to type within months of the end of the war, restricting access by foreign journalists and rights monitoring organizations and cracking down on their own people's freedoms. Arrests of suspected Shi'a dissidents are reported with disturbing regularity from Bahrain. Saudi Arabia resumed its practice of public executions of persons who were often victims of serious due process violations, including confessions induced by torture and incommunicado detention, then sentenced without having had the right to defense counsel.

More in the public spotlight than its fellow members of the six-nation Gulf Cooperation Council, the Kuwaiti government eventually bowed to pressure from its own people and abroad, and announced that parliamentary elections would be held in October 1992. Based on the country's 1962 Constitution, with its limited male franchise for only "first-class Kuwaiti citizens," the election campaign is bound to revive the pre-war arguments over the need for greater political participation and for a lifting of current restrictions on assembly, association and expression.

On December 26, 1991, Algeria was also due to hold the first round of national legislative elections. Postponed from earlier in the year, after what the authorities claimed was an attempt by the leading opposition party, the Islamic Salvation Front (FIS) to create chaos and seize power by force, the eyes of much of the Arab world were focused on the Algerian elections. After decades of single-party rule, over forty parties have been permitted to register. Press freedom has flourished and lively public meetings and rallies are reported to have been a feature of the electoral campaign. Following the arrest of its top two leaders in late June during FIS-fomented disturbances that led to the imposition of martial law, thousands of the party's supporters were also rounded up. By the end of the year, most had been released, while FIS leaders Madani and Belhadj were still being held pending a trial that was due to begin in January.

The Maghreb region of North Africa, of which Algeria forms a part, saw some of the most significant improvements in regional human rights conditions during the year. Morocco took several important steps. These were the release of Abraham Serfaty, one of the longest serving political prisoners in the world; the announced closure of the notorious Tazmamart military prison and release of

some of its inmates; the lifting of the eighteen-year confinement without charge of the family of the late General Oufkir, a former defense minister allegedly implicated in a failed coup against King Hassan; the release of hundreds of secretly held Sahrawi prisoners; and a promised reform of *garde a vue*, or incommunicado, detention under which many abuses of detainees' rights take place. While welcoming these overdue changes, Middle East Watch remained concerned about the qualified aspect of each of these steps.

During 1991, Egypt moved to reassert its traditional role as the heart, and center, of the Arab world. President Hosni Mubarak's forthright military and diplomatic support for the allied effort against Iraq was crucial to this endeavor. The Arab League returned to Cairo, its former headquarters, from Tunis, while the former Egyptian foreign minister, Esmat Abd al-Meguid, was appointed its secretary general. Egypt suffered financially as a consequence of the Gulf crisis, largely because of the loss of repatriated earnings of hundreds of thousands of expatriate workers and the need to accommodate them again at home. But it also reaped a huge windfall, with the cancellation of billions of dollars of debt owed to the West and to the rich oil states of the Arabian Peninsula. Egypt remains the second largest recipient of U.S. aid worldwide, after Israel.

However, Egypt's enhanced stature in the region made little difference to the Mubarak government during 1991 when it came to the treatment of its own citizens. A state of emergency, in force continuously since the assassination of President Anwar Sadat in 1981, remains in effect, granting wide powers of arrest and detention to security forces, even though the justification for its retention appears problematic. Fringe groups of armed Islamists who receive aid from abroad are a thorn in the side of the authorities; the government also expresses concern at times about the alleged activities in Egypt of dissident Palestinians. But the scale of the threat appears out of proportion to the measures being used against them. One of the most noxious features of the system is the apparently pervasive use of torture in detention. According to the independent Egyptian Organization of Human Rights (EOHR), torture of suspected criminals in police lock-ups is routine, while convincing evidence exists of the systematic use of torture against suspected political dissidents by the State Security Intelligence (SSI) force. The continued use of torture by the SSI contradicts a pledge made by Interior Minister Abd el-Halim Moussa on taking over from his sacked predecessor, Zaki Badr, in late 1989.

The inescapable impression gained is that President Mubarak prefers to retain the reserve powers in the state of emergency as a means of guarding against popular discontent with government policies — and protecting his own seat. Theoretically a multiparty democracy, Egypt in reality is controlled by the

ruling National Democratic Party; several parties, such as the Muslim Brotherhood, continue to be barred from open political activities while freedom of association remains subject to arbitrary interference from above. In 1991, the leading women's organization in the Arab world, the Cairo-based Arab Women's Solidarity Association, was told by the government to close down, and its assets were ordered transferred to an obscure Islamic women's group. The EOHR itself continues to operate in the shadows of the law because of the government's failure to grant it legal recognition.

In late 1991, Egypt's traditional rival for leadership of the Arab world, Syria, began to show unmistakable signs of recognizing that it would have to begin relaxing political controls at home or face a potential popular revolt on the lines of those seen in Eastern Europe. Coinciding with the start of his third decade in power, President Asad over a period of several months ordered the release of an estimated five thousand prisoners detained for their political or religious beliefs. Many were Palestinians or members of the banned Muslim Brotherhood and Party of Communist Action. Others were activists in professional associations who had been jailed a decade earlier for pressing for the rule of law and greater respect for the constitution in Syria.

The suddenness and scale of these releases surprised most observers; there had been no hint beforehand that they were in the offing. What this opening up of the jails confirmed was the frequent charges of human rights groups abroad, including Middle East Watch, that Syria held large numbers of political prisoners. Several thousand persons detained for political reasons, including some who have been in jail for over twenty years without trial and others whose sentences have expired, are believed to remain in custody. Moreover, on initial information it appears that none of the releases were from the secret detention facilities maintained by Syrian Military Intelligence in those parts of Lebanon controlled by the Syrian army.

In November, President Asad easily secured another seven-year term in office, to commence in March 1992, through the endorsement of his sole candidacy by the People's Assembly and then a popular referendum in which he was said to have gained over 99.9 percent of the vote. The legal and political niceties of his own position ensured, the president moved in the last months of the year to open up the political system below himself to a wider range of views. The ruling National Progressive Front, dominated by his Baathist Party, was said to be preparing to open its ranks to a number of other minor parties.

Like President Asad in Syria, the Iranian government of President Ali Akbar Hashemi-Rafsanjani has felt the need to respond to the changed international

climate on human rights. A number of positive developments have taken place over the two-and-a-half years since the death of Ayatollah Ruhollah Khomeini, Iran's revolutionary leader. Among these are a modest relaxation on public dress, particularly by women; on sports and other forms of entertainment; and on the censorship of the print media. Iran today possesses a thriving artistic life and a large, and varied, print media. During 1991, the Iranian Parliament passed a bill providing for the right of defendants to legal counsel in all courts, including the Islamic revolutionary tribunals. Conditions of detention for a number of long-term prisoners held for their political beliefs were improved.

Other prisoners, such as most of those detained during 1990 from the opposition Freedom Movement and the Association for the Defense of Freedom and the Sovereignty of the Iranian Nation, a civil rights body, were released. On the other hand, nine prominent dissidents, some of them elderly and in frail health, were sentenced to jail terms of up to three years after closed-door trials in which they were denied legal counsel and after credible reports of torture. The case was in flagrant contradiction of the assurances given earlier to the United Nations by Ayatollah Yazdi, head of the judiciary, about procedural reforms; and it revealed the extent of the Rafsanjani government's unwillingness, or inability, to control the parallel revolutionary institutions still powerful in the country.

All forms of expression in Iran continue to operate under an absolute prohibition against the promotion of what may be deemed secular behavior or the denigration of Islam and the political concept of the rule of the clergy. In other important respects as well, the government's record shows no sign of improvement, despite President Rafsanjani's evident eagerness to convince the West that Iran has put its atrocious past record behind it.

There remains a *de facto* ban on political pluralism, not to mention a climate of fear of the all-pervasive Intelligence Ministry that discourages most forms of apolitical association. Discrimination against minorities, though less than in the past, persists. And large numbers of executions continue to be carried out, sometimes in barbaric fashion, such as by stoning to death. In the first seven months of the year, nearly seven hundred executions were announced in the Iranian press, triple the rate in the same period of 1990; most are attributed officially to drug trafficking crimes.

Social discontent, stirred by difficult economic conditions and more than a decade of heavy-handed repression, was a feature of the past year in Iran. Popular demonstrations were reported in major cities, including Tehran, Isfahan, Zanjan and Rasht. These were quickly suppressed and exemplary punishments meted out. Although the unpopular Revolutionary Guards, or Pasderan, have officially been merged into the army or municipal police forces, Iranians say that they

retain an autonomy of action in practice as guardians of the Islamic revolution. Harassment of citizens in their cars or in their homes, if suspected of Islamic transgressions such as possessing alcohol or illicit mixing the sexes, also persists. Given this background, the conduct of the parliamentary elections scheduled for April 1992, in which President Rafsanjani is aiming to eliminate his radical opponents, will be an important signal of the future direction of Iranian society.

A concerted offensive by Iran to secure the lifting of monitoring of its human rights record by the United Nations and the country's reacceptance into community of nations gathered momentum during 1991. One part of this campaign consisted of working to persuade its surrogates in Lebanon to release all their Western hostages. This effort was crowned with the freeing on December 4 of Terry Anderson, the last American hostage. The two Germans still in captivity as this report was completed were being held by a small Lebanese group with no ties to Tehran. A related aspect was Iran's release from imprisonment without trial of British journalist Roger Cooper.

On the diplomatic field, Iran was also assiduous. A move to secure the lifting by the Human Rights Commission of the eight-year mandate of Reynaldo Galindo-Pohl, the U.N. special representative investigating Iran's rights record, very nearly succeeded in February. Coming at the height of the Gulf war, it was apparent that the West was reluctant to disturb Iran's professed neutrality by pressing it hard on its domestic affairs. Battle over the U.N. mandate will be joined again in Geneva in February 1992. However, given the government's record, as well as its continued equivocation over access by the International Committee of the Red Cross to Iranian prisons and over visits to the country by nongovernmental human rights organizations, the outcome of that debate is not certain.

The two-faced character of Iran's rights behavior was best illustrated by its policy abroad. Working to end the Lebanon hostage crisis so as to shed its terrorist-nation label, Iran is believed responsible for the assassination in Paris, in August 1991, of former Iranian Prime Minister Shahpour Bakhtiar. Nor was there any move by Iran to rescind the death sentence imposed by Ayatollah Khomeini on British author Salman Rushdie over his book *Satanic Verses*, as well as on all those associated with the book in any form. During the year, unknown persons killed the book's Japanese translator and seriously wounded its Italian translator.

Over the past year, Israel's human rights record in the territories it captured during the June 1967 war continued to be shaped by the four-year Palestinian uprising, or intifada. The intifada lost steam in 1991, and that, coupled with a change in tactics by Israeli troops, led to a decline in fatal casualties among Palestinians. Counterbalancing this improvement, however, there was a distinct

increase in various forms of collective punishment such as movement restrictions. As noted above, during the six-week Gulf war the occupied territories endured the most severe curfew of the entire intifada, with far-reaching economic consequences. Tighter restrictions on movement to and from annexed East Jerusalem, the *de facto* capital of the West Bank, between the West Bank and Gaza Strip, and into Israel, for work or other purposes, were retained after the war. New controls on workers entering Israel, ostensibly on security grounds, had a particularly severe effect on the Gazan economy.

A disturbing feature of the past year was an increase in the number of "collaborator killings" of Palestinians. In most months, deaths of Palestinians at the hands of their kinfolk exceeded those committed by Israelis. Despite some efforts to curtail the violence, Palestinian leaders have failed to condemn unequivocally the killing of suspected collaborators.

The ability of the Israeli system to investigate itself while failing to come to any meaningful conclusions or to exercise accountability was on display in striking fashion during 1991. After an official inquiry into the October 1990 incident at the Jerusalem sanctuary known as the Temple Mount, or Haram al-Sharif, ended in a whitewash, a judicial investigation produced a much more balanced report into the causes of the seventeen Palestinian deaths. But Judge Kama's inquiry failed to press for the prosecution of those suspected of unlawful killings, and there the matter was dropped.

The Right to Monitor

A growing number of countries in the Middle East and North Africa grudgingly tolerate the activities of domestic human rights organizations, but only a handful of states have gone so far as to grant official recognition and protection under the law to them. The Cairo-based Arab Organization for Human Rights (AOHR) now includes eight national chapters that operate independently of their governments. These are found in Egypt, Yemen, Mauritania, Jordan, Kuwait, Morocco, Algeria and Tunisia. In addition, genuine human rights organizations exist clandestinely in Syria, Lebanon and Bahrain; to declare their existence openly would almost certainly lead to their closure and the arrest of their members. Each of the latter maintains offices in Europe or the United States. Self-proclaimed human rights organizations exist in a number of other regional states, such as Libya and Iran, but these are not believed to have any real independence from their governments.

No rights monitoring activity has ever been tolerated in government-

controlled regions of Iraq. Those who have attempted to complain about the security forces' actions or to protest any aspect of President Saddam Hussein's rule have usually paid a heavy price. In the second half of 1991, a fledgling Kurdish human rights organization was established in the rebel-controlled city of Erbil, but its independence from the principal guerrilla factions and the nature of its work could not be verified. Outside Iraq, a number of human rights bodies affiliated to Shi'a opposition parties document abuses primarily against their own communities; these predate the Gulf crisis. In the wake of the war, several more organizations have also been formed in the West. For instance, a German-based international human rights organization dealing with Kurds regionwide was established in September.

Also in September, the Iranian government organized an unprecedented human rights conference, attended by representatives from many Western and Muslim countries. Middle East Watch was among those invited. The event was flawed by the government's insistence on treating it as an academic exercise in reconciling Islamic and Western attitudes toward the principles of human rights, independent of actual practices. Attempts by Middle East Watch to carry out a mission to examine Iran's own record, originally scheduled for fall 1990, were unsuccessful. However, Iran did permit missions by Middle East Watch and other Western organizations, such as Amnesty International, to visit the country during the spring to interview Iraqi refugees. In December, U.N. Special Representative Galindo-Pohl was also able to make a brief visit to Iran, after a number of delays that may have been attributable to the detailed strength of the report he had submitted to the U.N. Human Rights Commission in February. The success of this latest mission was unknown at the time of writing.

Iran does not permit local human rights monitoring. The one indigenous organization is concerned almost exclusively with countering the propaganda abroad of the regime's principal opponents, the Baghdad-based People's Mujaheddin of Iran, and is thought to be sponsored by the government. In addition, Tehran houses an Iraqi Shi'a human rights association documenting abuses committed by Baghdad. When a civil rights offshoot of the liberal Freedom Movement, a small political party associated with former Prime Minister Mehdi Bazargan, was created three years ago, the authorities moved quickly to suppress its activities and jail many of its members.

In Israel, human rights monitoring by a variety of local and foreign organizations is a well established practice. Often aiding their work is the strength of the local media in exposing abuses of authority. However, these plaudits need to be qualified. Organizations such as al-Haq, the West Bank affiliate of the International Commission of Jurists, and the Palestine Human Rights

Information Campaign face numerous obstacles in carrying out their work. Among these are the arrest of field workers and restrictions on movement when investigating suspected violations.

The Egyptian government's refusal to grant legal recognition to the EOHR and the arrest and torture in 1991 of Dr. Mohamad Mandour, a member of its board of trustees, illustrates the limits of domestic human rights monitoring. Both the AOHR and the Arab Lawyers Union, which has been active in protesting abuses, are based in Cairo; however, perhaps out of concern for their host's sensibilities, they have done little work on Egypt itself. (The AOHR carried out a mission to Kuwait in the fall, to observe the government's treatment of non-Kuwaitis.) Egypt permits foreign rights organizations to conduct investigative missions on its soil; but it has yet to permit access to its prisons, its official protests that international standards are met notwithstanding.

The part of the region where local human rights organizations are strongest established is in the three Maghreb countries of Tunisia, Algeria and Morocco. However, several of these organizations are closely associated with political parties and others have been coopted into government-controlled human rights advisory councils.

Despite its recent advances in other rights-related areas, Morocco places frequent roadblocks in the way of visits by foreign organizations. Amnesty International is effectively barred from entering the country, while Middle East Watch has yet to receive an official response to its many requests over the past two years to send a mission and meet with Moroccan officials.

U.S. Policy

The most disturbing feature of the West's approach to human rights issues in the Middle East during 1991 was the frequent subjection of human rights to what were considered to be the higher imperatives of foreign policy. In the interests of maintaining the wartime alliance, the alliance chose to overlook violations committed by its friends while excoriating those for which Iraq was responsible.

Likewise, in the build-up to the Middle East peace conference which opened in Madrid in late October, it was evident that the United States was soft-peddling human rights issues so as not to antagonize potential participants. The issue of human rights was not placed on the agenda of the peace conference, for any of its planned three phases. Nor was any reference made to the matter by U.S. officials during formal speeches or at press conferences. The contrast with the prominence Washington gives to issues of political pluralism and core freedoms

in other parts of the world where it is hoping to induce political change is striking.

One somewhat distasteful conclusion is that the United States patronisingly regards the Middle East as "not being ready for democracy," or that Arabs and Iranians do not appreciate the value of individual liberties and protection from the arbitrary actions of their governments. To put it another way, the underlying argument appears to be that the "strongman" type of ruler fading into the history books elsewhere in the world is the best guarantor of stability, and U.S. interests, in the Middle East. Until it was politically convenient to do so, in the case of Iraq last February, the United States never played an active role at the U.N. Human Rights Commission at Geneva in promoting the investigation of the record of Middle Eastern governments.

When British and American investigators brought their long inquiry into responsibility for the bombing of Pan Am 103 over Lockerbie, Scotland, to a conclusion in October, 1991, indicting two Libyans, the relief in certain quarters was almost palpable. Once again, Colonel Muammar Qadhafi, the West's favorite whipping boy, could be the scapegoat for an outrage, the ultimate mastermind of which may well be elsewhere. Strong evidence also linking the bombing to the Iranian government and to the Syrian-backed Popular Front for the Liberation of Palestine - General Command faction headed by Ahmed Jibril seemed to be brushed aside.

Most denunciations of Israeli practices have centered on the building of Jewish settlements in the occupied territories, which the Administration made clear it regarded as "an obstacle to peace." The most notable development during the year in this key relationship was President Bush's decision to hold up for 120 days an Israeli request for \$10 billion in loan guarantees to help resettle Soviet Jews. It remains to be seen whether that blocking action will be renewed in January, when the delay period expires, if there is little progress at the peace table and settlement activity continues.

In the view of Middle East Watch, much closer linkage should be created between the provision of financial assistance by the United States, other Western countries and multilateral lending institutions and respect for human rights by the recipient country. Israel, as the largest aid recipient worldwide, can be faulted on grounds of prolonged arbitrary detention and torture as a perpetrator of gross abuses of human rights; but so, too, can other regional U.S. allies such as Egypt and Turkey that also receive large sums every year. If the key requirements of the Foreign Assistance Act were honestly matched against the record of these three countries, all would be in danger of losing their allowance from the U.S. taxpayer.

The Work of Middle East Watch

Inevitably, Middle East Watch's work in 1991 was heavily skewed toward Iraq and occupied Kuwait, the Gulf war itself, and the aftermath of the war in Iraq and Kuwait, where major human rights violations took place. Allocation of resources to these crises meant that ongoing work elsewhere was either temporarily shelved or slowed down.

In cataloguing Iraq's human rights record during the year, Middle East Watch sent a total of seven missions abroad, much of the time interviewing refugees. In February, a researcher spent three weeks in Jordan interviewing foreign workers fleeing Iraq; in March, a mission to Kuwait divided its time between documenting Iraqi atrocities during the occupation and ongoing Kuwaiti abuses against suspected collaborators; in April a joint mission with the U.S. Committee for Refugees spent a similar period on the Iran/Iraq border, talking to those Kurds and Shi'a who had escaped the brutal repression that followed the failed uprising; in June, researchers went to Britain and Israel, to meet Iraqi exiles and to examine Scud attacks against the Jewish state; in September, a land-mines expert entered northern Iraq clandestinely to study the use of this weapon against civilians; and, finally, in December, a joint mission with Physicians for Human Rights traveled to Iraqi Kurdistan to look into numerous discoveries of mass graves of suspected victims of security forces.

While part of this extensive research work is still being prepared for publication, a report entitled *Victory Turned Sour* was published on Kuwaiti violations in the post-liberation period, and a major, four-hundred-page volume was issued on the air war in the Gulf. Under the title of *Needless Deaths: Civilian Casualties in the Gulf War*, the report provided an extensive analysis of the two sides' conformity with international law governing the aerial bombardment of Iraq and the Iraqi missile attacks on its neighbors. The report also examined discrepancies between the claimed scrupulousness of the allies in avoiding civilian casualties and the actual record on the ground. In conjunction with Physicians for Human Rights, research was also carried out into the nature and effect of U.N.-imposed trade sanctions against Iraq, particularly with respect to the availability of food and medicine for civilians.

Newsletters were issued on the bombing of the Ameriyya air raid shelter in Baghdad, in which two to three hundred civilians died; the treatment of prisoners-of-war and sick and wounded combatants by both sides; Britain's detention of dozens of Iraqis and Palestinians, either as prisoners-of-war or pending deportation; and Israel's misuse of an extended curfew over the occupied territories. An article was published in *The New York Review of Books* in May on

Kuwait's last forty-eight hours under Iraqi occupation. Opinion pieces were also published in *The New York Times* on post-liberation abuses in Kuwait.

Two books arising out of the Gulf War intended for commercial publication were begun during 1991. The first will cover the gamut of human rights violations in Iraq and the region as a result of the war; the second will present an historical and social overview of the Kurdish people throughout the region, in the form of text and photographs. Much research time was devoted to both projects during the latter half of the year. The Kurds' book forms part of a series of initiatives by Middle East Watch to promote greater public awareness of the mistreatment of this people, the largest ethnic group in the region without its own homeland.

In the case of Morocco, short newsletters were issued on the expulsion of a prominent Moroccan writer from France and on the denial of permission to travel abroad to former prisoners of conscience. Regular contact was also maintained during the year with officials and local human rights organizations in Tunisia and Algeria.

A report on prison conditions in Israel and the occupied territories was published in February, following a mission the previous year. The report noted the exceptionally high incarceration rate of the Palestinian population of the West Bank and Gaza Strip, as well as the sharp discrepancy between conditions in Israel Prison Service-run detention facilities and those run by the army. A series of newsletters also addressed different human rights aspects of the occupation, continuing the themes of excessive force and accountability that had been the hallmark of Middle East Watch's work on Israel over the previous two years.

Work on Egypt in 1991 consisted of a number of protests to the Mubarak government over specific rights violations, as well as a focus on the closure of the Arab Women's Solidarity Association. Two newsletters were issued on the subject, highlighting the inequities of the case. Efforts were made to coordinate pressure to reverse the decision through other channels, including Human Rights Watch's Women's Rights Project and an amicus brief presented to Egypt's State Council Court, which is hearing AWSA's challenge of the dissolution order.

In mid-summer, following indications that a long-standing impasse blocking a resolution of the Lebanon hostage crisis appeared to be breaking, Middle East Watch worked to assist that process, often in conjunction with the New York-based Committee to Protect Journalists. Among other things, an opinion article was published on the issue in *The New York Times*, and a brief newsletter was released in December on the unfinished business remaining in Lebanon after the release of the Western hostages.

Denmark's threat to deport approximately 125 Palestinians who had sought refuge there from Lebanon, fearing arrest at the hands of either the Lebanese or

Syrian security forces, also prompted interventions by Middle East Watch. Part of a regular theme during the year of addressing European governments guilty of rights violations against Arab residents, two lengthy protest letters were dispatched to the Danish government in support of the Palestinians' request for asylum.

The convening by the United States and Soviet Union in late October of a Middle East peace conference, with its opening sessions in Madrid, presented Middle East Watch with the challenge of putting rights issues onto the agenda. With barely a week's notice after the announcement that the conference would definitely be held, a report on the human rights record of six principal regional participants — Israel, Egypt, Jordan, Syria, Lebanon and the Palestinians — was put together. The report was released at a press conference in Madrid, on the eve of the inauguration of the peace conference itself. For the next week, two Middle East Watch staffers engaged in an intensive effort to speak directly to the different delegations and to brief some of the five thousands journalists attending this event.

EGYPT

Human Rights Developments

A state of emergency has been in force in Egypt almost continuously for over twenty-four years. The broad powers of detention that it affords has led to tens of thousands of arbitrary arrests and the related widespread practice of torture.¹

Parliament, dominated by the ruling National Democratic Party, voted in May to uphold a presidential decree extending Egypt's emergency law for three more years. President Hosni Mubarak called for the vote without notifying legislators in advance that the item would be on the agenda, preempting a nascent campaign to challenge renewal of the law.

¹ Emergency powers are defined in Law 162 of 1958, as amended (the Emergency Law), explained below, and Law 105 of 1980, which permits the detention of persons accused of security offenses outlined in the Penal Code.

The need to thwart terrorism, prevent assassinations, and control drug trafficking are justifications offered by the government for the continuation of the state of emergency. For example, Prime Minister Atef Sedki asserted that there were "countries that wanted to export their terrorist plots to Egypt after the contemptible occupation of Kuwait."² However, government critics contend that President Mubarak's latest extension of the emergency law is really part of a strategy for keeping a lid on political dissent, particularly protests over price increases mandated by Egypt's economic restructuring plan. The use of the emergency law during the Gulf war — and its subsequent application to "profiteers" who might, as the government put it, "exploit" price increases caused by economic restructuring³ — represent not only an extension of the law's scope, but its apparent institutionalization in Egypt.

In April, leaders of four legal political parties — al-Wafd, Labor, Liberal and the National Progressive Unionist Grouping — sent a memorandum to President Mubarak arguing that the law "was originally introduced for special and limited exceptional cases, as stipulated in the Constitution and the law. The legislators' aim was not for that law to turn into a permanent law that obstructs ordinary laws introduced to protect citizens' freedom and security." They stressed that the institutionalization of the emergency law was incompatible with human rights guarantees: "No state in the world has lived under an emergency law for ten years while its government continued to claim adherence to democracy and veneration of human rights."⁴ Egypt's opposition political parties in 1991 continued to push, unsuccessfully, for reform measures. At a press conference in July, ten parties demanded "genuine democracy" in Egypt and proposed that a constituent assembly draft a new constitution and put it to a national referendum.⁵ Among the guiding principles proposed were: respect for human rights and civil liberties,

² "Egypt: Emergency Law Extended Three More Years," *Mideast Mirror*, May 9, 1991.

³ Some five hundred "profiteering merchants" were reportedly placed under administrative detention in the first week of May.

⁴ *Al-Wafd*, April 8, 1991, as reported in Federal Broadcast Information Service (FBIS), April 16, 1991.

⁵ The parties were: al-Wafd, the Labor Party, the National Progressive Unionist Grouping, the Liberal Party, the technically illegal Muslim Brotherhood, the Arab Socialist Party, the Green Party, the Democratic Unionist Party, Ummah, and Misr al-Fatah.

press and publication freedom, freedom to form political parties, restrictions on the application of the emergency law, and judicial supervision of elections.

Mass arrests, warrantless arrests, and administrative detention were all used by the Egyptian authorities in 1991. During the Gulf war, the authorities sent strong signals that the public expression of anti-war views would not be tolerated. Journalists, opposition activists, intellectuals, students and Islamists were targeted for arrest and detention. In most cases, the detainees were charged with preparing leaflets for distribution or preparing to incite disturbances harmful to the security of the state. Most were released without charge in March during a Ramadan amnesty announced by the government. Examples of those detained include the following:

- o On January 23, Dr. Mohammed Abdel Latif and his assistant, Dr. Abdel Rahman El-Bana, were arrested in Cairo, apparently because Latif's company had taken out an advertisement publicizing statements against the war by several professional associations. Latif had been arrested in 1989 and tortured, and there were fears that he would again be a torture victim. The Egyptian government denied that torture had been used and released Latif on February 7.
- o Magdi Hussein, head of the youth organization of the Islamist Socialist Labor Party (SLP) and deputy chief executive of the SLP's weekly newspaper *al-Sha'b* (*The People*) was arrested after giving a January 25 sermon at a Cairo mosque in which he criticized both the Iraqi invasion of Kuwait and the Gulf war. A former member of the Egyptian Parliament, Hussein was charged with inciting unrest and criticizing the government. According to Amnesty International (AI), Hussein was brought before a prosecutor who ordered him kept in custody for fifteen days. He was released on February 25.⁶
- o On January 30, Adel Hussein, editor-in-chief of *al-Sha'b*, and Huda Makkawi, one of the newspaper's journalists, were arrested on the charge of insulting the Egyptian armed forces and revealing military secrets. They allegedly wrote articles urging an Egyptian disengagement from the multinational

⁶ Hussein was charged under Articles 80 and 102 of the Penal Code, which prohibit spreading false or tendentious information in time of war that could damage war preparations or operations, provoke panic or alarm among people, or put public security or the public interest at risk.

forces in Saudi Arabia which disclosed U.S. use of Egyptian airfields without prior military approval. Hussein and Makkawi faced a military tribunal on February 6, but were acquitted and released on February 14.

- o On February 8, the Cairo-based Egyptian Organization for Human Rights (EOHR) reported a series of early-morning arrests of some twenty-two student leaders. In addition to the students, the government arrested computer scientist Adel el-Mashad, general secretary of the Committee for Defense of National Culture (CDNC). The CDNC is an intellectual forum that produced, under Mashad, an "alternative" to the semi-official press version of the war.⁷ Mashad was charged with incitement of hatred for the Egyptian system of government and shedding doubt on the Egyptian armed forces at the front. The charges were reportedly based on a CDNC printed statement about the Gulf war and a handwritten draft of an appeal to world intellectuals that the CDNC was planning to issue. CDNC had sponsored an anti-war conference on February 1 at Cairo University and had been subjected to a raid of its indoor, peaceful, regular meeting of February 3.⁸

On February 9, in a clear warning to student activists, Interior Minister Abdel Halim Moussa said: "Universities are a place for science and learning and not for political activity. We will take action strongly and firmly against anyone who tries to cause unrest or block the learning process." Midterm university holidays were extended for two weeks, in an apparent attempt to thwart anti-war protests. Nevertheless, protests broke out at several universities when classes resumed.

After the beginning of the ground war in Iraq on February 24, Cairo police used tear gas to disperse peaceful anti-war protesters at Cairo University, and then closed the university, which had recently reopened for the spring term.⁹

⁷ "Cairo Cracks Down on Anti-War Activists," *Mideast Mirror*, February 7, 1991.

⁸ "Mubarak Confident Calls for 'War Footing' as Opposition Organizes," *Mideast Mirror*, February 4, 1991.

⁹ The Interior Ministry estimated that on February 25 as many as eight thousand students attempted to march into the streets near Cairo University to protest the Gulf war, a prohibited act under the state of emergency. The security forces stormed university buildings to quell the demonstration. The clash marked the first time that security forces used tear gas on student protesters since student uprisings in 1972 and 1973.

Large-scale demonstrations were also held on February 15 at 'Ayn Shams University and the Delta area universities at Mansoura and Damietta. The largest anti-war protests at the universities occurred in the last five days of February, when the police shot four dead and injured dozens.

Most students detained during the war were released in the Ramadan amnesty of early March. However, nearly twenty of the roughly five hundred arrested Cairo University students were excluded from the amnesty.

The government's use of its extraordinary powers to preempt or suppress dissent was again affirmed in October when security forces detained opponents of the Madrid Peace Conference. On November 1, EOHHR reported that Egyptian security forces had detained over two hundred anti-conference protesters. Most were Islamists, especially members of the technically illegal Muslim Brotherhood. The previous day, Interior Minister Moussa acknowledged that sixty-seven people were in detention for producing or possessing anti-conference leaflets.

The State of Emergency provides the government three detention options. First, the Emergency Law allows for administrative detention without charge or trial, pursuant to a detention order issued by an officer of the Ministry of Interior. Under such an order a detainee can be held for up to ninety days even if the order is ultimately ruled invalid.¹⁰ Second, the Emergency Law provides for the arrest of

¹⁰ A detainee has no right to petition a court to contest his detention for thirty days from the date of the order. Thereafter, a petition may be heard, not in regular courts, but in (Emergency) Supreme State Security Courts, which have up to fifteen days to rule. If the court orders the detainee's release, the Ministry of the Interior may object to the order within fifteen days. Objection by the Ministry of Interior requires that the petition be transferred to a similar court within fifteen days of the date of objection. The second (Emergency) Supreme State Court has an additional fifteen days to make a final determination of the validity of the petition. A detainee improperly detained in the judiciary's determination can, therefore, be imprisoned for ninety days. If either court determines the petition to be inadequate, the detainee must wait thirty days to begin the cycle again. Human rights monitors report that detainees are sometimes held without legal justification, even after the second (Emergency) Supreme State Court has ordered their release.

AI has reported that obtaining release on petition is made more difficult by Ministry of Interior practices. Detention orders, for example, are not always delivered to detainees and detainees are often denied access to lawyers, hampering attempts to present successful petitions. Even when the orders are communicated to detainees, they

persons suspected of involvement in any one of numerous security offenses contained in the Penal Code and the Emergency Law itself. Using this procedure, a detainee may be held up to sixty days on an order that ultimately is determined to be invalid.¹¹

A final state-of-emergency detention option is provided by security provisions of the Criminal Procedure Code. Under the security laws, the state security prosecutor may order the arrest of a security offense suspect for fifteen days. Sitting as a "judge of instruction," the prosecutor may automatically extend the detention for an additional forty-five days. A person suspected of involvement in a security offense may, therefore, be held up to sixty days before even being brought before a court.

Notwithstanding the prohibition against torture and the clear duty to prosecute torturers imposed by international and Egyptian law,¹² Egyptian security forces in 1991 continued to torture detainees with apparent impunity. In an October 1991 report, AI found the existence of "widespread [and unabated] torture of political detainees in Egypt."¹³ EOHR reported in August 1991 that there was a "total absence of safeguards for the prisoner while in detention in public prisons." For example, in the case of those accused of the October 1990 assassination of Parliament Speaker Dr. Rifaat al-Mahgoub, EOHR found that Egyptian laws prohibiting security-force access to prisoners without an official permit from the

are often delivered orally or are so ambiguous that they provide little guidance for the preparation of a petition.

¹¹ The state security prosecutor may authorize the arrest of a security offense suspect for thirty days. The suspect may immediately petition the (Emergency) State Security Court for release, but the court has thirty days to rule, the Ministry of Interior has fifteen days to object and send the case to a second (Emergency) State Security Court, and that second court has another fifteen days to rule. If the petition is rejected by either court, the detainee must wait thirty days to submit a new petition.

¹² Egypt acceded without reservation to the Convention against Torture on June 25, 1986. In addition, Article 126 of the Penal Code calls for three to ten years' imprisonment for acts of torture by public officials.

¹³ Amnesty International, *Egypt: Ten Years of Torture*, October 1991, p.2.

public prosecutor's office were openly flouted.¹⁴

The SSI freely transferred the defendants from prison to the SSI headquarters [at Lazoughly] for torture in further violation of the law and the prosecution's decision to incarcerate them in officially designated "public prison." Although the prosecution was informed by the defendants that following each session of questioning by the prosecution they were being transferred to Lazoughly for more torture, it failed to take any action.

In an earlier report, in May, EOHR stated that torture

has become a routine practice by the police and is not confined to a particular prison or to the state security intelligence center in Lazoughly. Torture also takes place in state security intelligence centers in the provinces, the only difference being the extent to which they are supplied with the necessary equipment.

The torture of a leading human rights monitor exhibits a disappointing indifference by Egyptian officials to international condemnation of the practice of torture. Dr. Muhammad Mandour, a member of the EOHR board of trustees, and Dr. Emad Adriss, his colleague at the Palestine Red Crescent hospital in Cairo, were arrested on February 8 and held first at the Lazoughly SSI headquarters and then at Abu Za'bal prison. On February 16, EOHR reported that for eight days Mandour and Adriss had not been permitted contact with either lawyers or their families and had been subjected to long hours of interrogation. Mandour, and possibly also Adriss, were denied adequate medical treatment and subjected to beatings, hanging from the wrists, and electric shocks. After EOHR representatives met Mandour in prison, the human rights organization reported visible signs of torture on his body. According to these representatives, Mandour said that his torturers had threatened his life if he revealed that he had been mistreated. Mandour was released without charges on February 23, while Adriss remained in detention until mid-April.

¹⁴ The assassination of al-Mahgoub, a leading member of the ruling National Democratic Party and a close associate of President Mubarak, led to widespread arrests of alleged Islamic militants. The radical clandestine Jihad Organization was blamed for the assassination, after a nationwide round-up of approximately three thousand Islamists.

EOHR told Middle East Watch in September that lawyers affiliated with EOHR had submitted six separate complaints about Mandour's detention and torture to the public prosecutor but had yet to receive a reply. Rather than acknowledge the abuses and vow to punish those responsible, the Egyptian government, through its London Embassy, said that "investigations conducted by the competent authorities in Egypt proved that allegations that [Mandour was] subjected to torture or other forms of ill treatment were unfounded." The Embassy also stated more generally that "allegations that some detainees have been subjected to torture have no basis in truth...They are pure lies and rumors circulated with the intention of hindering security operations."¹⁵

In another case, Affi Mattar, a prominent Egyptian poet and opponent of the Gulf war, was arrested on March 2 and brought to Lazoughly for ten days. Blindfolded and handcuffed throughout, he was tortured with electric shocks, hanged from his wrists for long periods, and beaten with a solid instrument on his head and other parts of his body. "I was treated like an animal," he said after the ordeal. His interrogators sought to force him to confess to links with a Baathist organization. When he refused despite the torture, the SSI obtained an administrative detention order from the Ministry of Interior and brought him to Tora Reception Prison. He was released without charge on May 12.

EOHR reported in April 1991 that "the public prosecution has failed to respond to a number of its complaints regarding the torture of citizens, including the demand for their speedy submission to forensic medical examination before the signs of torture heal." For example, EOHR noted, Mandour was not given a forensic medical exam before or after his release from detention, despite his allegations of torture. Moreover, the provisions of the state of emergency that allow for periods of prolonged incommunicado detention facilitate torture by allowing time for visible signs of torture to disappear.

In 1991, as in past years, EOHR documented and publicized the torture of less prominent Egyptian detainees, but continued to be frustrated by the authorities' lack of response, with one notable exception. In November 1990, EOHR had brought an official complaint to the Egyptian public prosecutor concerning allegations of torture made by defendants held in connection with the assassination of Parliament Speaker al-Mahgoub. The defendants had alleged that at Lazoughly, in an effort to coerce them to confess, electric shocks were applied to sensitive parts of their bodies, including the genitals; they were beaten with whips and thick wooden sticks; they were forced to crawl extended distances; they were

¹⁵ Amnesty International, *Egypt: Ten Years of Torture*, October 1991, pp. 9, 13.

suspended by their wrists and feet for long periods; and they were forced to watch the mistreatment of their wives. In a welcome development in July, the State Security Court¹⁶ trying the Mahgoub case decided "to charge a member of the Court to investigate the evidence of the torture of the defendants." There has been no public indication of the outcome of this investigation.

In a report issued in August, EOHR examined conditions at four prisons in the Tora district, south of Cairo, and found "a policy in which torture and mistreatment are routine methods of discipline, punishment and the extraction of confessions." However, the report charged, most torture in the Cairo area takes place at SSI headquarters in Lazoughly. In addition to torture, EOHR reported that detainees are subject to long periods of interrogation, deprived of sufficient food and water, denied access to family and lawyers, and held without charge or apparent legal justification. EOHR noted that prisoners are removed "from their prison cells at night, and [transferred to Lazoughly], where they are submitted to repeated doses of torture, and returned to prison before dawn." Sometimes prisoners are kept at Lazoughly for several days. The report details several cases of torture at Lazoughly, providing further documentation of the long-standing belief that the SSI headquarters serves as a major torture center in Egypt.

The Egyptian authorities' use of deadly force against unarmed protesters and in clashes with Islamists became a matter of increasing concern in 1991. In early February, the security chief of Beni Suef, in Upper Egypt, General Mohsen Haroun Sarhan, warned that "strict orders" had been issued to the police to "open fire on anyone trying to undermine security." He explained that "any illegal behavior will be met with appropriate deterrent measures. There will be no leniency during the current delicate security climate because of the Gulf war."¹⁷ On February 25

¹⁶ In addition to creating mechanisms and grounds for detention, the emergency laws create special judicial procedures for trying suspects for security-related crimes. Under the Emergency Law, the Security Law as amended by Law No. 103 of 1983, and Presidential Decree No. 1 of 1981, security-related trials are held before (Emergency) State Security Courts. The Emergency Law holds that "there shall be no appeal whatsoever" to a higher tribunal from an (Emergency) State Security Court. However, (Emergency) State Security Court verdicts are not considered final until ratified by the president of the republic, who may decide to revoke the judgment and order a retrial by a court of the same standing.

¹⁷ As quoted in *al-Hayat* (the London-based Lebanese daily) and reported in "Police Ordered to Get Tough After Anti-War Protest Sparks Violence in Upper Egypt," *Mideast Mirror*, February 19, 1991.

and 27, responding to the most widespread student demonstrations in Egypt since January 1973, security forces shot plastic and live bullets, aimed above the waist, at anti-war protesters during clashes at Cairo University, killing four students and injuring dozens.¹⁸ In July, security forces shot two men, killing one, as they rode a motorbike against the traffic on the street where Interior Minister Abdel Halim Moussa has a home. The pair were apparently innocent victims, having made a wrong turn, but were evidently suspected of planning an attack on the minister's home.

The government's campaign against Islamists continued to focus on the Jihad Organization, a radical clandestine Islamist group alleged to have been involved in the 1981 assassination of President Sadat, the 1990 Mahgoub assassination and other violent activities.¹⁹ On June 8, Jihad member Yasir Abdal Hakim Umar, who was wanted in connection with the Mahgoub assassination, was killed in a security-force ambush; another suspect was injured.²⁰ On June 26, 'Abd-al-Ghani 'Abd-al-Gakim, said to be the leader of the Jihad Organization in Beni Suef, was killed when members of his organization clashed with security forces. Authorities claimed that 'Abd-al-Gakim had been killed when members of his group rioted, threw stones and shot at security forces, causing security forces to return fire. Ten people were arrested in the incident and firearms and other assorted weapons were seized.

¹⁸ FOHR, in a "demand for an investigation into the repression of peaceful student demonstrations," reported:

[B]ombs were fired with great intensity at the university campus, the university residence and even into the students' rooms...Buckshot and plastic bullets were fired into the university campus and residence from outside...Shooting was horizontal, with the result that the bulk of the injuries were in the upper half of the body...[O]ne student was hit in the eye.

¹⁹ On May 31, 'Ali al-Buhayri, leader of the Alexandria branch of the Jihad Organization, reportedly admitted assisting fellow members in assassinating al-Mahgoub. According to the Interior Ministry, al-Buhayri also confessed to aiding three others in the murder of Mishah Idris, a secret policeman who was reportedly assassinated at the organization's order. On May 25, in Beni Suef, security forces arrested another Jihad member, Ashraf Abdal Wahhab, allegedly while attempting to throw an explosive at a security-force building.

²⁰ See State-run Cairo MENA, "Police Kill al-Jihad Member, Arrest Another, June 8, 1991, as reported in FBIS, June 10, 1991.

Freedom of association continues to be limited in Egypt. While the Egyptian Constitution describes Egypt's political system as "a multiparty one" and sets forth the right of all citizens to seek public office, Egypt's political arena is not open to all competing ideologies. The Egyptian law regulating political parties requires that prospective parties apply for legal status to a committee dominated by appointees of President Mubarak's ruling National Democratic Party. Legal status continues to be denied to the Muslim Brotherhood, the Nasserists and the Communists. Members of these groups are barred from running for office under their party affiliations.

In the case of private voluntary organizations, a 1964 law grants the Ministry of Social Affairs broad powers to reject an organization's application to become legally registered with the government. Groups that have been denied legal status under this law include the independent EOHR and the Arab Thought Forum, a prominent group headquartered in Amman, Jordan, which is concerned with regional economic, social and cultural issues. EOHR's petition to challenge the constitutionality of the law before the Constitutional Court was rejected in November 1991.

For those private organizations that are legally registered, the law grants the Ministry of Social Affairs sweeping powers of control, including the right to appoint government representatives to the board of directors, to call board meetings, to appoint temporary boards of directors, or to dissolve organizations completely. In June, the Cairo-based Arab Women's Solidarity Association (AWSA), a prominent women's rights group, was ordered dissolved by a tersely worded administrative decree that did not provide substantive reasons for this extreme measure. The AWSA assets were ordered transferred to another organization, Women in Islam. Legally registered with the government since 1985, AWSA also holds consultative status with the U.N. Economic and Social Council. AWSA petitioned the Egyptian State Council Court, a three-judge administrative panel, to void the dissolution order. At the first session of the proceeding, on October 31, the Ministry of Social Affairs defended the dissolution order by complaining about AWSA's "dissemination of ideas running counter to the position of the State" and its sponsorship of a September 1990 conference on women and journalism, which "took a stand against the official and public stand of the government with regard to the invasion of Kuwait by Iraq."²¹ The second court session was held on

²¹ In testimony to Middle East Watch, AWSA's president, Dr. Nawal El-Saadawi, said that the conference participants had discussed a wide range of issues, including the Gulf crisis. Participants at the conference voiced opposition both to Iraq's invasion of Kuwait and to foreign intervention in the region, advocating an approach based on diplomacy and

December 5, when AWSA's lawyers responded to the Ministry's allegations. The next session is scheduled for February 20, 1992.

In a September 1991 interview, President Mubarak characterized freedom of expression as "an established right" and admitted that "suppressing opinions is very harmful." However, in the same interview he contradicted himself by describing the broad criteria that could be used to "limit of freedom of expression [in] matters concerning Egypt's interests and reputation."²²

While religious minorities are usually not directly persecuted by the government, the arrest of three converts from Islam to Christianity — Mustafa al-Sharqawi, Mohammed Sallam and Hassan Mohammed — suggests the limits of religious freedom in Egypt. The three men were arrested in September and October 1990 and charged under Article 98(f) of the Penal Code, which prohibits exploitation of religion, propagation of extremist religious thought, and placing national unity and social peace at risk. Egyptian officials said that the men were being held "to protect social peace and national unity." On March 27, 1991, the Egyptian security court extended their detention for forty-five days. The three were released in July, but the criminal charges against them were not then dropped.

The detention of these men — a clear restraint on freedom of religion — highlights a sensitive area for a government that otherwise tolerates non-Muslim beliefs, despite presiding over an overwhelmingly Muslim country with a vocal fundamentalist community. Long an opponent of extreme Muslim fundamentalism, the Egyptian government has remained sensitive to conversion because of the recurrent threat of Muslim-Christian strife. For this and other reasons, Coptic Christians, who comprise about ten percent of Egypt's fifty-five million people, have raised charges that security forces are reluctant to react to Muslim attacks on Coptic churches and property.

In February, Islamists protesting the arrest of leaders of an anti-war protest in Beni Suef began a riot that turned sectarian when Coptic businesses were burned. In September, sectarian strife, usually confined to Upper Egypt, spilled

negotiation, rather than military force and war. Dr. El-Saadawi told Middle East Watch that in November 1990 AWSA received a letter from the director-general of the Ministry of Social Affairs, reminding the organization that under the 1964 associations law it was prohibited from discussing anything related to politics or religion. See Middle East Watch, "Egyptian Government Moves to Dissolve Prominent Women's Organization," September 1991.

²² Mufid Fawzi, *Sabah al-Khayr*, September 19, 1991, as reported in FBIS, September 25, 1991.

into Cairo when a local dispute led to clashes in the Imbaba section of the city over a four-day period; two Coptic churches and dozens of Christian-owned businesses were targeted by Islamist militants who took to the streets with knives, swords and chains in response to a rumor that a Copt had murdered an Islamist. The attacks in September were preceded in August by violent attacks on Copts celebrating the Feast of the Virgin Mary, in which hundreds of Islamists brandishing sticks, metal rods and swords descended on Imbaba and defaced religious portraits, ripped crosses off Christian women, and wrecked shops owned by Christians. One priest was quoted as saying, "We kept calling the authorities and they did nothing." It was not until the nonfatal shooting by a Christian merchant of a Muslim customer in late September that the authorities brought in police protection for the Coptic community.²³

Egypt's Palestinian community has suffered increasing discrimination. Since the beginning of the Gulf crisis in August 1990, long-term Palestinian residents of Egypt reportedly have been denied reentry to Egypt after routine trips abroad, and Palestinian students at Egyptian universities have been deported.²⁴ The above-mentioned detention of Drs. Mandour and Adriss, linked to their work at the Palestine Red Crescent Hospital, was accompanied by the arrest of up to seventy-five Palestinians in early February.

In June, the government withdrew the right of Palestinians to own farmland. The deputy prime minister and minister of agriculture and land reclamation, Dr. Yusuf Wali, approved the reclamation of approximately 2,600 acres of state lands from a number of Palestinian residents — the latest step in a steadily increasing squeeze on Palestinians. While a 1963 law banning foreigners from owning land in Egypt exempted Palestinians, the preferential treatment was dropped in 1985. Palestinians were given a five-year grace period to sell their land.

Stateless Palestinians holding only Egyptian travel documents who remained in Kuwait after the expulsion of Iraqi forces at the end of February — a community which numbered eighteen to twenty thousand in October — were typically unable to obtain visas to enter Egypt, the administering power in the Gaza Strip at the time they or their families left for the Gulf. Although Egyptian authorities have publicly stated that the government does not distinguish

²³ Chris Hedges, "A Religious War Rends a Cairo Slum," *The New York Times*, October 22, 1991.

²⁴ Mitchell Hartman, "Palestinians in Egypt Suffer in Silence," *Middle East International*, February 8, 1991.

between Palestinians and Egyptians, these Palestinians were, except in rare cases (wives of Egyptian men), unsuccessful in gaining access to Egypt as they were expelled from or fled Kuwait.²⁵

Palestinian detainees charged with conspiracy to commit terrorist acts were excluded from the Ramadan amnesty that freed many of the anti-war protesters detained by the government. EOHR reported in September that 101 Palestinians were being held without charge in Abu Za'bal prison.²⁶

The Right to Monitor

The Egyptian government permits international human rights monitors to visit the country and does not interfere with their work. However, to date the government has denied access to prisons to Middle East Watch, Amnesty International and the U.N. Human Rights Center's Special Procedures Unit. The EOHR operates freely from its Cairo office but the group has been denied official legal status. EOHR reported in May that three other human rights organizations — in Giza, Cairo and Alexandria — have received legal recognition from the Ministry of Social Affairs but that "the first suspended its activities fifteen years ago and the other two confine themselves to cultural activities." EOHR also noted the existence of a center for human rights study and research at Cairo University and a human rights association at Asyut University.

Restrictions on Egyptian rights monitors are an issue of increasing concern since the November 22, 1991 detention of human rights lawyer Negad El-Bore'i. El-Bore'i, who was traveling to Kuwait as a member of an EOHR fact-finding mission, reported to EOHR that he was detained in the Cairo airport and questioned for one-and-one-half hours by SSI officers. The officers forced him to leave behind reports, some of them from Middle East Watch, detailing human rights violations in Kuwait since its liberation from Iraqi occupiers. Upon his return to Cairo on November 26, El-Bore'i was again detained for one-and-one-half hours, but none of his papers was confiscated.

²⁵ See Middle East Watch, "Nowhere to Go: The Tragedy of the Remaining Palestinian Families in Kuwait," October 23, 1991.

²⁶ "L'OEDH Appelle a la Liberation D'une Certaine de Palestiniens Detenus En Egypte," Agence France-Presse, September 9, 1991.

U.S. Policy

Egypt is a key regional ally of the United States and one of the top four recipients of U.S. foreign aid — second to Israel but ahead of Turkey and Greece. Regrettably, Egypt's human rights record, including a pattern of torture of detainees held in prisons, police stations and SSI detention centers, continues to escape serious public scrutiny by the Bush Administration and Congress. Despite significant U.S. leverage, and the opportunities presented by frequent high-level meetings between Egyptian and U.S. officials in 1991, the Bush Administration refrained from any public expression of concern about human rights violations in Egypt. To the contrary, Egypt received massive debt write-offs and other U.S. and international financial assistance to strengthen its shaky economy. No human rights improvements were required of President Mubarak in return for this assistance. This unconditioned aid was widely viewed as a reward for Egypt's contributions to U.S. policy in the Middle East, including its unqualified support for the U.S.-led alliance against Iraq, its contribution of 36,000 troops to Operation Desert Storm, and its support of U.S. efforts to organize a Middle East peace conference.

While the State Department's most recent worldwide human rights report demonstrates the Administration's awareness of significant violations of human rights in Egypt, the Bush Administration in 1991 avoided any further public mention of these issues in the pursuit of its broader foreign policy goals. The Administration appears to have traded Egypt's support for U.S. foreign policy in return not only for massive financial assistance but also for Egypt's *de facto* immunity from U.S. public pressure to improve its human rights record.

Post-war U.S.-Egyptian relations were dominated by Secretary of State James Baker's attempts to orchestrate a Middle East peace conference. The Bush Administration's indebtedness to President Mubarak for assisting the process was expressed by Secretary Baker in his October 14 remarks in Cairo to Mubarak: "I don't think anybody has been any more helpful and forward leaning with respect to the efforts all of us have made to create a peace process than have you, in many, many ways."

Another Administration priority that eclipsed human rights concerns was Egypt's pursuit of economic reform. In March, Secretary Baker expressed the Administration's support for Egypt's economic reforms: "The U.S. is frankly very encouraged by and appreciative of the efforts the Government of Egypt is making in the reform of its economy." Baker then pledged U.S. support for Egypt's appeal to the World Bank and International Monetary Fund (IMF) for debt restructuring.

On one occasion, the U.S. Embassy in Kuwait, attempting to curb Kuwaiti government abuses against non-Kuwaitis, protested that government's practices. One charge by the Embassy, according to *The Washington Post* was that "Egyptian security officers were helping Kuwaiti security police interrogate and in some cases torture detainees."²⁷ But, as noted, the Bush Administration's apparent willingness to reveal Egypt's role in human rights abuses in Kuwait did not translate into a single public statement about torture in Egypt.

The chapter on Egypt in the State Department's *Country Reports on Human Rights Practices in 1990*, released in February 1991, is fairly comprehensive in scope, describing a number of violations, but often failing to do so in its own voice. The report typically refers to "convincing reports" of human rights activists to describe key abuses, reserving its own voice to summarize and list only those violations that are widely acknowledged to exist. In the case of torture, the report also fails to reveal its prevalence.

At the beginning of 1991, Egypt was burdened with over \$55 billion in foreign debt to governments, commercial banks and private institutions, with approximately \$12 billion owed to the United States. In November 1990, the "Paris Club" consortium of creditor nations rejected an Egyptian request to refinance its debt, demanding prior "liberalization" of Egypt's economy. In February 1991, however, at the height of the Gulf war, the United States announced that it would write off Egypt's \$6.7 billion debt for foreign military sales.²⁸ The balance of Egypt's debt to the United States, some \$5 billion, is authorized to be paid over twenty years on favorable terms that include a four-year grace period and a heavily subsidized interest rate.²⁹ The U.S. action appeared to be a reward for Egypt's role

²⁷ Caryle Murphy, "Kuwait Reported Moving to Curb Rights Abuses," *The Washington Post*, October 2, 1991.

²⁸ *The Washington Post* reported that President Bush, after a National Security Council meeting on August 29, approved the write-off of \$7.1 billion of Egypt's military debt to the United States. Administration officials told the *Post* that the president's move was based on Egypt's support for U.S. policy in the Gulf crisis. According to the *Post*, following the Iraqi invasion of Kuwait, Egypt extended to the United States overflight rights and staging and transit rights from Egyptian air bases, and smoothed the passage of dozens of U.S. warships through the Suez Canal. Patrick Tyler, "Bush to forgive \$7.1 Billion Egypt Owes for Military Aid," *The Washington Post*, September 1, 1990.

²⁹ "Agreement Reached with U.S. on Debt Repayment," Cairo MENA, July 19, 1991, as reported in FBIS, July 25, 1991.

during the Gulf crisis and its "Thousand-Day Plan," announced in late 1990, to liberalize its largely centralized economy. The six-nation Gulf Cooperation Council (GCC) joined the U.S. action, writing off over \$7 billion of additional debt.³⁰ Later, after Egypt agreed to implement an IMF economic program, the Paris Club agreed to forgive up to half of the \$20.2 billion that Egypt owed its member nations.

In bilateral aid, Egypt in fiscal year 1991 received an estimated \$1.3 billion in military assistance, \$815 million in Economic Support Funds, \$1.5 million for military training and \$150 million in food aid from the United States. Despite well-documented abuses in Egypt that are widespread, persistent and serious in nature, including torture, the Administration apparently does not consider aid to Egypt to be barred by Section 502B of the Foreign Assistance Act of 1961, as amended, which prohibits security assistance to any "country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights." A State Department presentation to Congress on security assistance programs for fiscal year 1992 describes Egypt as a "guided democracy" that has "increasingly free political parties." Egypt's government, political parties, judiciary and press are described as "the most progressive of any Arab country with regard to human rights." The presentation argues that the "Peoples' Assembly has increased its authority," while the continued state of emergency is excused in a bland phrase: "[t]he government continues to use emergency law authority to prevent terrorism."

A March 1991 State Department report to Congress on recipients of the Foreign Military Financing program observes that most torture in Egypt is committed by the SSI and that the SSI reports to the Ministry of Interior. The report also notes that U.S. military assistance is not provided to any of the organizations that report to the Ministry of Interior, but to the Egyptian military, thus implicitly seeking to excuse the U.S. aid program. However, Section 502B does not permit funding to nonabusive elements of an abusive government, but bars all security assistance to any government engaged in a consistent pattern of gross violations of human rights. Although Section 502B allows the Administration, if it deems it necessary to provide aid to an abusive country, to explain to Congress "the extraordinary circumstances warranting provision of such assistance," neither the Bush Administration nor any previous Administration has submitted such a statement to Congress.

³⁰ David Lennon, "Gulf Pay-off transforms Egypt's prospects," *Financial Times*, February 1, 1991. The GCC countries, including Kuwait and Saudi Arabia, were all part of the allied coalition against Iraq.

A similar willingness to ignore U.S. human rights law is reflected in the affirmative U.S. votes on three World Bank loans to Egypt in 1991. Section 701 of the International Financial Institutions Act of 1977 requires the Administration to

channel assistance toward countries other than those whose governments engage in...a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of life, liberty, and the security of a person.

The Administration is allowed to vote for assistance to such a country only if the assistance is designed to meet "basic human needs." Although torture and prolonged detention without charge are well-documented and long-standing abuses in Egypt, the United States voted to approve all three loans, none of which was designated to meet basic human needs.³¹

The Work of Middle East Watch

In 1991, Middle East Watch monitored human rights developments in Egypt, maintaining close contact with the independent EOHR. During the Gulf War, Middle East Watch wrote twice to President Mubarak about human rights issues. A widely circulated February 11 letter protested the arrest of political activists, students, and others known or perceived by the authorities to be outspoken opponents of the war. The letter also raised concerns about the use of a military court to investigate and prosecute journalists from opposition publications.

A second letter, on February 21, expressed concern about the above-noted torture of Dr. Muhammad Mandour, a physician and member of EOHR's board of

³¹ The first loan, for \$300 million, is to support decentralization and restructuring of the economy. The second loan, for \$140 million, is to aid the establishment of a \$572.3 million social fund. The social fund is designed primarily to support labor-intensive public works projects that would improve the nation's infrastructure and provide employment during economic restructuring. It is intended also to create a safety net for displaced Egyptian workers, including those returning from Kuwait. The final loan, for \$84 million, is designed to support a \$285.5 million project to increase Egypt's use of natural gas resources, freeing more petroleum for export.

directors, while he was held in detention at SSI headquarters at Lazoughly. Middle East Watch urged President Mubarak to instruct the appropriate authorities to investigate the allegations of torture and asked to be kept informed about the investigation. In December, Human Rights Watch honored Dr. Mandour at its annual Human Rights Day event.

Middle East Watch met with El-Sayed Abdel Raouf El-Reedy, Egypt's ambassador to the United States, to raise concerns about the prospective deportation from Kuwait of long-term residents carrying Egyptian travel documents, and to urge the Mubarak government to shoulder its responsibilities in this respect. Earlier requests to visit Egyptian prisons, first made in 1990, were repeated at this meeting.

In August, Middle East Watch wrote to President Mubarak to protest the above-described administrative order dissolving the Arab Women's Solidarity Association, the Cairo-based women's rights organization which had been legally registered with the Ministry of Social Affairs. In September, Middle East Watch published a newsletter about the AWSA case, including an analysis of the much-criticized 1964 Associations Law governing the formation, regulation and dissolution of private organizations in Egypt. One of the purposes of the newsletter was to draw attention to the broad powers granted to the state under the Associations Law, and to generate a campaign of international support for AWSA in advance of the organization's challenge of the dissolution order before Egypt's State Council Court in proceedings that began on October 31. The Women's Rights Project of Human Rights Watch distributed the newsletter to its network of women's rights organizations in the United States and abroad.

In October, Middle East Watch and the Women's Rights Project joined the Urban Morgan Institute for Human Rights of the University of Cincinnati College of Law as *amicus curiae* in a brief submitted to the State Council Court. The brief argued that the dissolution of AWSA violated Egypt's obligations to protect the rights to freedom of association and expression guaranteed by the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, and the U.N. Convention on the Elimination of All Forms of Discrimination Against Women, all of which Egypt has ratified.

Also in October, Middle East Watch published a newsletter on the predicament of stateless Palestinians trapped in Kuwait, an estimated eighteen to twenty thousand of whom carry only Egyptian travel documents (*laissez-passeurs*) because they or their families left the Egyptian-administered Gaza Strip prior to the Israeli occupation that began after the June 1967 war. The newsletter included testimony from some of these Palestinians and their relatives about Egypt's denial of visas to them and their families. Without such documents, these Palestinians —

who typically have not been permitted to return to their former public-sector jobs in Kuwait — and their children cannot resettle in Egypt.

Middle East Watch called on Egypt to state publicly its policy regarding the issuance of visas to this distinct group of stateless Palestinians and to provide information about the guidelines used by the Ministry of Interior to evaluate their applications for visas to Egypt.

IRAQ AND OCCUPIED KUWAIT³²

Human Rights Developments

Throughout 1991, Iraq was under an international public microscope. A welcome result of this process was increased public awareness of the deplorable state of human rights in the country, a seemingly impenetrable one-party state where, until its invasion of Kuwait in August 1990, rights abuses largely escaped sustained scrutiny and international opprobrium. Early in 1991, world attention was focused on the consequences of the Iraqi government's defiance of U.N. Security Council resolutions. Foremost among these were Resolution 660 of August 2, 1990, condemning Iraq's invasion of Kuwait and demanding the immediate withdrawal of Iraqi military forces, and Resolution 678 of November 29, 1990, authorizing the use of force after January 15, 1991 to end the Iraqi occupation.

When Saddam Hussein refused to quit Kuwait, the international military coalition assembled by the United States moved to enforce the U.N. resolutions: Operation Desert Storm began with a massive airborne assault on targets in Iraq during the early morning hours of January 17. U.S. and allied violations of the laws of war during this forty-three-day international armed conflict are discussed in the chapter on the United States; Iraqi violations are discussed in this chapter. The first section of this chapter provides an overview of human rights abuses in occupied Kuwait by Iraqi forces in January and February. It is followed by a discussion of human rights developments in Iraq, and concludes with an assessment of Iraq's missile attacks on Israel and Saudi Arabia during the Persian Gulf War.

Iraqi-Occupied Kuwait: January-February 1991

³² By treating human rights abuses in occupied Kuwait in the chapter on Iraq, Middle East Watch in no sense condones the Iraqi invasion of August 2, 1990, or recognizes Iraq's annexation of Kuwait as the country's 19th province. Rather, placing the discussion here reflects Human Rights Watch's policy of addressing abuses according to the forces committing them rather than the geographic boundaries in which they occur. For a discussion of human rights developments in liberated Kuwait after February 1991, see the chapter on Kuwait.

On January 2, 1991, the Iraqi occupation of Kuwait entered its sixth month. By that time, Iraq had completed its control over Kuwait; all institutions were by then run by Iraqi officers, including hospitals, colleges and the media. In the first two weeks of 1991, the Iraqi authorities continued their policy of appropriating Kuwaiti public property, but the start of the war on January 17 slowed this process. As Iraqi troops hastily retreated from Kuwait in the last week of February, they set on fire a number of government buildings, including the National Assembly and the Foreign Ministry, and a number of luxury hotels including the Holiday Inn, the Sheraton, and the seaside SAS Hotel.

During January and February, free expression and assembly in occupied Kuwait remained severely restricted. Kuwaiti television had ceased operation on the day of the Iraqi invasion and Kuwaiti radio was used to retransmit Baghdad radio programming. The only newspaper permitted to publish was *al-Nida'* (*the Call*), the occupiers' mouthpiece, which was produced using the requisitioned facilities of the pre-invasion Kuwaiti newspaper *al-Qabas* (*the Spark*). On January 1, *al-Nida'* itself was suddenly shut down without any stated reason. A number of small publications were printed and clandestinely distributed, including *Sumoud al-Sha'ab* (*Steadfastness of the People*).

The Iraqi occupying forces reacted ruthlessly to the growing threat of an allied attack after war was authorized by U.N. Security Council Resolution 678 of November 29, 1990. The Iraqi forces also reacted to violence blamed on the Kuwaiti resistance, including car bombs. For example, al-Farwaniyya Hospital records show that two patients, one of whom was an Iraqi, were treated for injuries they received when a bomb exploded on December 20 in a public market in the Hasawi district. On December 28, a car bomb exploded in the same market, killing four Iraqi soldiers and injuring twelve Iraqis and eighteen others, according to hospital records.

Summary executions increased during January and February, primarily in reaction to acts of armed resistance. Following a practice especially common during September and October 1990, Iraqi authorities ordered highly publicized executions of suspected resistance members. On January 12, 1991, Iraqi forces arrested Khaled al-Ahmed, 25, his brother Ahmed, 22, and his brother-in-law Abdel Rahman — all three former employees of Kuwaiti military or security forces. They were taken from Khaled's home on suspicion of armed resistance, a charge their family did not question when interviewed by Middle East Watch. According to eyewitnesses interviewed by Middle East Watch, the bodies of the three were brought back and thrown in front of the family home on February 5; the three had

just been executed and their bodies bore signs of torture.³³ Following another Iraqi practice, the family was told not to remove the bodies for several hours.

On January 14, Asrar al-Qabandi's just-executed and mutilated body was dumped in front of her family home. A Bahraini-born thirty-year-old woman, she was the most celebrated of Kuwait's women resistance figures. She had been detained since November 4 and accused of maintaining satellite-phone contact with the Kuwaiti government-in-exile and receiving large sums of money from that government to finance the resistance; neither charge was contested by her former comrades interviewed by Middle East Watch.

On January 17, at the start of the Desert Storm military operation, a member of the Kuwaiti resistance fired at Iraqi soldiers operating an anti-aircraft gun placed on top of a school building that was also being used as an Iraqi command post.³⁴ Iraqi forces retaliated against the entire block from which the shots were fired. All houses in Block Four, a low-income section of al-Rumaithiyya, a southern suburb of Kuwait City, were searched. The house in which the gunman had been hiding was methodically burned. In a second house that was also burned, five resistance fighters were killed in a shootout, according to neighbors.³⁵

Following the shootout, Iraqi forces arrested seven men who lived on Block Four. One of the seven arrested returned alive on February 20; one, Nasser Hamza Ali, is missing; and the other five were killed in detention. Those killed were Walid al-Saleh, 30; Hamza Abbas, 22, and his brother, Amir, 21; and Hamza Muhammed Ali, 56, and his son-in-law, Ali ibn Nikhi, 29. On January 22, the bodies of the executed men were brought back to the neighborhood and left for two days in a visible place on the block before relatives were allowed to bury them. Witnesses told Middle East Watch that the bodies of two of the men bore clear signs of gruesome

³³ Khaled had been shot in the forehead, Ahmed in the neck and Abdel Rahman several times in the chest, according to eyewitnesses.

³⁴ Neighbors gave the name of the gunman to Middle East Watch as Talal Mousa al-Bannai, but that could not be confirmed. They also reported that the school was equipped with four anti-aircraft artillery guns; the placements were still visible when Middle East Watch interviewed the witnesses on March 27, 1991.

³⁵ The house in which the shootout was reported to have taken place bore clear signs of a gun battle, with numerous bullet holes in the furniture, walls and windows of most rooms. The house appeared to have been set on fire deliberately, a common Iraqi practice for homes of suspected resistance members.

torture. The body of Ali ibn Nikhi, one of the murdered men, had one eye gouged and the fingernails of one hand extracted, according to Mas'ud Ali, a brother-in-law who claimed the body.

The exact number of those killed by Iraqi forces in January and February has yet to be determined.³⁶ Over 280 people are still missing after having been arrested or disappeared during that period. If a large number of the missing turn out to have been killed by Iraqi forces, the number of extrajudicial executions may prove to be higher than in previous months. But there is insufficient evidence to support the widely circulated reports by the Kuwaiti government-in-exile and repeated by U.S. officials that substantially larger numbers were executed in retaliation for the beginning of Desert Storm on January 17.³⁷

Arrests during January and February 1991 increased considerably, after a noticeable decline during November and December 1990. As one indication of this trend, registration records at the Kuwaiti Association to Defend War Victims show a more than two-fold increase of arrests in January over December. More than 180 of those arrested during January have yet to be accounted for. Those detained between January 1 and February 18, if they were not killed, met the same fate as other civilian detainees arrested since the beginning of the occupation. There are numerous reports from this period of prisoners being subjected to severe beating, electric shock and extraction of fingernails to force them to confess to crimes or provide information on resistance activity.

In February, Iraq started a large roundup of Kuwaitis, culminating in the arrest of around two thousand Kuwaiti males who were seized at random between February 19 and 23, during the last week before Iraq's hasty retreat from Kuwait.³⁸

³⁶ For other accounts of executions during this period see, Caryle Murphy, "Kuwaitis Resisted, Survived," *The Washington Post*, March 4, 1991.

³⁷ See, e.g., Edward Cody, "Exiled Kuwaiti Leaders Say Iraqis Kill, Steal for Food," *The Washington Post*, February 10, 1991; Victor Mallet, "Iraqis executed over 200 Kuwaitis," *Financial Times*, February 15, 1991; Caryle Murphy, "U.S. Says Iraq Stepping Up Terrorist Actions in Kuwait," *The Washington Post*, February, 24, 1991; Judith Miller, "Officials of Kuwaiti Government Move to Saudi City Nearer Home," *The New York Times*, February 25, 1991; Jimmy Burns, "Kuwaitis tell of 7,000 dead and Iraqi atrocities," *Financial Times*, February 20, 1991.

³⁸ The February roundup was probably the largest in a single month since September 1990. But claims that in the last week of the occupation, up to forty thousand were rounded up were false. Such claims were circulated, shortly before the ground war, by Kuwaiti

Around one hundred of those arrested during February remain unaccounted for. The rest have been repatriated. Those seized during this roundup who have returned appear not to have been tortured. However, their places of detention were overcrowded and there was inadequate food and medical care, leading to at least one fatality.

During the entire Iraqi occupation of Kuwait, over ten thousand were either detained by Iraqi forces or disappeared and were believed detained. They include prisoners-of-war captured in the initial invasion of Kuwait as well as civilians detained throughout the seven-month occupation. Those captured were primarily Kuwaiti citizens and stateless Arab residents of Kuwait known as Bedoons, but included other residents of Kuwait as well. Most were deported to Iraq. In the case of civilian detainees, deportation is a clear violation of Article 48 of the Fourth Geneva Convention.³⁹

Until the end of the war, Iraq did not allow visits to the prisoners by the International Committee of the Red Cross (ICRC). Starting in the last months of 1990, family visits were allowed. In the case of the over six hundred Kuwaiti army officers detained in Ba`qouba, outside of Baghdad, treatment at the time improved considerably and family visits were thereafter allowed regularly. However, because of the long distance involved and the dangers of traversing the route between Kuwait and Baghdad once the air war began, few visitors were able to make the trip.

On January 21, CBS correspondent Bob Simon and three of his colleagues were captured by Iraqi forces near the Kuwaiti-Saudi border. They were subsequently taken to Baghdad where they were detained until March 2, when Iraq released them after a high-level international campaign to gain their release.⁴⁰

representatives and given currency by U.S. defense officials. See, e.g., Knut Royce, "Kuwaitis Next Human Shields?," *Newsday*, February 20, 1991; "Iraqi Forces Arrest 7,000 Kuwaiti Citizens," a dispatch by the Kuwaiti News Agency, February 25, 1991; "33,000 Koweitiens portés disparus," *Le Monde*, March 5, 1991. See also the transcript of General Norman Schwarzkopf's press conference on February 27, 1991.

³⁹ Iraq is a party to the Fourth Geneva Convention.

⁴⁰ For example, Soviet President Mikhail Gorbachev was reported to have personally intervened to secure the release of the CBS team. See Eric Pace, "Baghdad Releases CBS News Crew," *The New York Times*, March 3, 1991.

After the war, most of those known to have been in Iraqi custody were repatriated. Between March and September, 4,219 prisoners-of-war were repatriated from Iraq to Kuwait through the ICRC. The ICRC also arranged the repatriation of civilian detainees, including 935 in March. Also in March, Iraq repatriated directly to Kuwait 1,174 civilian detainees who had been rounded up in the last days of the occupation starting on February 19. Hundreds more managed to escape Iraqi prisons during the March uprising in southern Iraq, and returned on their own to Kuwait. But there are still many more unaccounted for.

The Iraqi and Kuwaiti governments have expressed opposing positions on the issue of the missing. On October 13, the Kuwaiti government issued a report and an updated list showing 2,101 missing persons believed to be in Iraqi custody. The list includes 1,587 Kuwaiti citizens, 354 Bedoons and 160 people of other nationalities; of these, 214 are women and 115 are children below the age of twelve. The list does not include more than one thousand names, mostly Bedoon, Jordanian and Palestinian former residents of Kuwait, that had been listed by relatives as missing.⁴¹

The Kuwaiti Association to Defend War Victims registered 1,182 missing persons as of September 7, 1991, the majority of whom are believed by the Association to be in Iraqi custody. This list includes 699 Kuwaiti citizens and 318 Bedoons.

There is extensive witness testimony that most of those on the Association's list were in fact detained by Iraq and that some of them were recently seen in Iraqi prisons. Despite this evidence, Iraq denies that it is holding any Kuwaitis against their will. It has so far rebuffed attempts by third parties to help in releasing known detainees and accounting for the missing. In an August 29, 1991 letter to the U.N. secretary general, Iraq's Foreign Minister Ahmed Hussein claimed that Iraq was not holding any detainees from Kuwait. He added that there were 3,389 Kuwaitis in Iraq whose repatriation is delayed by the Kuwaiti government's refusal to allow their return.

Under international law, Iraq is obligated to account for all those detained by its forces, by providing complete information to the ICRC and the families about the fate of those detained. While the omission from the Kuwaiti government's list of the names of over one thousand Bedoon, Jordanian and Palestinian former

⁴¹ The Kuwaiti government had earlier demanded the repatriation to Kuwait of those additional one thousand people. Starting in August, however, the government dropped the names of all missing Palestinian and Jordanian residents from its lists. It also deleted the names of Bedoons who were not affiliated with the military or the police.

residents of Kuwait is unjustified, Iraq is not entitled to use this failure or the Kuwaiti government's refusal to repatriate one group of former Kuwaiti residents as a reason not to provide information on the remainder, as it at times has suggested it is doing.

For a substantial number on the Kuwaiti government list, there is no evidence that they were arrested by Iraqi occupying forces. But the fact that they went missing during the occupation — a phenomenon unknown in Kuwait before the Iraqi invasion — places a clear obligation on the Iraqi government to try to locate them by vigorously searching its occupation records.

In its October 13 report, the Kuwaiti government responded to the Iraqi assertion regarding the Kuwaitis whose repatriation was rejected by the Kuwaiti government. The Kuwaiti report claimed that ninety-nine percent of those people left Kuwait on their own and were not detained by Iraq. It also claimed that around 2,900 of them were Bedoons of "Iraqi origin" who have no "legitimate residence" in Kuwait. For these reasons, Kuwait claimed, it was under no obligation to allow their reentry.

The Uprising in Iraq

In the immediate wake of Iraq's withdrawal from Kuwait, a new human rights crisis unfolded, this time in war-ravaged Iraq itself. Residents of at least two dozen southern Iraqi cities, joined in many cases by disaffected returning soldiers, rose up against the government in early March, ousting government forces from nearly all of those cities. Similar rebellions broke out within days throughout the predominantly Kurdish north of the country.

In their counterattack and when consolidating their recapture of these cities, government troops killed thousands of unarmed civilians by firing indiscriminately into residential areas; executing people on the streets and in homes and hospitals; rounding up persons, especially young men, during house-to-house searches, and arresting them without charge or shooting them *en masse*, and targeting fire from attack helicopters on unarmed civilians as they fled the cities.

For their part, rebels and their sympathizers in both northern and southern cities killed hundreds, if not thousands, of members of the security forces and others allegedly working for the Baath Party or the government. While many were killed in battle, others were summarily executed after they had surrendered and were taken into custody, sometimes after summary people's "trials."

The Iraqi authorities have charged the rebels with the uprising-related summary executions of over 2,500; in addition, they claim to have discovered

mass graves in Suleimaniyya (bodies of 370 "citizens"), Kut Sawadi (150 bodies of "persons who had been killed by the groups participating in the disturbances") and Kushk al-Basri (fifty bodies).⁴² The Western press also recorded rebel abuses. For example, *The Washington Post* interviewed a Republican Guard officer from the unit that recaptured Karbala in southern Iraq who reported that "dozens of senior officials, including the chief of police, top security agents, the deputy governor and high-ranking members of the Baath Party, were killed in an outpouring of vengeful fury. Captain Abed said many of the victims had their throats cut and bodies burned by the insurgents, while Shiite mobs ransacked their houses and stole food supplies."⁴³

There were reports of looting by rebels and their sympathizers in Basra and a few other cities, but this seems to have been less widespread and systematic than the looting carried out by government troops upon their recapture of cities. Many refugees from the relatively prosperous northern cities likened the plundering by soldiers of stores and households to the looting of Kuwaiti private property by Iraqi soldiers during the early days of the occupation of that country.

No reliable figures are available concerning the number of persons killed or wounded by either side during the uprising. Iraqi authorities have not released such statistics.⁴⁴ One journalist reported from Iraq that the government "has forbidden Shi'as from displaying traditional signs of mourning — black flags and paper streamers printed with the names of the dead — because it would enable visitors to count the numbers of Shi'a `martyrs.'"⁴⁵ But senior Arab diplomats told the London-based Arabic daily newspaper *al-Hayat* in October that Iraqi leaders were privately acknowledging that 250,000 people were killed during the uprisings, with most of the casualties in the south.⁴⁶ Independent investigation to verify this figure has not been possible, nor has it yet been possible to determine how many of these casualties were noncombatants.

⁴² Iraqi government reply to U.N. Special Rapporteur Memorandum, pp. 27-28.

⁴³ William Drozdiak, "Devastation in Southern Iraq," April 30, 1991.

⁴⁴ This follows an apparent Iraqi government policy. Final tallies of Iraqi military and civilian casualties during Operation Desert Storm have not been released, although the allies have been no more forthcoming in this regard.

⁴⁵ Lara Marlowe, "A kind of normality," *Financial Times*, May 17, 1991.

⁴⁶ October 2, 1991, as reported in *Mideast Mirror*, October 2, 1991.

The turmoil began in Basra on March 1, one day after the cease-fire in Kuwait, and spread within days to Karbala, Najaf, Hilla, Nasiriyya, al-Amara and other mostly Shi'a cities of southern Iraq. The rebellion in the north began on or about March 5; by March 21, Kurdish insurgents controlled every major city in the north except for Mosul, which has an Arab majority.

The rebellions followed a general pattern. On the day of a city's uprising, rebels and masses of civilians ousted government forces from their headquarters, prisons and barracks, killing or capturing them or forcing them to flee. The revolts were aided by soldiers who either switched sides or deserted, as well as by some degree of planning during the preceding weeks and months by underground opposition groups.⁴⁷ However, the outpouring of popular support for the uprising was largely spontaneous. It was fueled by anger at government repression and the devastation wrought by two wars in a decade, and a perception that Iraqi security forces were uniquely vulnerable after being crushed by the U.S.-led forces.

After seizing power, both Shi'a and Kurdish rebels freed prisoners from known and hitherto secret prisons. Many of the freed prisoners were found to be in poor health as a result of ill-treatment, and some showed scars that they attributed to torture.

The rebels then controlled the "liberated" cities for a number of days, while government troops — primarily the elite Republican Guard and regular soldiers — regrouped outside the city limits and began shelling the city from tanks and firing missiles and automatic fire from helicopters.⁴⁸ Although the fire was sometimes directed at suspected rebel strongholds, little effort was made to limit civilian casualties, and on many occasions throughout the country civilians were directly targeted.

The rebels were unable to resist for long. The army, and particularly the Republican Guard, largely remained loyal to Saddam. Their counteroffensive was

⁴⁷ Jonathan Randal, "Kurdish Uprising Aided by Clandestine Army Contacts," *The Washington Post*, March 23, 1991. Activists from southern Iraq told Middle East Watch that underground groups had laid some of the groundwork for the rebellions that erupted in southern cities.

⁴⁸ Middle East Watch heard credible testimony from numerous Kurdish refugees that a number of members of the Iraq-based armed Iranian opposition group, the Mujahedin-e-Khalq, fought alongside government troops in suppressing the Kurdish rebellion in Kirkuk and elsewhere. However, it was not possible to ascertain the extent of their role.

buoyed by the failure of the U.S.-led alliance to prevent Iraqi use of helicopter gunships.⁴⁹

Meanwhile, the rebels had little experience defending captured territory and were armed only with rifles, rocket-propelled grenades and a few heavier weapons captured from government forces. They were easily outgunned and outmaneuvered.

As the government forces closed in on a city, thousands of civilians began to flee, terrorized by the indiscriminate shelling and fearful of the vengeance that Iraqi troops would wreak. Over 1.5 million Iraqis escaped from the strife-torn cities during March and early April, crossing into Turkey and Iran, or fleeing into zones controlled by Kurdish rebels (*pesh merga*) in the north or into the marshes in the south, beyond the reach of government forces.

Their exodus was sudden and chaotic, with thousands fleeing on foot, on donkeys, or crammed onto open-backed trucks and tractors. Many, including children, died or suffered injury along the way, primarily from adverse weather, unhygienic conditions and insufficient food and medical care. Some were killed by army helicopters, which deliberately strafed columns of fleeing civilians in a number of incidents in both the north and south.⁵⁰ Others were injured when they stepped on mines that had been planted by Iraqi troops near the eastern border during the war with Iran, and in rural areas from which the government had forcibly relocated Kurds during the 1980s.

The extent of the land-mine problem became apparent during a Middle East Watch mission to northern Iraq in September. Casualties from land mines during 1991 easily exceeded five thousand and may have topped ten thousand. The Suleimaniyya City Hospital alone recorded the treatment of 1,652 mine victims between March and mid-September, of which 397 underwent amputations. Many of the victims were Kurdish refugees who had returned to Iraq from Iran and Turkey and attempted to make their homes in unmarked minefields.

After bombarding a rebel-held city from afar, Iraqi tanks and infantrymen

⁴⁹ The provisional cease-fire signed on March 3 prevented Iraq from flying fixed-wing aircraft. While the U.S. shot down two jets flying over northern Iraq in March, it did not interfere with the helicopters that proved so effective in putting down the uprising. This U.S. stance is discussed later in this chapter in the analysis of U.S. policy.

⁵⁰ Kurdish refugees told Middle East Watch that armed *pesh mergas* sometimes accompanied those fleeing. However, they said, the attacking helicopters made no effort to distinguish between the rebels and unarmed civilians.

recaptured city after city, until they were back in control of all cities except for those in the "safe haven" around Zakho and Dohuk created by the U.S.-led alliance to lure Kurdish refugees back from Turkey, and cities in a rebel-controlled swath near the northeastern border with Iran.

Upon regaining control, Iraqi troops engaged in widescale looting and atrocities against the civilian population. The violence was heaviest in the south, where a smaller portion of the local population had fled than in Kurdish areas, owing partly to the danger of escaping through the south's flat, exposed terrain. Those who remained in the south were at the mercy of advancing government troops, who went through neighborhoods, firing indiscriminately and summarily executing hundreds of young men.⁵¹

There were many variations to this general pattern. Basra was the scene of chaotic, pitched battles, but never fell completely into rebel hands. In other cities, the rebels ousted the security forces with little difficulty. Similarly, the army recaptured some cities, such as Karbala and Najaf, only after bitter fighting, but swept into other cities, such as Suleimaniyya, with little resistance.

Refugees alleged to Middle East Watch and others that Iraqi helicopters dropped a variety of ordnance on civilians, including napalm and phosphorus bombs, chemical agents and sulfuric acid. Representatives of human rights and humanitarian organizations who saw refugees with burn injuries or photographs of such injuries were unable to confirm the source of these burns. However, doctors who examined wounded Iraqis said that some of their burns were consistent with the use of napalm.⁵²

What follows is a description of human rights abuses committed during March in a sampling of cities, drawn primarily from interviews conducted by Middle East Watch with Iraqi refugees in Iran, Kuwait, Saudi Arabia and London, as

⁵¹ A letter and memorandum to the Iraqi minister for foreign affairs, dated September 16, 1991, from the U.N. special rapporteur contained specific allegations of summary executions committed by Iraqi forces during the uprising. The memorandum described executions of: 150 men and boys who were taken to a military garrison near Hilla on March 16; another seventy civilians from the same city on March 19; scores of civilians in Samawa between March 20 and 29; seventy patients and medical personnel at Hilla hospital on March 9; hundreds of civilians in Qara Hanjir from March 27 to 29; and the death by burning of forty people from Arbat on April 3.

⁵² See, for example, Amnesty International, "Iraq: Human Rights Violations Since the Uprising/Summary of Amnesty International's Concerns," July 1991.

well as from press accounts and reports by other organizations.

- o **Basra:** Iraq's second-largest city was the first to erupt. According to a popularly believed account that cannot be confirmed, on March 1 an Iraqi tank driver fired a shell at a giant public portrait of Saddam Hussein. This act of defiance ignited an uprising by members of the hitherto underground Shi'a opposition, angry citizens, and disgruntled and weary Iraqi soldiers who had just fled Kuwait. Many of those who took part expected support from American troops who were stationed near the city outskirts, especially after President Bush's February 15 call on Iraqis to rise up and oust Saddam.

Chaos reigned in many neighborhoods, as loyalist troops and bands of rebels and army deserters dodged snipers and fought at close quarters. At the outset, rebels slaughtered persons suspected of being government officials, Baath Party members and secret police. Meanwhile, the army rolled tanks through residential neighborhoods, firing at residential buildings and at civilians. Troops entered homes and machine-gunned civilians. The streets were littered with bodies, and loyalist troops conducted mass executions in public squares of persons who had been rounded up. Hussein Ali Kazem, 22, told *The Washington Post* that he watched the public execution of some four hundred people in central Basra before he fled the city on March 6. "Their hands were tied, then they tied them to tanks and shot them," he told reporters in Safwan. "The bodies are still there."⁵³ Two refugees interviewed by Middle East Watch described watching separate incidents in which troops rounded up civilians, bound their hands and feet, attached rocks to them and tossed them into the Shatt al-'Arab waterway.

There were several independent reports that the troops used human shields to protect the tanks, either tying women and children to the tanks or forcing them to walk in front. One refugee interviewed by Middle East Watch in London saw a column of twenty tanks on March 8 coming from al-'Ashar toward the city center, with three children tied to the lead tank.

Both the rebels and the army engaged in looting in Basra, a city where war and the U.N.-imposed sanctions had created shortages and high prices.

⁵³ Lee Hockstader, "Baghdad Warns Insurrectionists They Will Pay," March 8, 1991.

Although the army had the upper hand within five days of the outbreak of the rebellion, it was not until April that it had completely subdued resistance in the city. By that time, the uprising had greatly compounded the devastation that Basra had suffered during the Iran-Iraq and Gulf wars.

- o Najaf:** The uprising in Najaf was relatively long-lived due to a higher degree of planning by the Shi'a opposition. On March 4, demonstrators, some of them lightly armed, marched through the city streets, swelling in numbers as they went along, and surrounded and seized government buildings. A refugee from Najaf told Middle East Watch: "Saddamites who resisted were killed. Those who did not resist were taken prisoner, and then killed when the army attacked."

The army's counteroffensive began in earnest more than one week after the uprising. Its tactics were similar to those employed against other rebel-held cities: an initial phase of firing ground-to-ground and helicopter-launched missiles indiscriminately at civilian areas, followed by the entry of troops into the city, house-to-house arrests, the public execution of suspected rebels, and the invasion of Saddam Hospital and the slaughter of patients and medical staff. One refugee from Najaf told Middle East Watch, "If any resistance emanated from a house, that house was demolished." Refugees from other cities also described incidents of troops punitively demolishing houses, a form of summary collective punishment.

The last rebel stronghold in Najaf was the Tomb of the Imam Ali, one of the most important Shi'a pilgrimage sites in the world. The army pounded the shrine with mortar fire before entering it and shooting both rebels and civilians who had held out there. Other religious shrines and schools in the area were also damaged by shells, and others were demolished after the suppression of the uprising.

One young man described to Middle East Watch watching as soldiers went through a group of young men in their custody outside a former hotel, separating those suspected of participating in the uprising and executing them. The witness fled the scene after seeing four of the men shot dead. An Iraqi military officer who deserted told *The Washington Post* of a massacre in Najaf by loyalist troops: "When the Iraqi army entered...the families that had fled the fighting returned with their children. They lined them up and

executed them." Among the victims were his wife and three children.⁵⁴

The army also rounded up Shi'a clerics in Najaf, including the ninety-five-year-old Grand Ayatollah abu al-Qassem al-Kho'i, the revered Shi'a cleric with a worldwide following. A member of the Khoei family reported to Middle East Watch that some 105 individuals affiliated with the Grand Ayatollah — relatives, staff, religious students and some senior clerics, including eighty-nine-year-old Ayatollah Mortaza Kadhumi Khalkhali, a top aide of the Grand Ayatollah — were arrested in Najaf between March 20 and March 23.⁵⁵ A September report by the U.N. special rapporteur on Iraq notes some of these detentions. Iraq's October 25 reply to the report states that of the sixty-two associates of the Grand Ayatollah reportedly arrested in March and taken to Baghdad, four "are alive and enjoying full freedom" but "the competent authorities have no information concerning the others." Iraqi Shi'a sources told Middle East Watch on December 19 that the Grand Ayatollah, whose home in Najaf continues to be under surveillance by the Iraqi security forces, is living in extreme distress due to the destruction of the religious schools in Najaf and Karbala, concern about the fate of his missing family members, staff and students, and his lack of contact with followers around the world.

- o Karbala:** Karbala was probably the major city most devastated during and after the uprising. The rebellion began on March 5 when lightly armed rebels, joined by thousands of civilians and deserting soldiers, attacked government buildings. They had achieved full control of the city by the next morning.

Within one day, government tanks and helicopters began pounding the city with indiscriminate fire. When army troops entered the city they encountered fierce resistance. There were pitched battles at al-Husseini hospital, which was used to treat wounded rebels. A physician from Karbala who fled to Iran told Middle East Watch:

⁵⁴ Nora Boustany, "A Trail of Death in Iraq," March 26, 1991.

⁵⁵ According to information supplied by the London-based al-Khoei Foundation, all of the detainees were affiliated to Shiite religious schools in Najaf. Of the total number, forty-three were Iraqi nationals, twenty-eight were Iranian nationals, and the balance were nationals of Lebanon, India, Bahrain, Afghanistan and Pakistan.

[The hospital] was run by the rebels. Doctors there treated the wounded, people donated blood and whatever medicine they had at home. The army, when it attacked, concentrated its artillery on the hospital. When they invaded, they rounded up doctors and nurses, tied their hands and blindfolded them. They were later released, only to be rounded up again later and killed. The rebels put up strong resistance in defending the hospital.

The shrines of Abbas and Hussein, which became the city's rebel headquarters, were heavily damaged by artillery fire and by rockets fired from helicopters between March 7 and 11, as were the buildings near them. Further damage occurred when Iraqi troops burst into the shrines, in which rebels and civilian sympathizers had barricaded themselves. Hundreds of rebels and their supporters are said to have died during the siege, either from the artillery and rocket fire, or from the gunfire of the invading troops.

When security forces established daytime control again on about March 19, they took vengeance on both rebels and civilians who had not fled. They moved from district to district, rounding up young men suspected of being rebels, shooting some of them on the spot and executing others in large groups. In both Najaf and Karbala, there were reports that Shi'a clerics who walked on the streets were shot on sight, and that young men were "systematically collected," taken to stadiums, and never seen again. Summary killings occurred "in a manner that made a point," one Iraqi Shi'a told Middle East Watch. "Dead bodies were mined and they were not allowed to be removed from the streets." John Simpson, foreign affairs editor of the British Broadcasting Corporation, wrote about the authorities' round-up of the clerics earlier in the year. He visited Najaf in late April and found the city's center deserted: "Thousands of Shi'a clerics have been rounded up in Najaf and Karbala and disappeared," he wrote. "Normally the streets would be full of them. Not now."⁵⁶

Civilians fleeing Najaf and Karbala were strafed by helicopters as they traveled on the road between the two cities. A refugee from Najaf who was interviewed by Middle East Watch in Iran that on March 17, "People were told

⁵⁶ "The Voices Against Saddam," *The Observer* (London), April 28, 1991.

on the loudspeakers to evacuate the city, for their own safety, within 24 hours and head north, in the direction of Karbala. When thousands of people had gathered in the northern outskirts of the city — it was afternoon already, around 3 o'clock, and they were mostly women and children — helicopters opened fire from machine guns at them. Between 250 and 300 were killed."

- o **Suleimaniyya:** On March 7 and 8, the nearly all-Kurdish city of Suleimaniyya became the first major city to fall to Kurdish rebels. Four weeks later, it was the last to be recaptured by Iraqi forces.

The ouster of government forces came in an uprising led by a small contingent of *pesh mergas*. Uprisers overwhelmed the government forces who had sought refuge in the headquarters of the dreaded security service (*mudiriyat al-amn*), capturing and summarily executing agents of the security forces and freeing prisoners held in grim cells. An English teacher recounted that the *pesh merga* and their supporters "took three hundred Baathist prisoners....We punished those who had martyred our brothers and looted our homes. We killed them without trial...During the first days after the *pesh merga* took over, some escaped. We caught many and killed them by shooting them and with axes. The mothers of martyrs killed twenty-one escaping soldiers with axes and stones."

During the next three weeks, Suleimaniya remained under *pesh merga* control. Kurdish refugees streamed into the city from other Kurdish towns that were coming under attack.

The army's assault on Suleimaniyya began around March 31. Troops began firing rockets from outside the city into residential neighborhoods, and dropping rockets on residential areas from helicopters. Sensing defeat, rebel leaders urged the population to leave before the army attempted to enter the city. The city emptied between April 2 and 4, and government forces easily retook the city. The troops then engaged in widescale looting of homes and stores, according to refugees from Suleimaniyya who later returned to the city.

- o **Kirkuk:** The battle for Kirkuk, the last major city to be captured by the Kurdish rebels, was especially fierce. An oil-rich city with an ethnically mixed population, Kirkuk has long been a bone of contention between the Kurds, who demand its incorporation into the Kurdish Autonomous Region, and

Baghdad, which has sought to control it by relocating Arabs from the south to Kirkuk and evicting Kurdish families.

By mid-March, Iraqi forces already had been ousted from several Kurdish and southern cities. Fearing that Kirkuk would be next, Baghdad dispatched reinforcements to Kirkuk.

On about March 10, the security forces placed predominantly Kurdish neighborhoods of the city under curfew and rounded up several thousand men from their homes, ranging in age from young teenagers to men in their fifties. The men, all of them nearly without exception Kurdish, were transported out of the city and held in vast compounds without charge or trial under harsh conditions, although they were neither interrogated nor tortured. Most were released in mid-April but were told that they would not be permitted to reenter Kirkuk. Many of the men traveled instead to Kurdish-controlled areas or to refugee camps in Turkey and Iran.

After the massive roundup of Kurdish men, Iraqi troops began demolishing houses in Kurdish neighborhoods, using dynamite and bulldozers. In testimony corroborated by others, a university student from Kirkuk told Middle East Watch, "Troops came to Arassa, a neighborhood that is strongly pro-*pesh merga*. They took the women to Kara Angir [a town north of Kirkuk], and told them, 'Go to the *pesh merga*.' The next morning, the forces demolished the houses. Arassa is totally destroyed, all the houses have been destroyed."

Nevertheless, Kirkuk erupted in rebellion on March 19 and by the next day was in *pesh merga* hands. Unlike in Suleimaniyya, however, their victory was promptly contested. Beginning on March 21, Iraqi tanks stationed outside the city began pounding residential areas with artillery rounds day and night, while Sekhoi helicopters flew overhead by day firing missiles.

After a week of bombardment, Iraqi tanks entered the city on March 27. Among their first acts was to invade Saddam Hussein Hospital and to slaughter patients and medical staff, opening fire indiscriminately, slashing patients with knives and, according to eyewitnesses, throwing people out of windows. As in other cities, the hospital had been filled with both rebels and civilians who had been injured during the fighting. A primary school teacher told Middle East Watch, "When the tanks entered Kirkuk on March 27, they went to Saddam Hussein Hospital. My house is very near the hospital. About

150 meters away from me, I saw troops enter the hospital and then I saw *pesh merga* being thrown out of the windows. After they threw them on the ground, they shot those who were not dead from the fall."

As they consolidated their control, troops ordered the remaining Kurdish population of Kirkuk, predominantly women and children, to leave the city within twenty-four hours. Those who fled at this late stage reported widespread looting of homes by government troops and Arabs who had driven north from central Iraq. Kurds who attempted to return to the city in April were turned back at checkpoints that had been set up outside the city.

The Iraqi government was quick to assert that it had overcome the challenge of the insurgents, although reports of rebel attacks against government forces and installations continued throughout the year. Shi'a refugees in southwestern Iran boasted to Middle East Watch in late April that fighters were reinfiltrating Iraq and launching nighttime attacks on military targets on the roads near Basra.

Ongoing Government Abuses

On March 16, President Saddam Hussein castigated the rebels as "malicious traitors infiltrated from abroad" and declared that the uprising in the south had been crushed.⁵⁷ On April 5, Iraq's ruling Revolutionary Command Council (RCC) issued a statement, announcing "the complete crushing of acts of sedition, sabotage, and rioting in all towns of Iraq." In the same communique, the RCC announced that it had "decided to pardon all Iraqi Kurds in the autonomous region for any behavior that they could be accountable for by law — except crimes of

⁵⁷ Iraqi officials repeatedly claimed that Iran and Iranian-backed forces were involved in the uprisings, although little attention was devoted to this issue in the Western media. On March 12, Pentagon spokesman Pete Williams said there was no evidence of Iranian military assistance to the uprisings "or indeed any official Iranian assistance at all." (Elaine Sciolino, "Iraqi Gains Against Rebels Sometimes Fade, US Says," *The New York Times*, March 13, 1991.) On March 19, however, Bush Administration officials said that Iran was supplying arms to insurgents in the north and south. "There is some support, some arms from Iran," one official told *The New York Times*. "Is it a major supply operation? The answer is no." (Elaine Sciolino, "Kurds Alone Viewed As Unlikely to Oust Saddam," *New York Times*, March 20, 1991.)

murder, violations of honor, and theft — that took place during the riots and acts of treachery."⁵⁸ On April 20, an RCC decision extended a similar amnesty to all Iraqis involved in the uprisings.⁵⁹

There is evidence to suggest that the amnesties were honored in the breach, particularly in the south where government forces had greater control. Saddam emphasized in an April 13 speech in Arbil that those suspected of certain offenses during the uprisings would be dealt with harshly: "The orders the authorities have received are very clear: go after the killers, who violate the people's honor, and those who stole the state's assets and have not returned them. We give no guarantees to these people."⁶⁰

There were also post-uprising reports of arrests and summary executions throughout the country, purges in the Iraqi military and Baath Party,⁶¹ and the detention of security-force personnel considered "soft" during the uprising.⁶² A representative of the Iraqi Kurdistan Front told Middle East Watch that some four hundred Iraqi soldiers who had returned to government lines after being captured

⁵⁸ Baghdad, Iraqi News Agency (INA), April 5, 1991, as reported in FBIS, April 5, 1991. The decision was formalized in RCC Decision No. 103 of April 10, 1991.

⁵⁹ RCC Decree No. 109, dated April 20, stated: "All Iraqis, whether in northern, southern or central Iraq, will be included in the general and comprehensive pardon stipulated in RCC Decree No. 103 dated 10 April 1991. They will be pardoned from any legal effect or legal proceedings resulting from any action punishable by law which took place during the circumstances of the events of rioting and treason. The crimes of premeditated murder, violation of honor, and theft are exempted from this."

⁶⁰ Baghdad INA, April 14, 1991, as reported in FBIS, April 15, 1991.

⁶¹ See, e.g., Caryle Murphy, "Iraq's War Defeat, Civil Strife Causing Crisis in Baath Party," *The Washington Post*, July 16, 1991.

⁶² For example, the Supreme Council for Islamic Revolution in Iraq, an Iran-based Shi'a opposition coalition headed by Ayatollah Mohammed Bakr al-Hakim, reported in May that some forty Iraqi security forces and military-intelligence personnel in Amara, a city north of Basra, were arrested, apparently because of their failure to put down the uprising there. (Press Release, London, May 20, 1991.)

by Kurdish irregulars in August were executed on charges of having failed to put up effective resistance to the enemy.

Government opponents charged that despite the amnesties, many Iraqis had been arrested and taken to detention centers, some of them secret, in Baghdad and elsewhere. The National Security center in the Radhwaniyya district of Baghdad was identified as one such facility. In a June press release, the London-based al-Khoei Foundation claimed that some 150,000 people had been arrested in southern Iraq, including 15,000 from Najaf, a center of the uprising. The U.N. special rapporteur's September memorandum highlighted that, despite the amnesties, arrests were continuing:

Allegations remain that the amnesties are...used as a means of rounding up members of opposition groups, and that the terms of the amnesties are frequently violated by government agents who arrest certain persons returning out of places of hiding...Several reports allege that persons already detained, as with several of those arrested during (and in violation of) the amnesties, rather than being released have actually 'disappeared' in the custody of the Government.

The special rapporteur noted "significant and repeated allegations" regarding Kurds from Arbil who had returned under the April amnesty and "were detained,...taken to the city stadium, subjected to punishments or executed, or have subsequently disappeared."

Iraqis who fled to U.S.-controlled Safwan in southern Iraq came with reports of executions in Basra as late as May. *The Washington Post* reported that, according to refugees, "Iraqi troops are still seizing rebels, and civilians with any rebel links, after extracting confessions from friends and neighbors."⁶³ A teacher told *The Post* "They shoot them and throw their bodies in the street to make people scared of doing anything." A truck driver claimed: "They used an execution squad right in the main square. They would blindfold their victims and then shoot them, just leaving the bodies there." One refugee said that the authorities were "torturing people into giving the names of people who are involved in rebel fighting."⁶⁴ The *Post* reported from Baghdad in May that the city was "rife with talk

⁶³ John Arundel, "Refugees Say Saddam Is Still Killing Foes," *The Washington Post*, May 10, 1991.

⁶⁴ *Ibid.*

that thousands of southern Shiite Muslims suspected of rebel sympathies during the anti-regime uprisings last March have been summarily tried and executed recently."⁶⁵ The U.N. special rapporteur's September memorandum noted reports of the summary execution by firing squad of seventeen people in Arbil on April 17. The memorandum also reported allegations that summary executions "are continuing to take place throughout the country, particularly in the northern Kurdish Autonomous Region, in southern Shia centers, and in the southern marshes."

The *Post* noted that the Iraqi authorities were continuing to respond in characteristic fashion to actual and perceived opponents: "Prisons are described as more full than ever. Families receive the coffins of sons and husbands, accompanied only by a military court order of execution, no reasons given. There are mass arrests and disappearances."⁶⁶

Continued clashes between government forces and rebels often were at the expense of innocent civilians, particularly when government forces retaliated with indiscriminate artillery shelling and helicopter-gunship attacks on rebel positions. In northern Iraq, fear motivated large numbers of Iraqi civilians to flee to areas where they felt safe from government forces. The U.N. High Commissioner for Refugees (UNHCR) reported in late October that tens of thousands of internally displaced Iraqis remained in the mountain areas of the north, "either because their towns have been destroyed or because they fear a fresh outbreak of violence."

Both sides shared responsibility for the continuing unrest. Insurgents openly took credit during the uprising and its aftermath for the capture and execution of Iraqi security force, intelligence and Baath Party personnel.⁶⁷ The most highly publicized abuse by anti-government forces during the year was the October 7 summary execution by Kurdish rebels in Suleimaniyya of at least sixty captured, unarmed Iraqi soldiers. According to Reuters photographer Kurt Schork, who witnessed the killings, the men were shot, kneeling, at point-blank range.⁶⁸ The

⁶⁵ Jonathan Randal, "Iraqis' Morale Ebbs as Sanctions, Saddam Persist," June 1, 1991. The story's dateline was Baghdad, May 25, 1991.

⁶⁶ *Ibid.*

⁶⁷ See, e.g., reports of (Clandestine) Voice of Rebellious Iraq, May 13, 1991, and (Clandestine) Voice of Iraqi Opposition, May 14, 1991, as reported in FBIS, May 14, 1991.

⁶⁸ "Kurdish Guerrillas Killed Iraqi Troops Captured in Battle," *The Washington Post*,

Kurdistan Democratic Party, whose fighters were suspected of responsibility, condemned the incident and said it was opening an investigation. To date, the findings of this investigation have not been announced.

Targeting of Shi'a Institutions

Representatives of Iraq's Shi'a community reported to Middle East Watch in 1991 that the Iraqi regime intensified its deliberate targeting of Shi'a cultural and nonpolitical institutions in an attempt to destroy the fabric of Shi'a society. These attacks were part of what they called a broader campaign of post-uprising "revenge on a massive scale" in southern Iraq.⁶⁹ Iraqi Shi'a point out that the regime's retaliatory actions continue a pattern of discrimination by the Sunni-dominated government against the Shi'a religious majority in Iraq. They charge that the discrimination includes violations of religious and cultural rights including bans on publishing contemporary or traditional Shi'a written materials, transmitting radio or television broadcasts with Shi'a content, and teaching the Shi'a creed in the state school system, as well as widespread employment discrimination in Iraq's public sector.⁷⁰

Promises of Reform

October 11, 1991.

⁶⁹ A number of their allegations are included in the November 1991 report of the U.N. special rapporteur on Iraq, including the following: "there are no functioning religious centres of learning in Najaf and Karbala, including the ancient universities...the Al-Khoei school has been razed to the ground...the traditional call to prayer and pilgrimage in the holy shrine of Najaf and Karbala has been banned along with public prayers in these holy cities...many Shiah clergymen are banned from wearing their traditional uniforms and from performing their religious duties...more than 1,000 religious books have been banned by the Ministry of Information...various religious practices (such as Shiah traditional rituals about Iman Hussein) are prohibited both in public and in private places...the holy shrines of Shiah Islam (especially in Najaf and Karbala) have been desecrated by government forces...religious manuscripts and books in a number of libraries are said to have either burnt or otherwise purposefully destroyed." (p. 16)

⁷⁰ *See Dialogue*, A Newsletter Published by the Public Affairs Committee for Shias (London: November 1991), p. 6.

Despite Iraq's resounding military defeat by coalition forces and the turmoil of the uprisings, Saddam Hussein maintained and steadily consolidated his grip on power. Iraq's feared internal-security apparatus appeared to have emerged sufficiently unscathed from the Gulf war and the uprisings to remain a powerful presence. By September, some opponents of the regime felt that even if some political accord with the regime was struck, the most they could hope for in the immediate future was "a softening dictatorship" in Iraq. They stressed to Middle East Watch that the in-country opposition had "no illusions" about the prospects for genuine political reform under Saddam Hussein. The government's actions in 1991 tended to bear out this view, reinforcing the perception that the regime's rhetoric of reform was designed more for the international community than for the skeptical and beleaguered Iraqi public.

For several months after Iraq's defeat in the Gulf war, government leaders attempted to rebuild their domestic credibility through pledges to introduce political liberties unseen since the Baath Party's seizure of power in 1968. In a televised speech on March 16, Saddam Hussein blamed the 1980-88 Iran-Iraq war for the deferral of the political reforms originally pledged in 1979. He held out a renewed promise of reform but, notably, without specifying a timetable for implementation. "Our decision to build a democratic society based on the Constitution, the rule of law and political pluralism is a decisive, irrevocable decision," he said.

Then newly appointed Prime Minister Saadoun Hammadi, in a March 30 speech on national television, spoke directly about democracy. Terming it "an integrated system," he stated that "in organizing relationships, democracy is not confined to the top echelon of the state but extends to all institutions from top to bottom." He pledged that "the democratic reform process in all the state institutions will start gradually and in accordance with the country's circumstances."⁷¹

In an interview in May, Deputy Prime Minister Tariq Aziz said that among the reforms being contemplated were the abolition of the ruling Revolutionary Command Council⁷² and replacement of the for-life presidency of Saddam Hussein

⁷¹ Baghdad INA, March 30, 1991, as reported in FBIS, April 1, 1991.

⁷² Such a move, if implemented, would have far-reaching consequences. Under the Iraqi Constitution, the unelected RCC is empowered unilaterally to promulgate laws and decrees, to mobilize the army, to approve the budget, to ratify treaties, to declare war, and to conclude peace. The RCC alone is empowered to amend the Constitution.

with renewable seven-year presidential terms.⁷³ In a televised speech on July 17, Saddam mentioned that a new political-parties law would soon be in effect. "We will soon start to apply the principles of pluralism in a broad manner...Pluralism will be the main pillar in the next new phase," he promised.

Despite these commitments, it soon became clear that government initiatives said to be aimed at political reform and pluralism were fundamentally flawed. Most important of these were the new political-parties law, introduced in September, and the negotiations with the Iraqi Kurdistan Front coalition, begun in April and stalled several times, about measures for nationwide democratization.

The dismissal in mid-September of Saadoun Hammadi as prime minister, and his removal from the RCC, was viewed as a setback for the putative effort at political reform. It also was seen as a signal of Saddam Hussein's increased confidence and resolidification of power. In April, Hammadi, a Shi'a and Baath Party loyalist known for his pragmatic views, had openly advocated "the importance of strengthening the rule of law through the reform of the legal system, press freedom, and pluralism in all spheres, as well as through the change of revolutionary institutions into democratic and constitutional ones," according to the state-controlled Iraqi News Agency. One Western authority on the Arab world explained: "It was after he had expressed these views at a congress of the Baath party in Baghdad on 13 September that Hammadi was sacked."⁷⁴ Some saw the move as a precursor to additional purges of reformers in the bureaucracy and the military and security establishments. The significance of Hammadi's later partial rehabilitation, through his appointment on November 6 as a presidential adviser with cabinet rank, remains to be seen.

Political Parties

The limits of reform could be seen in Political Parties Law No. 30 of 1991, which was issued by the RCC in September after the law had been amended and approved by the National Assembly, Iraq's rubber-stamp parliament. The statute states in part that "political parties constitute one of the basic pillars of the democratic system through which the citizen exercises his rights, duties and freedom." But the law grants the government significant latitude in vetting

⁷³ William Drozdiak, "Iraq Termed Committed to Democracy," *The Washington Post*, May 8, 1991.

⁷⁴ Gerald Butt, "Strengthening his power," *Middle East International*, September 27, 1991.

political parties. Under Article 3, parties must support Iraq's territorial integrity and national unity, effectively foreclosing the legalization of any Kurdish party that uses nonviolent means to advocate separatism or an independent Kurdish state.⁷⁵ Article 3 also mandates that parties "value and be proud" of the 1958 and 1968 revolutions, in effect a pledge of political allegiance to the ruling Baath Party. In addition, Article 19 prohibits the organizing of political parties among the "armed forces, the internal security force and the other security organs"; only the Baath Party is entitled to recruit members in these key sectors.

The law empowers the Council of Ministers to approve or reject parties' requests for legalization, but the law gives oversight of political parties to the feared Ministry of Interior. The law clearly envisions the creation of Interior Ministry dossiers on all nascent political-party leaders and activists. Parties must register their applications with the Interior Ministry and submit the names, addresses, professions and brief personal histories of their founding members, who must number at least 150. Under Article 22, each January the Interior Ministry, as part of its ongoing monitoring, must be provided with the names, addresses and professions of all new party members as well as the names of those whose membership has lapsed.

The law provides for government aid to political parties and lays the groundwork for grants to be made on a political basis. Among the factors for grant decisions set forth in Article 24 is a political party's "role in the national struggle."

In an August interview, then-Prime Minister Hammadi was asked how much competition the ruling Baath Party would tolerate, and whether opposition political parties would ever be allowed to form a government. His answer was evasive: "We may be ready to share power with another party if the situation allows and if there was such a party."⁷⁶

Negotiations with the Kurds

It was the government's negotiations with the Iraqi Kurdistan Front (IKF) about an autonomy agreement that revealed most transparently the government's interpretation of democratization. The talks began in April between the

⁷⁵ Article 5 originally specified that political parties based on a mix of religion and politics would not be permitted; this provision was struck by the National Assembly in a session on August 24.

⁷⁶ *Jordan Times*, August 8-9, 1991.

government and the eight-party IKF, led by Jalal Talabani of the Patriotic Union of Kurdistan (PUK) and Massoud Barzani of the Kurdistan Democratic Party (KDP). In addition to greater autonomy in Kurdistan, the IKF submitted a proposed agreement which sought:

democratic rights under the rule of law. This must include guaranteed respect for human rights, multiparty pluralism, free elections to return the people's representatives to parliament, freedom of the press and publications, and the liberty to organize trade unions, professional associations and democratic institutions. Positions of power and authority must change hands peacefully in line with the freely-expressed will of the people.

The IKF proposals included provisions for an interim coalition government to arrange for free general elections in six months, and the participation of all national opposition political forces in the election of a National Constituent Assembly to draft a permanent constitution "and appoint a government of the majority." The government countered by proposing that the revised constitution, drafted in 1990 before Iraq's invasion of Kuwait but never adopted, be put to a national referendum.⁷⁷

KDP leader Barzani explicitly stated in June that democracy means "a multiparty system; freedom of the press; free elections; separation of the party and state authorities; and separation of the judicial, executive and legislative authorities. We also agreed to draw up together the draft constitution and the press law and the multiparty system law."⁷⁸ The same month Saddam reportedly sought Kurdish support to control the Shi'a opposition in the south, in the form of a demand that the Kurds "preserve the gains" of the 1968 revolution which established Baath Party hegemony over the country. One Kurdish negotiator at the talks interpreted this to mean that "when there is an uprising, a demonstration or

⁷⁷ The draft constitution was published in July 1990. In the assessment of the U.S. State Department, the document "would alter the form but not the substance of Iraq's political system. In the new 'Presidential Republic,' the President would assume most of the current powers of the RCC, which would be abolished." (U.S. State Department, *Country Reports on Human Rights Practices for 1990*, p. 1457.)

⁷⁸ Interview on June 16, 1991, as broadcast on (Clandestine) Voice of the People of Kurdistan and reported in FBIS, June 18, 1991, at 10.

confusion against the Baath Party that we must take the gun to kill their enemies."⁷⁹ He added that government representatives "defined verbally" the enemies as pro-Iranian Shi'a groups and pro-Syrian parties.

In a September 17 interview, PUK leader Talabani discussed the status of the negotiations with the government. In addition to disagreement over the boundaries of autonomous Kurdistan and objections to the continuing policy of "Arabization" in the cities of Kirkuk and Hanefin, he said that "the main obstacles are concerning democratization; the Iraqi regime totally refuses to make any kind of change." Talabani also indicated that the IKF was opposed to the government's condition that Kurdish parties have no contact with external groups. "[T]he right of the Kurdish parties and the IKF to have relations with other parties outside of Iraq was prevented according to the new law published by the so-called RCC," Talabani said. "[W]e are insisting that we have the right to contact other parties, organizations, international bodies, human rights groups and etc. and we will never accept such a presentation by the Iraqi government."⁸⁰

U.N. officials expressed concern in September over the uncertain status of some 120,000 to 130,000 former Kurdish residents of Kirkuk who had fled the city during the uprising.⁸¹ The coordinator of U.N. activities in Iraq, Bernt Bernander,

⁷⁹ Jonathan Randall, "Kurds Say Iraqi Demands Delay Autonomy Pact," *The Washington Post*, June 25, 1991.

⁸⁰ *Ankara Turkish Daily News*, September 18, 1991, as reported in FBIS, September 23, 1991.

⁸¹ Kurds claim the city is part of Iraqi Kurdistan, while Turkomans -- Iraqis of Turkish descent -- say it is Turkoman. Muzaffer Aslan, secretary general of the National Turkoman Party of Iraq, said in September: "The plight of the Turkoman people is terrible...Saddam Hussein is now trying to enact legislation to Arabize the Turkoman people...Thousands of Arabs are being resettled in Kirkuk, with more than 2,726 arriving in just the last two weeks. Saddam Hussein wants to make the Turkomans a minority in this area. Meanwhile, the regime is forcing the Turkomans to register themselves as being of Arab extraction." (Istanbul *Gunaydin*, September 2, 1991, as reported in FBIS, September 6, 1991.) Fu'ad Muassum, a senior IKF official, affirmed in September that the Iraqi government was counting Turkomans in Kirkuk as Arabs: "The Baghdad Government says that the majority of the population in Kirkuk is Arab. The fact is they are considering that the Turkmen who live there are Arab." (Agence France-Presse, September 14, 1991, as reported in FBIS, September 17, 1991.) Kurds also claim that the authorities are attempting to Arabize Kirkuk, prevent its inclusion in the autonomous region, and not allow displaced Kurds who fled earlier in the

said that the Kurds sought a U.N. presence in the city prior to their return but the Iraqi authorities have not agreed to the opening of a U.N. office there.⁸² Beginning in October, the government began to exert economic pressure on those areas of northern Iraq that were under the virtual control of Kurdish rebels. Gasoline deliveries to Arbil and Suleimaniyya were reduced, delivery of food and electricity was curtailed, and civil servants in the north were required to move to cities under government control or be fired.⁸³ By the beginning of November, there was a significant concentration of Iraqi troops and equipment around Arbil and Suleimaniyya, fueling fears that the government might be planning to oust the rebels by force.⁸⁴ On November 12, it was announced that the government and the Kurds had struck a bargain: the economic sanctions would be lifted, and the Kurdish forces, in turn, would move out of the cities but maintain defensive positions on their perimeters.⁸⁵ It was not clear whether the Kurds would agree to Iraqi troops entering the cities and towns; one KDP spokesman said: "We understand that government forces will not attempt to come into Irbil. If they attempt to come by force, a united force will fight them."⁸⁶ But later in November, *The New York Times* reported from northern Iraq that the government did not honor this agreement with the Kurds, "instead closing roads and confiscating food and fuel from the few cars they let through. As part of the deal to end the blockade, the Kurdish guerrillas pulled their forces back three miles. But they say they have seen Iraqi soldiers move forward to fill the gap and begin to hammer their new positions outside Erbil, positions that are in the [allied security] zone."⁸⁷

year to return.

⁸² Agence France-Presse, September 16, 1991, as reported in FBIS, September 17, 1991, at 20.

⁸³ Patrick E. Tyler, "Baghdad Now Seen Exerting Economic Pressure on Kurds," *The New York Times*, November 6, 1991.

⁸⁴ John Murray Brown, "Agreement Eases Confrontation Between Iraq's Army, Kurds," *The Washington Post* November 13, 1991.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ Chris Hedges, "Kurdish Talks Frozen, Iraqis Advance Anew," November 26, 1991. (The

The United Nations High Commissioner for Refugees reported on December 5 that 200,000 Kurds had fled areas of eastern Kurdistan, where Iraqi forces in October began shelling villages in the areas of Kelar, Kifri and Chamchamal in Suleimaniyya province.⁸⁸ UNHCR coordinator for the emergency program in the Gulf Carroll Faubert said at a press conference in Geneva on December 5: "We are extremely worried about the situation. We see the possibility of hundreds of thousands of newly displaced persons living in the snow."⁸⁹

The Oil Export Impasse

By most accounts, all Iraqi civilians — except the affluent and the politically connected — suffered directly throughout 1991 from the impact of U.N.-imposed sanctions. The most pressing problems for civilians were phenomenal price inflation for basic food staples, poor diet and sanitation, corresponding medical problems, especially among infants and young children, and inadequate medical services from a beleaguered and grossly undersupplied health-care system. In November, Iraqi Health Minister Dr. 'Abd-al-Salam Muhamed Sa'id reported that over 68,093 Iraqis had died between August 2, 1990 and September 30, 1991 as a result of sanctions-related shortages of food and medicine.⁹⁰ He said that of this number 19,863 were children under five years old who died from diarrhea, acute respiratory infections, malnutrition and contagious diseases. Another Health Ministry official, Under-Secretary Dr. Shawki Murqus, gave a different interpretation of the child-death figure in an interview earlier in the month with *The New York Times*. He said: "The total deaths of children under 5 in Iraq since August 1990 was 19,863. This figure...includes normal mortality as well as excess deaths caused by disease and malnutrition."⁹¹

The Sanctions Committee of the U.N. Security Council decided on March 22 to

story's dateline was November 23, Erbil, Iraq.]

⁸⁸ Agence France-Presse, December 5, 1991, as reported in FBIS, December 6, 1991.

⁸⁹ Kurt Schork, "Iraqi Troops Move on Kurds as Refugee Toll Climbs," *The Washington Post*, December 8, 1991.

⁹⁰ Baghdad INA, November 26, 1991, as reported in FBIS, November 27, 1991.

⁹¹ Patrick E. Tyler, "Iraq Is Blocking Aid Distribution," November 3, 1991.

permit the unrestricted export of food to Iraq, as long as the committee was notified about each shipment.⁹² In addition, the import of other materials and supplies to meet humanitarian civilian needs — such as fuel, agricultural machinery, and water and sewage system parts and equipment — would be automatically allowed if none of the committee's members objected. The formal U.N. Security Council cease-fire resolution (No. 687) of April 3 included these new guidelines.

However, the easing of the sanctions was not accompanied by a lifting of the U.N. prohibition of member states' imports of Iraqi products. Iraq claimed that with its overseas assets frozen it needed to export oil to acquire the foreign exchange to purchase food and other necessary items. It was not until September 19 that the U.N. Security Council, in Resolution 706, authorized Iraq to sell, under U.N. supervision at all stages, \$1.6 billion of oil over a six-month period, with \$933.7 million of the proceeds designated for the purchase of food, medicine and other essential civilian items. This amount was substantially less than the \$2.5 billion recommended by Secretary General Javier Perez de Cuellar as necessary for Iraq to meet essential civilian needs.⁹³ The balance of the oil-sale proceeds were designated, in specific amounts, to cover compensation claims from Kuwait and the cost of border demarcation, weapons inspection and destruction, and U.N. humanitarian assistance and administration.

The Iraqi authorities objected to the various U.N. procedures governing the oil sale, including the depositing of all revenues in an escrow account administered by the United Nations. Iraqi petroleum exports thus have not yet resumed and, regrettably, Iraqi civilians continue to be the innocent victims of the

⁹² Paul Lewis, "United Nations Eases Rules On Food and Fuel for Iraqis," *The New York Times*, March 23, 1991. Previously, pursuant to U.N. Security Council Resolution 666 of September 13, 1990, food could be exported to Iraq only if the U.N. Sanctions Committee determined that "circumstances have arisen in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in order to relieve human suffering." If food was to be sent, the resolution provided that it be done under the auspices of the United Nations "in cooperation with the International Committee of the Red Cross or other appropriate humanitarian agencies and distributed by them or under their supervision in order to ensure that they reach the intended beneficiaries." There was no restriction on the shipment of medicine to Iraq.

⁹³ The resolution was passed with the approval of thirteen members; Cuba voted no and Yemen abstained.

impasse.⁹⁴ The logic behind the strict U.N. control of Iraq's revenue and expenditures clearly is to deny the Iraqi leadership the opportunity to score political points with the beleaguered civilian population by permitting it to control the levers for the distribution of food and other necessities. While this concern is legitimate, the resulting stalemate extracts a high civilian cost.

There were additional indications that Iraq was playing politics with food, at the expense of the civilian population, by reportedly interfering with food distribution efforts by international humanitarian organizations in southern and northern Iraq. In at least one instance in October, a truck carrying food was turned back at an army checkpoint and not allowed to continue to Suleimaniyya.⁹⁵ Iraq's Health Minister Abdul Salam Saaid told *The New York Times* in early November that food from relief organizations must pass through the government's distribution and rationing system; the policy resulted in the accumulation of about \$4 million worth of food, including infant formula and other food for young children, in warehouses in Baghdad and Jordan.⁹⁶ According to a representative of Catholic Relief Services (CRS), its food-distribution program in churches and mosques in Baghdad and Mosul was barred by the authorities in October.⁹⁷ The CRS representative further charged that 250 tons of food designated for Amara, a city southeast of Baghdad, remained in a warehouse because the authorities would not permit the distribution.

Missile Attacks

⁹⁴ For example, the U.N. Food and Agriculture Organization reported in July that "Iraq's population is facing a massive famine as a result of the war and a poor harvest." (Jerry Gray, "5 Powers At U.N. Decide to Allow Iraqis To Sell Oil," *The New York Times*, August 8, 1991.)

⁹⁵ Patrick E. Tyler, "Baghdad Now Seen Exerting Economic Pressure on Kurds," *The New York Times*, November 6, 1991. The first food diversion by the Iraqi authorities was reported as early as June, when the U.S. Agency for International Development and the U.N. World Food Program said that the Iraqi authorities diverted food bound for Kurdish areas of northern Iraq; other sources said that at least three thousand tons were diverted to Tikrit, the home town of Saddam Hussein. (*Middle East International*, June 14, 1991.)

⁹⁶ Patrick E. Tyler, "Iraq Is Blocking Aid Distribution," *The New York Times*, November 3, 1991.

⁹⁷ *Ibid.*

Beginning with an initial attack at 2:00 A.M. on January 18, Iraq launched thirty-nine ground-to-ground ballistic missiles into Israel and the occupied West Bank during the Gulf War, killing a total of thirteen people, according to Israeli government statistics. A majority of the missiles were aimed in the vicinity of Israel's largest city, Tel Aviv. Asked about the missile attacks in a CNN interview on January 28, Saddam Hussein commented: "We said that if Baghdad were hit, we would strike Tel Aviv." Iraq's attacks were widely regarded as designed to provoke Israel to join the war and thus precipitate a split among the Arab participants in the allied military coalition.

At dawn on January 18, Iraq also fired a missile at the allied air base in Dhahran in eastern Saudi Arabia, the first of the thirty-seven missiles launched at that country during the war. In late February, Iraq also launched one missile in the direction of Bahrain and one at Qatar, but both fell harmlessly in the Gulf waters; both Gulf states had participated in the war against Iraq and offered their territory as bases for allied air force units. According to statistics from the official Saudi Press Agency, these attacks produced only one civilian fatality — in Riyadh on January 25 — with an additional seventy-seven civilians injured, most of them slightly.

The possibility of the use of deadly chemical warheads on the Iraqi missiles generated fear among the Israeli and Saudi civilian populations and extensive civil-defense precautions. In the January 28 CNN interview, Saddam Hussein refused to rule out the use of chemical weapons during the war. Asked about Iraq's possible use of chemical weapons against the allied forces, he replied evasively: "I said that we will use weapons that are equivalent to those used against us." A similar reply was given in response to attacks on Israel.

Although Iraqi statements often left the impression that attacks were wholly indiscriminate, in fact not all of its missiles were indiscriminately fired at urban population centers. U.S. Air Force Chief of Staff Gen. Merrill A. McPeak acknowledged this at a press briefing in March: "Some of these were actually launched against military targets. For instance, King Khalid Military City was attacked in the northern part of Saudi Arabia." The majority of the missiles directed at Riyadh also were aimed at military targets, according to a U.S. Army official.⁹⁸ In a July 1991 report, the U.S. Defense Department confirmed that "a number" of the forty-one Iraqi missile attacks on Saudi Arabia were against

⁹⁸ David Hughes, "Success of Patriot System Shapes Debate on Future Antimissile Weapons," *Aviation Week & Space Technology*, April 22, 1991, at 90.

military targets.⁹⁹

In contrast to the post-war public acknowledgments by the U.S. military that Iraq fired missiles at military targets in Saudi Arabia, Middle East Watch is aware of no public statements by U.S. military briefers or Israeli government spokespersons that described possible military targets in Israel that may have been the object of attack. On January 25, President Bush said in a news conference that the missiles launched at Israel constituted "brutal, senseless, non-military-value attacks on civilian populations." Given Iraq's apparent choice of targets and the limited accuracy of its missiles, most of the attacks on Israel support the president's conclusion.

Although a substantial number of attacks on Saudi Arabia and even some on Israel appear to have been aimed at or near military targets, Iraq's missile campaign as a whole was characterized by serious violations of humanitarian law. First, many of the Iraqi missiles appear to have been directed at civilian targets. The use of Patriot missiles to intercept the Iraqi-modified Scud missiles, as well as the inherent inaccuracy of the Iraqi missiles, often made it impossible to determine exactly where the Iraqi missiles had been aimed. But the repeated launching of relatively inaccurate missiles at targets in Tel Aviv and Riyadh, when a wealth of military targets were available outside these heavily populated areas, suggests a deliberate decision to harm civilians. Rhetoric accompanying the missile attacks suggested that the Iraqi military was at best indifferent to the plight of these civilian populations, if not intent on causing as much damage and suffering as possible. Firing missiles with the purpose of harming civilians flatly violates the customary-law rule that the civilian population shall not be the object of attack.

Second, even many of the missiles that appear to have been directed toward military targets violated the laws of armed conflict because the inaccuracy of the missiles rendered the attacks indiscriminate in the circumstances. The customary-law principle codified in Article 51 of the First Additional Protocol of 1977 to the 1949 Geneva Conventions (Protocol I) prohibits attacks as "indiscriminate" which use "method[s] or means of combat which cannot be directed at a specific military objective" and thus "are of a nature to strike military objectives and civilians or civilian objects without distinction."¹⁰⁰ Among

⁹⁹ *Conduct of the Persian Gulf Conflict/An Interim Report to Congress*, p. 27-1.

¹⁰⁰ Although Iraq is not a party to Protocol I, it is bound by the provisions of the Protocol insofar as they have assumed the character of customary international law.

the weapons that the provision was designed to forbid are long-range missiles with rudimentary guidance systems that cannot with any reasonable assurance be directed against a military objective, such as the V2 rockets used by Germany late in the Second World War.

Whether the use of a particular missile is indiscriminate, assuming the object selected for attack is a military target, depends in part on the accuracy of the weapon, the size and location of the military objectives and the target's proximity to civilians and civilian objects. As one respected commentator said, "Those methods and means of combat which would be indiscriminate in a densely populated city, might be lawful in an unpopulated area such as a forest or a desert."¹⁰¹

The Iraqi-modified Scud missiles used against Israel and Saudi Arabia had a circular error probable (CEP) of one thousand meters, meaning that only fifty percent of the missiles launched could be expected to fall within a one thousand-meter radius of the point targeted. Accordingly, while Iraqi missile attacks on the huge Dhahran air base in Saudi Arabia or the Dimona nuclear facility in the northern Negev Desert in Israel could have been expected to be adequately discriminate, the missile attacks on relatively small military targets in Riyadh and Tel Aviv should have been expected to be indiscriminate given the inaccuracy of Iraq's missiles.

It is worth noting that this conclusion in no way depends on an assessment of Iraq's goals in attacking Israel or Saudi Arabia. Just as it would have been illegal for allied forces to harm Iraqi civilians with the aim of encouraging them to overthrow Saddam Hussein, as explained in this volume in the chapter on the United States, so it was improper for Iraq to target or launch indiscriminate attacks against civilians in Israel or Saudi Arabia with the aim of furthering Iraq's military or political objectives.

Third, the missile attacks against both Israel and Saudi Arabia came amid an outpouring of Iraqi rhetoric apparently designed to terrorize the civilian population of those countries. For example, an official Iraqi military communique of January 19 described the previous night's attack on Tel Aviv as "missiles pouring out of the sky, making Tel Aviv and other targets a crematorium." A similar image was conjured up by Saddam Hussein in his April 1, 1990 speech, when he threatened to "make fire eat up half of Israel" if it attacked Iraq. An Iraqi military communique issued on January 23 stated that a purpose of an attack the

¹⁰¹ Michael Bothe, Karl Joseph Partsch and Waldemar A. Solf, *New Rules for Victims of Armed Conflicts* (Boston: Martinus Nijhoff Publishers, 1982), p. 306.

previous night was "to disturb the sleep of the Zionists and blacken their night." Following a missile launching on February 11, Radio Baghdad said that the strike was intended "to sow death and alarm in the hearts of those who have isolated our women and children in the occupied land." The Iraqi Armed Forces General Command stated that the missiles launched against Israel on February 12 were intended "to spread death and terror among those who terrorized our nation." The language accompanying the attacks on Saudi Arabia, though perhaps somewhat less vivid, was comparable. For example, the Iraqi Armed Forces General Command stated that the missiles launched at Riyadh on February 8 were intended "to punish the traitor al-Sa'ud family" and "to disturb the sleep of the tyrants."

These comments, when coupled with ongoing missile attacks against Israel and Saudi Arabia and the ever-present possibility that these missiles might be armed with chemical weapons, appear to have been made deliberately to spread terror among the civilian populations, in violation of the customary-law principle codified in Article 51 of Protocol I. Such spreading of terror is a violation regardless of whether any particular attack was aimed at a military or civilian target.

Finally, Iraq's missile attacks were not lawful reprisals. For those nations like the United States and Iraq that do not subscribe to an absolute ban on reprisals, reprisals are permitted under international law only in response to specified "grave and manifest violations of the law of armed conflict committed by the other Party," if taken for the sole purpose of enforcing future compliance with the laws of war, and if preceded by reasonable warning that retaliation will follow if illegal acts do not cease.

It is utterly implausible, when judged against these criteria, that Iraq's attacks on civilians could qualify as lawful reprisals. Israel did not participate in the hostilities during the Gulf conflict, let alone commit the "grave and manifest" violations of the laws of war against Iraq that might have justified reprisals. In the case of Saudi Arabia, even if Iraq believed that the coalition of which Saudi Arabia was a part was committing illegal acts against the Iraqi population, Iraq had a duty both to detail those alleged violations and to issue a warning to the coalition that reprisals might follow unless the alleged illegal acts ended. No such itemization or warning was ever given.¹⁰²

¹⁰² For more on the Iraqi missile attacks, see Middle East Watch, *Needless Deaths in the Gulf War*, November 1991.

The Right to Monitor

Independent in-country monitoring of human rights abuses committed by or with the knowledge of the Iraqi government has rarely been possible since the Baath Party's seizure of power in 1968. Under President Saddam Hussein, who assumed full power in 1979, this right has never existed. Independent human-rights organizations cannot function in Iraq, while foreign organizations in the past have faced great difficulty in gaining access to the country and carrying out their work. Various Iraqi exile political organizations and expatriate groups release information about alleged abuses, but typically these materials lack details and methodological rigor, and even their members risked murder at the hands of Iraqi agents.¹⁰³

Following the Gulf War, numerous private Arab, European and U.S. delegations were permitted entry to Iraq to deliver humanitarian aid, assess humanitarian needs, and document the damage to civilians and civilian facilities caused by the allied bombing campaign. These missions supplemented the post-war activities undertaken in Iraq by major international humanitarian and relief organizations such as the United Nations International Children's Fund and the World Health Organization. The office of the U.N. secretary general's executive delegate, Prince Sadruddin Aga Khan, had supervisory responsibility in Iraq for humanitarian matters, under the terms of a Memorandum of Understanding signed by the Iraqi government and renewed in November until June 30, 1992. Five hundred lightly armed U.N. guards were deployed mostly in northern Iraq under the terms of his mandate, but in practice these guards proved ineffective in preventing outbreaks of fighting between government forces and Kurdish guerrillas. Nor did they serve as an early warning system for human rights violations as had been hoped. The best that could be said of the U.N. operation in Iraq is that it provided an umbrella for the activities of a range of Western relief and humanitarian organizations.

These unprecedented post-Gulf war opportunities for access to nongovernmental organizations notwithstanding, Middle East Watch knows of no outside group working in Iraq in 1991 with an organizational mandate or agenda that includes the systematic documentation of human rights abuses committed by the Iraqi government. The Iraqi authorities extended Amnesty International an invitation on April 30, but when Amnesty in a May 8 letter set forth the

¹⁰³ See Middle East Watch, *Human Rights in Iraq* (New Haven: Yale University Press, Human Rights Watch Books, 1990) pp. 18-21.

organization's conditions for a visit to Iraq,¹⁰⁴ the Iraqi government never responded.

Middle East Watch wrote six times to the Iraqi authorities between February and July 1991, requesting permission to visit Iraq to investigate the effects of allied bombing and to visit prisoners of war, but did not receive a positive reply. However, after an informal meeting with Iraqi authorities in September, Human Rights Watch was informed on October 5 by the international affairs director of the Iraqi Red Crescent Society (IRCS) that approval for a visit to Iraq had been granted. On October 24, Human Rights Watch wrote to the IRCS outlining the guidelines that it would expect to follow on such a mission, including unrestricted access to and unaccompanied private interviews with local residents of cities and towns south of Baghdad. The IRCS has yet to respond to this letter.

In the absence of reporting from Iraq by independent international or domestic human rights groups, the dispatches of foreign correspondents provided the only public source of information from inside the country about current human-rights conditions and abuses. The movement of journalists was severely restricted during the Gulf war, and their reports were subject to censorship. However, on May 5, the Iraqi authorities lifted the requirement that the Ministry of Information undertake prior review of foreign journalists' stories,¹⁰⁵ opening a window on Iraq that has enabled greater public awareness of the country's internal affairs than previously had been possible.

In March, the U.N. Commission on Human Rights adopted a resolution that expressed "grave concern at the flagrant violations of human rights by the Government of Iraq." The resolution requested the chair of the Commission to appoint a special rapporteur to conduct a thorough study of human rights violations by the Iraqi government, notably those committed in 1991. Max Van der Stoep of the Netherlands was appointed special rapporteur on June 25, and on August 27 in Geneva, in his first face-to-face contact with a representative of the Iraqi government, Van der Stoep obtained permission to visit to Iraq. In a detailed

¹⁰⁴ Amnesty requested meetings with Saddam Hussein and other government officials, sought access to all areas of the country, and asked for permission to interview and conduct medical examinations of individuals known to be held in custody at prisons and detention centers.

¹⁰⁵ William Drozdiak, "Saddam Returns to Public View, Extols Iraq's Postwar Recovery," *The Washington Post* May 6, 1991.

memorandum to the Iraqi minister of foreign affairs dated September 16, Van der Stoel laid out numerous allegations of human rights abuses, based on information he had collected from various sources, and requested highly detailed information from the Iraqi authorities.¹⁰⁶ This memorandum, and Iraq's October 25 response, was submitted as the special rapporteur's interim report to the forty-sixth U.N. General Assembly session, which began on November 13. Van der Stoel informed the Iraqi authorities that he wishes to travel to Iraq in early January 1992, prior to submission of a final report to the forty-eighth session of the U.N. Human Rights Commission in February 1992. This would be the first mission to Iraq by an independent human rights investigator.¹⁰⁷ Van der Stoel requested from Iraq's Foreign Ministry "unrestricted access to all parts of the country and to such establishments, centres, compounds, buildings, documents, persons, etc., as may be deemed necessary for me to carry out my mandate, accompanied by such United Nations personnel and necessary advisers as would be required for the fulfillment of my tasks." It is not known whether the Iraqi authorities have agreed to these terms of reference for the mission.

One unexpected byproduct of the turmoil in Iraq in 1991 was the unprecedented exposure of the regime's past human rights abuses. While the abysmal record was generally known, precise information had been difficult to come by. However, during the uprising in March, when rebels seized control of prisons, they captured huge amounts of documentary evidence of past abuses. Following the ouster of the rebels, the exodus of refugees brought to the world's attention thousands of victims of past repression who were unafraid for the first time in their lives to speak frankly to foreigners. In addition, with the *pesh merga* in control of much of northeastern Iraq, Kurds and foreigners were able to travel extensively through rural Kurdish areas for the first time since the Baghdad regime had mined and sealed them off.

¹⁰⁶ The memorandum covered arbitrary detention, disappearances, torture, extrajudicial killings, measures used by the government to control civil disturbances, hostage-taking, and the use of civilians as human shields. It also requested information about Iraq's executive and judicial institutions, treatment of ethnic minorities, religious tolerance, and granting of equal access by all segments of the population to food and health care.

¹⁰⁷ Previous efforts to investigate Iraq had been consistently blocked at meetings of the U.N. Human Rights Commission in Geneva. Western nations, including the United States, had been less than enthusiastic prior to the Gulf war about supporting such investigations, but following the Iraqi invasion of Kuwait their attitude changed dramatically.

These developments helped to flesh out knowledge of past atrocities, particularly with regard to the government's campaign to empty the Kurdish countryside, the disappearances of scores of thousands of Kurds, and the harsh conduct of Iraq's security agencies throughout the country.¹⁰⁸

At year's end, human rights workers were still sifting through the mounds of documents, videotapes and material evidence captured from Iraqi security agencies. The evidence made the case strongly that past reports of the regime's brutality toward suspected dissidents was, if anything, understated. The discovery of several mass graves — which are due to be analyzed by forensic experts — may finally provide answers to the cases of tens of thousands of Kurds who disappeared during the 1980s.

U.S. Policy

The manner in which the Iraqi government suppressed the Shi'a revolt in the south and the Kurdish revolt in the north produced some of the most extensive and severe violations of human rights in 1991. Although Human Rights Watch is highly critical of the role of the Bush Administration with respect to these abuses, we do *not* espouse the view that military intervention was required for humanitarian purposes. Iraq was not the only country in which it might be argued that such intervention was required during 1991 to avert human rights disasters of great proportion.

Yet there are many arguments against military intervention even in such urgent circumstances. Without attempting to set forth those arguments here, it should be noted that the difficulties that attend this question are so great that Human Rights Watch has not yet adopted a policy on this question.

Nevertheless, we think that the Bush Administration deserves criticism because the conflicting signals that it gave probably contributed greatly to the tragedy that took place in Iraq when Saddam Hussein's forces massacred thousands in putting down the revolts and when nearly two million were forced to flee their homes. In part, the Bush Administration's actions may have reflected a lack of sufficient concern for the consequences of the signals it gave; in part it may be due to miscalculation; and in part it may be attributed to primary concern

¹⁰⁸ See, e.g., "Kurdistan in the Time of Saddam Hussein: A Staff Report to the Committee on Foreign Relations of the United States Senate," November 1991. The report was written by Peter Galbraith, staff director of the Senate Committee on Foreign Relations.

with political considerations unrelated to the well-being of the residents of Iraq. Whatever the reasons, the Administration contributed to the making of a tremendous human rights tragedy.

In other ways as well, despite the Bush Administration's persistent castigation of Saddam Hussein, the protection of human rights within Iraq was not a high priority in 1991. The Administration's pre-war criticism of the Iraqi government's human rights violations focused almost entirely on abuses committed in occupied Kuwait; the previous history of systematic atrocities inside Iraq was barely noted. A similar selective vision could be discerned once the Gulf war ended and the unprecedented uprising against the Baathist regime was met by the government's brutal suppression of the revolt and the unexpected mass flight of civilians. The Bush Administration expressed concern for human rights violations during this period, but acted forcefully only insofar as those fleeing the carnage became allied responsibility as they huddled in winter weather on the Turkish border. Three times as many Kurdish and Shi'a refugees fled to safety in Iran, but the mutually antagonistic relationship between Iran and the United States constrained Washington from either expressing concern about those on the Iranian border or providing much practical assistance. Indeed, for related reasons, very little was said by the Administration about the Iraqi Shi'a, whose suffering paralleled if not exceeded that of the Iraqi Kurds.

The Administration's greatest opportunity to prevent serious abuses by Iraqi forces came in the course of the uprising. Strong warnings reportedly were issued to the Iraqi authorities on March 7 against the use of chemical weapons during the unrest, but the Administration equivocated about the Iraqi military's use of helicopter gunships against civilians. President Bush and Secretary of State James Baker stated in mid-March that the helicopter gunships should not be used, but other Administration officials gave conflicting signals. In the end, the aircraft were employed to attack rebels and civilians alike without any more forceful reaction by coalition forces. Inquiries to Administration spokespersons about why the warnings had not been enforced met with embarrassed buck-passing and no substantive explanations.

Adding to the controversial nature of this equivocation was the president's call, in two separate speeches on February 15, for Iraqis to revolt: "There's another way for the bloodshed to stop, and that is for the Iraqi military and the Iraqi people to take matters into their own hands to force Saddam Hussein, the dictator, to step aside."¹⁰⁹ This at the time was the Administration's most explicit

¹⁰⁹ President Bush made this statement in remarks to the American Academy for the Advancement of Science in Washington, and again to an audience at a Raytheon Company

public statement that Saddam should be overthrown.¹¹⁰ The message, broadcast on Voice of America, suggested to many Iraqis that the United States would support them if they rebelled.

But once the call was heeded and the uprising began, fears of a disintegrating Iraq led the Administration to distance itself from the insurgents, downplaying the significance of the countrywide revolts and spelling out a policy of nonintervention in Iraq's internal affairs.¹¹¹ The Administration's unwillingness

factory in Andover, Massachusetts. He was responding to a lengthy statement issued by Iraq's RCC, which was broadcast on Radio Baghdad on February 15. The RCC hinted at a possible willingness to withdraw from Kuwait. Without mentioning Kuwait by name, the RCC announced "Iraq's readiness to deal with Security Council resolution No. 660 of 1990, with the aim of reaching an honorable and acceptable political solution, including withdrawal." The president dismissed the RCC statement as a "cruel hoax" and said there was "nothing new" in the various Iraqi demands included in the statement. ("Baghdad's Offer and Conditions for Ending War Over Kuwait" and "Excerpts From 2 Statements by Bush on Iraq's Proposal for Ending Conflict," *The New York Times*, February 16, 1991.)

¹¹⁰ As early as August 11, 1990, the president had hinted of his desire to have Saddam Hussein ousted: "No, we're not prepared to support the overthrow, but I hope that these actions that have been taken will result in an Iraq that is prepared to live peacefully in a community of nations. And if that means Saddam Hussein changes his spots, so be it. And if he doesn't, I hope the Iraqi people do something about it so that their leader will live by the norms of international behavior that will be acceptable to other nations." ("Excerpts From Statements By Bush on Strategy in Gulf," *The New York Times*, August 12, 1990.) The president said more on August 30, 1990: "Well, it wouldn't disappoint me if the Iraqis got up and said, 'Look, this man is our problem.'" ("Excerpts From President's News Conference on Gulf Crisis," *The New York Times*, August 31, 1990.) After the Gulf War began, the United States insisted that Saddam's removal was not a goal of U.S. policy. On February 1, 1991, the State Department denied that destroying Saddam's regime was a U.S. goal. However, on January 23, President Bush said that the United States would "shed no tears" if Saddam was overthrown.

¹¹¹ However, in August 1990, President Bush had secretly authorized the Central Intelligence Agency (CIA) and other U.S. agencies to undertake covert intelligence operations to destabilize the Iraqi government. (See Middle East Watch, *Needless Deaths in the Gulf War*, November 1991, pp. 84-85.) But destabilization efforts did not meet with success. *The Washington Post* reported that from August 1990 until the end of the Gulf war,

to back the insurgents — indeed, its eagerness to dispel the politically embarrassing impression that it had encouraged the uprising — appears to have led it to equivocate on the entirely distinct issue of Iraqi government abuses committed while crushing the insurgency.

A rationale for nonintervention was offered by Italian Foreign Minister Gianni De Michelis, who was interviewed after meeting with Secretary Baker in Washington on March 4. Expressing concern about the "fragmentation" and "Lebanonization" of Iraq, he said, "I am sure Saddam Hussein will go, but my worry is we will not have another friendly regime" in Baghdad.¹¹² In the following days, senior U.S. officials expressed similar sentiments. On March 7, U.S. Secretary of Defense Richard Cheney said, "The breakup of Iraq would probably not be in U.S. interests."¹¹³ The same day, Secretary Baker described the uprisings as "just one heck of a lot of turmoil." Asked if the United States preferred continued Baath Party rule to an Islamic revolution in Iraq, Baker said: "I'm not going to make a choice because I'm not sure that's what the choices are necessarily. I will say this — we do not want to see any changes in the territorial integrity of Iraq and we do not want to see other countries actively making efforts to encourage changes."

On March 5, Rear Admiral Mike McConnell, director of intelligence for the Joint Chiefs of Staff, acknowledged that "chaotic and spontaneous" uprisings were under way in thirteen Iraqi cities, but stated that Saddam would prevail because of the rebels' "lack of organization and leadership."¹¹⁴ White House spokesman Marlin Fitzwater appeared to discount the insurgents when he stated the same day, "It's not clear to us what the purpose or extent of the fighting is."¹¹⁵

"the CIA reported periodically that it had not found substantial or unified opposition to receive such assistance." (R. Jeffrey Smith and John M. Goshko, "U.S. Weighs More Aggressive Campaign to Topple Iraqi Leader," November 25, 1991.)

¹¹² William Claiborne, "Anti-Saddam Uprising Spreads in South Iraq," *The Washington Post*, March 5, 1991.

¹¹³ Lee Hockstader, "Baghdad Warns Insurrectionists 'They Will Pay,'" *The Washington Post*, March 8, 1991.

¹¹⁴ Nora Boustany, "Republic Guard Reported Battling Insurgents in Iraq," *The Washington Post*, March 6, 1991.

¹¹⁵ *Ibid.*

Secretary Cheney, in remarks on March 5, said he expected "a period of instability" in Iraq, but that "it would be very difficult for us to hold the coalition together for any particular course of action dealing with internal Iraqi politics, and I don't think, at this point, our writ extends to trying to move inside Iraq."¹¹⁶ The secretary's comment was reinforced by Marine Major General Martin Brandtner, deputy director of operations for the Joint Chiefs of Staff, who on March 5 ruled out U.S. military assistance to the rebels: "There is no move on the [part of] U.S. forces...to let any weapons slip through, or to play any role whatsoever in fomenting or assisting any side."¹¹⁷

State Department spokesman Richard Boucher explained on March 6: "We don't think that outside powers should be interfering in the internal affairs of Iraq." On March 21, Boucher added that "it's neither our intent [nor our purpose to try to choose the future leadership of Iraq." Asked whether by doing nothing the United States was giving Saddam a free hand to crush the revolt, Boucher replied, "Well, that remains to be determined." On March 23, President Bush himself publicly back-tracked: "I don't think it is for us to see what will follow on in Iraq...I think it would be inappropriate to try to shape or suggest even what government should follow on."¹¹⁸

With one significant exception, this reluctance to take sides in the revolt translated into a refusal to take a strong position about Iraqi government abuses committed in the course of the revolt. The exception was a forceful warning to the Iraqi government against the use of chemical weapons on the insurgents. A senior Administration official told *The New York Times* that Iraqi military communications had been intercepted revealing the imminent use of chemical weapons: "We got an intercept on [March 7] indicating that they were going to drop a gas bomb on a specific place at a specific time...We told them in very explicit terms that this was something that would not be countenanced." The *Times* reported that "Islenior Iraqi diplomats in Washington and New York were summoned [on March 7] by State Department officials and warned that the United States would not tolerate chemical attacks on rebellious Iraqi civilians."¹¹⁹ One

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ Just a week earlier, on March 17, Secretary James Baker had said: "We would like to see a change in that Government. We've made no bones about it."

¹¹⁹ Patrick E. Tyler, "U.S. Said To Plan Bombing of Iraqis If They Gas Rebels," March 10, 1991.

warning was delivered by Thomas Pickering, the U.S. ambassador to the United Nations, to his Iraqi counterpart, Abdul Amir Al-Anbari.¹²⁰ On March 9, Secretary Baker said in Saudi Arabia, in reference to the possible use of chemical weapons, "We think it's important to warn them."¹²¹

However, the Administration was unwilling to move beyond blocking the use of chemical weapons to barring — at least in a consistent manner — other weapons that were being used to slaughter civilians, particularly the helicopter gunships that were being used to fire indiscriminately on fleeing civilians. President Bush said on March 13 that Iraqi helicopter gunships "should not be used for combat purposes inside Iraq."¹²² The next day, the president obliquely tied the withdrawal of U.S. troops to the use of helicopters by Iraqi forces: "I want to bring [U.S. troops] home, but I'd like to have some security arrangements in place, and...using helicopters...to put down one's own people does not add to the stability of the area..." On March 17, Secretary Baker discussed an allied meeting with ten Iraqi officers in Safwan that day: "We've also said that helicopters should be used for logistical purposes, not for the purpose of shooting and dropping bombs on your own people."¹²³

On March 15, the president's and secretary of state's remarks notwithstanding, U.S. General Norman Schwarzkopf, commander of allied forces in the Persian Gulf, said that Iraqi fixed-wing aircraft would "be subject to being shot down" by coalition forces but said nothing about helicopters.¹²⁴ According to a

¹²⁰ Lee Hockstader, "Iraqi Army Struggling In South," *The Washington Post* March 10, 1991.

¹²¹ *Ibid.*

¹²² Dan Balz, "Bush Issues Warnings To Iran, Iraq on Turmoil," *The Washington Post*, March 14, 1991.

¹²³ Eric Schmitt, "Allies Tell Iraq Not To Fly Planes," *The New York Times*, March 18, 1991.

¹²⁴ David Hoffman and Barton Gellman, "U.S. Threatens to Down Any Iraqi Combat Aircraft," *The Washington Post*, March 16, 1991. Among the terms of the March 3 cease-fire agreement was a prohibition against Iraq's use of fixed-wing aircraft. According to the *Post*, "The precise details of the ceasefire agreements have been unclear....U.S. officials had said [on March 14] that, so far as they knew, there was nothing in the provisional cease-fire that explicitly prevents Iraq from using its helicopters in combat against rebellious forces." The *Post* reported:

Pentagon official, Major General Robert Johnston, General Schwarzkopf's chief of staff, had warned at the March 17 meeting in Safwan that the use of helicopters against the rebels was a "threat to coalition forces" and could lead to U.S. military action against the helicopters.¹²⁵ On March 21, even Pentagon spokesman Pete Williams acknowledged that U.S. policy regarding the use of helicopters was not clear. While admitting that "dozens" of helicopters were being used against the rebels, Williams declined to say whether U.S. forces would fire at these aircraft. He answered affirmatively when asked: "Is our policy somewhat ambiguous?"

The Administration justified distinguishing fixed-wing aircraft from helicopters by the differing threats posed to U.S. forces, without regard to atrocities being committed against civilians. White House spokesman Fitzwater explained that "the planes pose a far more serious threat to U.S. personnel because they fly faster and higher."¹²⁶ Fitzwater also stated on March 26: "We made it clear that we do not believe that they should be flying helicopters or fixed-wing aircraft over the country, that we intended to shoot down fixed-wing aircraft because of the direct threat that they posed to our forces."¹²⁷ Deputy White House spokesman Roman Popadiuk, when asked on March 29 about Kurdish requests for U.S. attacks on the helicopters, responded as if the matter concerned only which side prevailed in the conflict, not whether certain weapons were being used to

[White House spokesman Marlin] Fitzwater said the use of helicopters was not specifically addressed in the written agreement secured by Gen. H. Norman Schwarzkopf...According to Fitzwater, Schwarzkopf, when he met with Iraqi military leaders March 3, did discuss informally their intentions to use helicopters for transportation purposes. That was before the large-scale uprisings throughout Iraq had begun. Fitzwater characterized those discussions as outside the written agreement governing the provisional cease-fire and said the reason that U.S. officials concerned themselves at all with Iraqi aircraft was to protect U.S. troops.

(*Ibid*)

¹²⁵ Patrick E. Tyler, "Copters A Threat, US Warns Iraqis," *The New York Times*, March 19, 1991.

¹²⁶ Ann Devroy and R. Jeffrey Smith, "Neutrality in Iraq Reaffirmed by U.S.," *The Washington Post*, March 27, 1991.

¹²⁷ *Ibid*.

commit gross abuses: "The issue of internal unrest in Iraq is an issue that has to be settled between the government and the people of Iraq. It's a decision for the people of Iraq to make."¹²⁸ Asked on April 2 why President Bush issued the warning against the use of helicopters if he was not prepared to act on it, the State Department deferred to the White House. Secretary Baker was asked the same question two days later, but he, too, declined to answer. "Well, that's a question that you can address to [President Bush]," he said.

After Iraqi military forces crushed the uprising, senior Bush Administration officials adopted a self-consciously low public profile about the situation in Iraq.¹²⁹ On April 3, the president picked up the theme that what really was at issue was simply an internal conflict. "I feel frustrated," he said, "any time innocent civilians are being slaughtered. But the U.S. and these other countries with us in this coalition did not go there to settle all the internal affairs of Iraq."¹³⁰ One senior Administration official told *The Washington Post* "Engaging on this issue gains us nothing....This is not a crusade. It is a somewhat painful acceptance of a certain reality. You manage it in as low-key a way as possible and hope you get through it."¹³¹

On April 13, President Bush emphasized the Administration's top priority: "I want our troops out of Iraq and back home as soon as possible." While condemning the "continuing savagery" of the Iraqi president, Bush reaffirmed the U.S. policy of noninterference in internal Iraqi affairs, with the sole exception of protecting the provision of assistance to internally displaced Iraqis and Iraqi refugees. Rather than condemning the abuses that accompanied the suppression of the uprisings, the president downplayed the significance of the nationwide revolt by describing it as a manifestation of a long-standing internal conflict:

¹²⁸ R. Jeffrey Smith, "Administration Officials Still Debate Striking Iraqi Copters Strafing Rebels," *The Washington Post*, March 30, 1991.

¹²⁹ See, e.g., Ann Devroy and Al Kamen, "Bush, Aides Keep Quiet on Rebels," *The Washington Post*, April 3, 1991.

¹³⁰ Thomas L. Friedman, "Decision Not to Help Iraqi Rebels Puts U.S. in an Awkward Position," *The New York Times*, April 4, 1991.

¹³¹ Ann Devroy and Al Kamen, "Bush, Aides Keep Quiet On Rebels," *The Washington Post*, April 3, 1991.

Internal conflicts have been raging in Iraq for many years, and we're helping out, and we're going to continue to help these refugees. But I do not want one single soldier or airman shoved into a civil war in Iraq that's been going on for ages...We will not interfere in Iraq's civil war. The Iraqi people must decide their own political future.

The Bush Administration continued to worry that it would be held responsible for having encouraged the uprising. In a carefully crafted statement, State Department spokeswoman Margaret Tutwiler said on April 2 that the Bush Administration had "never, ever stated as either a military or a political goal...the removal of Saddam Hussein." She said that although the United States had said that normal relations with Iraq were "next to impossible" while Saddam Hussein was in power, it did not "call[] on [the] Iraqi people to put their lives on the line to overthrow the current leadership." It is unclear how the Administration could square this comment with President Bush's entreaty on February 15 for the Iraqi people "to take matters into their own hands."

On April 5, President Bush adamantly denied that the overthrow of Saddam Hussein was a U.S. policy goal. He appeared particularly sensitive to any perception, by Iraqis or others, that the rebels were betrayed by his Administration, stating:

I have not misled anybody about the intentions of the United States of America. I don't think the Shiites in the south, those who are unhappy with Saddam Hussein in Baghdad or the Kurds in the north, ever felt that the United States would come to their assistance to overthrow this man.

The president also said unequivocally, "I made clear from the very beginning that it was not an objective of the coalition or the United States to overthrow Saddam Hussein."

Some senior officials did use forceful language to highlight Iraq's suppression of the uprisings. But their strong words were coupled with equally strong indications of the limits of the U.S. role in post-uprising Iraq. On April 3, for example, President Bush condemned "in the strongest terms continued attacks by Iraqi government forces against defenseless Kurdish and other Iraqi civilians." He called on Iraq "to halt these attacks immediately and to allow international organizations to go to work inside Iraq to alleviate the suffering and to ensure that humanitarian aid reaches needy civilians."

Similarly, Secretary Baker, on April 7 in Turkey, spoke of the "utter brutality" of the Iraqi government and emphasized "Saddam's savage and indecent use of

force." He said that "Iraq's forces are killing, threatening, and committing crimes against the Iraqi people." But Baker ruled out any more active effort to stop the slaughter: "We are not prepared to go down the slippery slope of being sucked into a civil war. We cannot police what goes on inside Iraq, and we cannot be the arbiters of whom shall govern Iraq...We repeatedly said that could only be done by the Iraqi people."

As allied forces assumed responsibility for hundred of thousands of Kurds fleeing northern Iraq to Turkey, Secretary Baker was stronger in indicating that interference by Iraqi forces with international humanitarian assistance in any part of the country would not be tolerated. On April 8, after a brief visit to the hundreds of thousands of Kurdish families on the Turkish mountain slopes, Baker termed their situation a "mounting human tragedy." In a joint statement with the Turkish foreign minister that day, he said:

Once again, the brutality and folly of the Iraqi regime has created yet another gruesome tragedy: hundreds of thousands of refugees and many deaths among Iraqi citizens who sought only their democratic rights. The Saddam regime has not contented itself with more repression but has acted with excessive force, driving its own citizens out of their own land.

Baker also noted: "The international community has once again closed ranks in insisting that Iraq end its repression and allow immediate and unimpeded access by international organizations to all in need through the country."¹³²

With Kurds dying in inclement mountain terrain along the Iraqi-Turkish border, U.S. and allied troops established a 3,600-square-mile "safe haven" in northern Iraq to encourage the Kurds to come down from the mountains. This time, Iraqi helicopters were effectively grounded; under the terms of an agreement with the Iraqi government, Iraqi helicopters could not fly north of the thirty-sixth parallel which marked the southern edge of the security zone.

On June 7, responsibility for relief operations in the zone was transferred to

¹³² U.N. Security Council Resolution 688 of April 5, condemned "the repression of the Iraqi civilian population in many parts of Iraq," demanded that it cease, and insisted "that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq." The resolution only mentioned the Kurdish population and the Kurdish region of Iraq by name. It was passed by a vote of ten in favor, three opposed and two abstentions.

the United Nations High Commissioner for Refugees, and allied troops began to leave. Meanwhile, the United States announced plans for a "residual force" in Turkey to deter possible — but unspecified — Iraqi repression against the Kurds. Pentagon spokesman Pete Williams said on June 25 that the mission of this force would be "to stand by in the area in case there were problems in northern Iraq that required the military action."¹³³ Though again noting that the United States "cannot solve long-term...long-standing problems in the region between the Kurds and the Iraqis, between the Shi'as and the Iraqis," Williams adopted a more forceful stance than during the uprising, stating that there would be "very clear markers laid down to the Iraqis" about their expected behavior.¹³⁴

Similarly, President Bush this time hinted that the United States might consider some sort of unspecified intervention to protect Iraqi civilians "if the situation requires." In a commendably firm, albeit after-the-fact September 16 letter to congressional leaders, the president stated that his Administration

remains concerned about the situation of the Kurds and other internal population groups that have been the object of repressive measures by the Government of Iraq. We have informed the Government of Iraq that we will continue to monitor carefully the treatment of its citizens, and that we remain prepared to take appropriate steps if the situation requires. To this end, an appropriate level of forces will be maintained in the region for as long as required by the situation in Iraq.¹³⁵

The State Department also continued to insist that there was a clear link between "the residual coalition military force" in southeastern Turkey and the "deterrence" of Iraqi repression, at least in northern Iraq.¹³⁶ The Pentagon had taken the same public position some months earlier. In a July 24 interview, the

¹³³ R. Jeffrey Smith and Barton Gellman, "U.S., Allies Agree To Form Force for Protection of Kurds," *The Washington Post*, June 26, 1991.

¹³⁴ *Ibid.*

¹³⁵ At the time of the president's remarks, there were 36,266 U.S. military personnel deployed in Saudi Arabia, Kuwait and the Gulf. Of these, some 16,000 were navy personnel in the Gulf and surrounding waters and almost 11,000 were army personnel in Saudi Arabia.

¹³⁶ See, e.g., statement of spokeswoman Margaret Tutwiler, September 30, 1991.

then U.S. commander of the allied force in Turkey, army Colonel E.E. Whitehead, declined to specify the factors that might trigger allied intervention in northern Iraq, but warned that "we have the aircraft and means, if necessary, to move forces into Iraq."¹³⁷

It soon became apparent that the Administration's stance had more bark than bite. In early October, reports indicated that Iraqi military forces had indiscriminately shelled the northern city of Suleimaniyya, held by Kurdish rebels, and the towns of Kifri and Kalar south of Suleimaniyya,¹³⁸ and that thousands of civilians had fled to the mountains.¹³⁹ On October 8, State Department spokeswoman Tutwiler offered only this mild comment: "Iraq must allow the return of refugees to their homes in Suleimaniyya, Kirkuk and other parts of northern Iraq. This is an essential component of restoring stability." The Pentagon was sophisticated about the reports and appeared to excuse the actions of Iraqi forces. Spokesman Williams said that since the Iraqis were "not using any aircraft" to attack Kurdish forces north of the 36th parallel of the safe haven, the actions did not violate cease-fire agreements with the allies.¹⁴⁰ Tutwiler said on October 9 that the previous day "the State Department called in the Chief of the Iraqi Interests Section in Washington...to urge Iraq to cease using artillery against population centers." Little was made at the time or in the following weeks of the fact that up to 200,000 new refugees were created by this and a series of other Iraqi military actions along the internal cease-fire line.

Throughout the year, the Bush Administration showed a preference for highlighting the problems of the Kurds while tending to neglect, almost entirely, the situation of Iraq's Shi'a population, particularly after the March uprising in the

¹³⁷ Clyde Haberman, "Allied Strike Force Forms in Turkey," *The New York Times*, July 25, 1991.

¹³⁸ According to *The Washington Post*, "Kurdish sources said the fighting broke out [on October 5] when the guerrillas intercepted an Iraqi military communication ordering the capture of key rebel-held positions in the mountains around Kifri and Kalar. The government reportedly blamed the outbreak on Kurdish rebels." [Jonathan C. Randal, "New Exodus of Kurds Underway," October 9, 1991.]

¹³⁹ Jonathan Randal, "New Exodus of Kurds Underway," *The Washington Post*, October 9, 1991.

¹⁴⁰ "U.S. Assails Killing of 60," *The New York Times*, October 9, 1991.

south was crushed. This policy was undoubtedly linked to the long-standing fears of Western governments of an Iranian-style revolution in Iraq by Shi'a opposition groups. Following the crushing of the uprising, the same distrust of Iran, a Shi'a-led theocracy, and its religious kin in Iraq, led the allies to concentrate their relief efforts on Kurds fleeing to Turkey. The need to protect relief operations in the north then compounded the discrepancy in treatment.

In many Administration statements, the Kurds were mentioned by name while the Shi'a — in fact the majority religious group in Iraq — were subsumed in descriptions such as "other Iraqi civilians." Some international relief organizations complained that political considerations led the Administration to ignore the pressing need for humanitarian assistance in the war-ravaged Shi'a south. A senior policy analyst at the private U.S. Committee for Refugees said in June that the Bush Administration was spending \$7.60 on each Kurd fleeing toward Turkey but only \$1.00 for each displaced civilian in flight toward Iran.¹⁴¹ "The U.S. has weighed aid in a way that fits into our foreign policy objectives and doesn't take refugee needs into account," he charged. An official with the private International Rescue Committee said it was "the most political situation I've seen."¹⁴²

Andrew Natsios, the director of the Office of U.S. Foreign Disaster Assistance, which was responsible for coordinating U.S. humanitarian assistance in the Persian Gulf, conceded that southern Iraq was neglected: "I just didn't see any purpose of operating there," he admitted in June. "The crisis is in the north, not the south now."¹⁴³ This disparity between levels of humanitarian assistance to northern and southern Iraq continued throughout the year. State Department spokeswoman Tutwiler said on October 9 that there were approximately 1,339 foreign humanitarian workers in Iraq — including "U.N. guards, humanitarian type of workers, nongovernment organization type of people, Red Cross people" — and that about seventy-three percent of them were in the north. A Geneva-based journalist wrote in December that most relief agencies and the U.N. guards have been unable "to penetrate far into southern Iraq."¹⁴⁴ She noted that the Iraqi

¹⁴¹ Josh Friedman, "U.S. Won't Aid Shiites in Iraq," *New York Newsday*, June 10, 1991.

¹⁴² *Ibid.*

¹⁴³ *Ibid.* The statement ignored the then acute crisis faced by tens of thousands of Shi'a refugees trapped in the southern marshes region by the Iraqi army.

¹⁴⁴ Liesl Graz, "Small victories for the prince," *Middle East International*, December 6, 1991.

authorities were making cynical use of the dire situation in the south to score sanctions-lifting points with international public opinion.¹⁴⁵

The U.S. policy stance, portrayed as one of noninterference in internal Iraqi affairs, was contradicted in part by the Bush Administration's continuing hard line on maintaining international trade sanctions against Iraq until Saddam was ousted from power. Publicly disclosed in incremental fashion, this goal went beyond the objectives of the key post-war U.N. Security Council resolution pertaining to Iraq.¹⁴⁶ Equally significantly, it represented an undeclared about-face from U.S. public statements earlier in the year. On January 24, shortly after the war began, State Department spokeswoman Tutwiler explained U.S. policy this way: "We have been very clear of saying that our goal is not the change of Iraqi government, the change of Iraqi borders, etcetera. This is about withdrawing from Kuwait." Two weeks later, Tutwiler reinforced this statement, denying that the removal of Saddam was a U.S. objective. She asserted on February 11 that such action "would set a new goal, a new objective, and a new mission. And that is not what the United States and the U.N., in these resolutions, have called for." On February 27, when asked about a report that it was U.S. policy to maintain sanctions against Iraq after the war, to make it difficult for Iraq to restore itself unless Saddam Hussein was toppled, Tutwiler said: "I have never heard that mentioned....I have checked in this building [the State Department] and I have checked at the White House. I am not aware of a United States decision to keep an economic embargo."

On April 3, President Bush hinted for the first time at a new link created by the United States between the lifting of sanctions and a change of leadership in Baghdad. Applauding the passage of U.N. Security Council Resolution 687, which

¹⁴⁵ "According to serious witnesses, the general food situation in Baghdad has improved; even prices have stabilized, although at a high level. The real problem is in the south of the country, where the regime has few scruples about letting water-borne diseases and lack of medicines become visible enough to the selected visitors to make good copy abroad." (*Ibid.*)

¹⁴⁶ Security Council Resolution 687, which established the Gulf War cease-fire, provides, in the language of a U.S. State Department summary, for the lifting of all sanctions on Iraqi exports "when Iraq agrees to the destruction of its weapons of mass destruction and missiles, provides their locations to the Special Commission, and agrees not to acquire or develop them in the future, and when the Security Council approves the Secretary General's plan for the compensation fund." (U.S. Department of State, *Dispatch*, April 8, 1991.)

established the formal cease-fire with Iraq, the president said:

Certain sanctions will remain in force until such time as Iraq is led by a government that convinces the world of its intent both to live in peace with its neighbors and to devote its resources to the welfare of the Iraqi people. [Resolution 687] thus provides the necessary latitude for the international community to adjust its relations with Iraq depending upon Iraq's leadership and behavior.

The president's hint gathered more substance about six weeks later. On May 8, State Department spokesman Boucher said: "There'll be no normal relationships with the United States or with any other countries by Iraq as long as Saddam is in power. The President said sanctions are going to stay there as far as we are concerned."

The first full-blown articulation of the U.S. intent to link the lifting of sanctions with the downfall of Saddam came in a May speech by then-Deputy National Security Adviser Robert Gates. In a clear addition to the provisions of Security Council Resolution 687, Gates said that Saddam's "leadership will never be accepted by the world community, and, therefore, Iraqis will pay the price while he remains in power. All possible sanctions will be maintained until he is gone. Any easing of sanctions will be considered only when there is a new government."¹⁴⁷ The new policy was repeated almost verbatim on May 20 by White House spokesman Fitzwater.¹⁴⁸ The same day, President Bush said: "IMJy view is we don't want to lift these sanctions as long as Saddam Hussein is in power." Despite these statements, State Department spokeswoman Tutwiler insisted on May 21 that, with regard to Iraq, U.S. "objectives and goals have not changed."

Later in the year, in an address to the U.N. General Assembly on September 23, President Bush straightforwardly remarked that "it is the United States' view that we must keep the United Nations sanctions in place as long as [Saddam] remains in power...." The president reiterated this policy on October 1, during a visit by the emir of Kuwait to the White House. In remarks after the meeting, President Bush

¹⁴⁷ Gerald F. Seib, "Bush Plans to Keep Sanctions on Iraq Until Saddam Hussein Is Forced Out," *The Wall Street Journal*, May 8, 1991.

¹⁴⁸ Fitzwater said: "All possible sanctions will be maintained until he is gone. Any easing of sanctions will be considered only when there is a new government. Time is not on Iraq's side so long as Saddam holds onto power."

said: "We reaffirm our view that U.N. sanctions must remain in place against Iraq until a new leadership emerges in Baghdad, a leadership willing to live in peace with its neighbors and its own people."

On November 20, Assistant Secretary for Near Eastern and South Asian Affairs Edward P. Djerejian, in a statement before the House Subcommittee on Europe and the Middle East, said that "we bear no animus toward the Iraqi people who have suffered too long under a brutal regime. They deserve new leadership." He criticized the Iraqi authorities for playing "a shell game with food and medicine," and accused Saddam of a "callous policy of diverting supplies away from those who oppose him."¹⁴⁹ At the same time, Djerejian indicated that the U.S. policy on sanctions would mean continued suffering for Iraqi civilians as long as Saddam rules: "President Bush has made it clear that sanctions will continue as long as the ruthless dictator Saddam Hussein remains in power."

Ironically, the same Administration that rejected the use of sanctions to force Iraq from Kuwait now publicly advocated the continued application of sanctions to bring down Saddam Hussein, with Iraqi civilians "pay[ing] the price," as Deputy National Security Adviser Gates said in May. The policy presented Saddam with no way out: even assuming he complied with the terms of all post-war U.N. resolutions, if the United States had its way with the Security Council, as it consistently had over the previous nine months, the sanctions regime would not be changed as long as he remained in power. Although never stated as such, in reality the policy offered the Iraqi people a devil's bargain: keep Saddam in power and suffer the effect of continued sanctions, or attempt to overthrow Saddam, unassisted, and suffer the consequences should this undertaking fail — as it did in March.

The only other option appeared to be a military coup from within the Iraqi strongman's close-knit circle of aides and relatives, an eventuality which, given the brutal rights record of many of the possible coup-makers, could offer no consolation to the long-suffering Iraqi people. Indeed, this appeared to be the Administration's preferred option. In its dogged determination to see Saddam gone and finally hail the Desert Storm victory as complete, the Administration seemed willing to absolve the many other military officials who have made his abusive reign possible. President Bush himself openly suggested this approach in

¹⁴⁹ In a report from Baghdad, *The Washington Post* said that diplomats believe that the import and sale of food in Iraq are controlled by relatives and close associates of Saddam Hussein. (Caryle Murphy, "Iraq, Despite U.N. Sanctions, Is Able to Buy Food, Rebuild," December 10, 1991.)

a July press conference. "We'd be perfectly willing to give the military another chance," he said of an army that has been responsible for the summary murder of tens of thousands of innocent Iraqis, "provided Saddam Hussein was out of there." The strategy was evident in end-of-the-year leaked reports that the Administration was once again contemplating support for a military coup. It will be a tragic irony for the Iraqi people if, after enduring an international war that they had no voice in launching, the ruthless crushing of a popular uprising, and a cruel international embargo, their compensation is to be saddled with a new Saddam.

The Work of Middle East Watch

A substantial proportion of Middle East Watch's resources were devoted to working on different aspects of Iraq's human rights record during 1991, an allocation of resources remarkable for the fact that the organization has yet to gain official access to the country. In all, seven missions were sent abroad to gather information pertaining to Iraqi government violations.

Four missions were sent to neighboring regional countries: to Jordan in February, to interview refugees from Kuwait; to Kuwait in March, to review the Iraqi occupation record over the previous seven months; through Iran to the Iraqi border region in May, to interview refugees from the uprising; and to Israel in June, to undertake a first-hand investigation of Iraqi missile attacks during the war. Another mission went to Britain, to interview Iraqi exiles. Finally, in the continued absence of official permission, two clandestine missions were mounted inside Iraq itself, in September and December, to the Kurdish rebel-controlled north of the country.

Repeated requests to Baghdad during the year to visit Iraq and Iraqi-occupied Kuwait openly were met by either flat denials or stonewalling. Nor, despite U.S. government sympathy for the objective, was it possible to gain legitimate entry to Iraq through United Nations Security Council Resolution 698, which mandated access by foreign humanitarian organizations. In what appeared to be a breakthrough, on October 5 the Iraqi Red Crescent Society extended an invitation to Human Rights Watch — Middle East Watch's parent organization — to make a visit. However, by the end of 1991, exchanges of letters had still not resulted in Iraqi agreement to the autonomy and confidentiality needed to conduct a meaningful investigation.

The exceptional amount of attention paid to Iraq by Middle East Watch during 1991 was hardly surprising. Even if it had not been for Saddam Hussein's occupation of Kuwait and the Gulf War, the Iraqi regime's atrocious domestic

human rights record would have preserved that country's high priority on the Middle East Watch agenda. Reflecting that priority, *Human Rights in Iraq* originally published in February 1990 and re-released later in a Yale University Press edition, was this new organization's first major report.

Commencing in late 1990, Middle East Watch embarked on a large-scale enterprise aimed at studying the repression of the Kurdish people on a regionwide rather than purely national basis. The twenty-four to twenty-six million Kurds form a significant ethnic group in six regional states: Iran, Iraq, Lebanon, Syria, Turkey and the former Soviet Union. But their political epicenter during this century has usually been Iraq, where they comprise a larger share of the population (about twenty-five percent) than anywhere else. Previous reports on the mistreatment of Kurds in Turkey have been issued by Helsinki Watch, while previous Middle East Watch prepared reports on Iraq and Syria have contained sections on their Kurdish minorities. But no attempt previously had been made to draw parallels across borders about the treatment of the Kurds.

What altered these plans was the collapse of the March 1991 uprising in Iraqi Kurdistan, spurring a refugee exodus of Biblical proportions and gaining widespread international attention for the Kurds for the first time in their history. Plans by Middle East Watch to produce the regional report were thus dropped in favor of a more historical book of both text and photographs, intended for a wider public. The book aims to highlight cyclical patterns of repression and survival by the Kurds over the centuries. Scheduled for publication in 1992, *Human Rights Watch* is one of a group of international organizations sponsoring its publication.

Another Human Rights Watch-authored book due for publication in 1992, by Yale University Press, will present a broad overview of rights abuses linked to the Gulf war, much of them committed by Iraq. Most of the research for this book was carried out during the second half of 1991, in New York, Kuwait and Saudi Arabia.

Work undertaken during the past year on the Kurds book included three photographic trips to the region, to Iraq, Iran and Turkey; photo-research in the United States, Britain and France; field research on contemporary conditions in Turkey and Israel (the Israeli population today includes over 90,000 Jews of Kurdish origin); participation in conferences in Stockholm, Athens and Bonn on Kurdish human rights; and extensive archival research in several countries.

Discrete, separate research projects being undertaken by Middle East Watch on the treatment of the Iraqi Kurds by Baghdad are to run side by side with the larger demands of this book. In March, to coincide with a visit to Washington by a delegation of Iraqi Kurdish leaders pleading in vain for U.S. government aid, Middle East Watch gave a briefing on the fate of the more than 100,000 Iraqi Kurds who had escaped an earlier wave of persecution by Baghdad, in 1988, and whose

plight in exile in Turkey and Iran had been largely ignored by the West.

Earlier in March, Middle East Watch held a press conference in Washington to alert public opinion to the imminent danger of a massacre of Iraqi government opponents, as Saddam Hussein moved to crush civil unrest in the north and south of the country. Regrettably, those predictions of mass killings of unarmed civilians and the wholesale destruction of property were realized.

In April, a Middle East Watch delegation traveled with a staff member of the Washington-based U.S. Committee for Refugees to Teheran, Qom and refugee camps in western Iran, where they interviewed scores of recently arrived Iraqi refugees about recent and past human rights conditions in Iraq. The refugees provided extensive information about the March 1991 uprisings and their aftermath. They also provided detailed accounts of the government campaign to depopulate the Kurdish countryside during the 1980s, a decade in which over one hundred thousand Kurds disappeared; widespread arbitrary arrests and torture during detention; and the repression of the Shi'a in the south of the country.

Further work on the continued persecution of the Shi'a, including the destruction of religious property, mass arrests and a siege of tens of thousands of people trapped in the southern marshes, was conducted in London during June, through interviews with refugees and exiles, and later by telephone to Iraqi opposition groups based in Iran. The findings of these missions are summarized in the section above on human rights developments and will be the subject of forthcoming reports.

In September, a land-mines expert engaged by Middle East Watch on a three-month consultancy spent much of the month touring the rebel-held zone of northern Iraq. His task was to determine the prevalence of minefields laid by government forces over a period of many years, so as assess their impact on civilians. Preliminary conclusions from this pioneering study, which demonstrated that illegally laid mines may have caused up to ten thousand largely civilian casualties during 1991 alone, and were a serious obstacle to the resettlement of over half a million Kurdish refugees without shelter, were brought to the attention of the United Nations in Geneva, the U.S. Congress and State Department, and international relief organizations. A final report will be issued in early 1992.

As the Kurdish guerrilla organizations and parties regained control over their traditional homeland during the summer, in the shadow of Operation Provide Comfort — the U.S.-led military operation based in Turkey — a growing body of evidence began to emerge on the full extent of the Baathist regime's persecution of the Kurds. Journalists, Western parliamentarians and relief organizations encountered mass graves and huge caches of seized Iraqi secret police

documents, photographs and tapes attesting to suspected atrocities committed during what Baghdad had secretly dubbed the *Anfal* (a Koranic expression for the plunder of infidels) campaign of the late 1980s.

As a first step toward obtaining proof of the scale and circumstances of the killings, a joint Middle East Watch and Physicians for Human Rights mission was dispatched to the region in late December. The forensic anthropologists involved were asked to conduct a preliminary investigation of some of the many mass graves recently discovered in Iraqi Kurdistan. Further follow-up work is planned for early 1992.

Much of the Middle East Watch work on Iraq during 1991 stemmed from breaches of international humanitarian law. Prior to the outbreak of hostilities on January 17, the greatest preoccupation had been with the grave violations of the Fourth Geneva Convention committed by Iraqi forces in occupied Kuwait. Testimony by the Middle East Watch staff before the House Subcommittee on Europe and the Middle East on January 8 provided a resume of Iraq's record in Kuwait over the previous five months; it also looked back at the Kuwaiti government's own adherence to universally accepted human right norms prior to August 1990 and addressed U.S. human rights policy in the region after the Iraqi invasion.

On January 18, in the wake of the first Iraqi missile attack against Israel, Middle East Watch reminded all parties to the conflict of their obligations under the Geneva Conventions to respect noncombatants. On March 7, immediately after the cease-fire, it issued another newsletter — its sixth of the conflict on human rights and humanitarian issues — addressing the overlooked issue of the legal requirements governing treatment of prisoners of war, the wounded and the bodies of killed soldiers. An April article in the *New York Review of Books*, based on a recent visit to Kuwait, reconstructed the last terrible forty-eight hours of the Iraqi occupation.

During February, a Human Rights Watch specialist in humanitarian law spent three weeks in Jordan, at the height of the air war, interviewing former foreign residents of Iraq who were attempting to return home after fleeing the conflict. That mission provided part of the raw material for a March 6 newsletter on the bombing of Iraqi cities. It condemned the bombing without warning by the U.S. Air Force of the Ameriyya air raid shelter in Baghdad, in which two to three hundred civilians died. It also provided much of the testimony for a much larger Middle East Watch report, published in November, on civilian casualties resulting from violations by both sides of the Geneva Conventions and other applicable rules of war. Entitled *Needless Deaths in the Gulf War*, this 402-page report was widely quoted and reviewed, both for its ground-breaking legal analysis and for its

disclosures about the many instances in which the public portrayal of the air war by the U.S. government and its allies, as being in strict compliance with legal requirements to minimize civilian casualties, were at variance with the facts on the ground.

Jointly with Physicians for Human Rights, Middle East Watch also conducted research during the year into the misuse of U.N.-mandated economic sanctions against Iraq, with highly adverse consequences for the civilian population.

THE ISRAELI-OCCUPIED WEST BANK AND GAZA STRIP

Human Rights Developments

The year got off to a devastating start for Palestinians, with the imposition on the eve of the Persian Gulf war of a blanket curfew throughout the West Bank and Gaza Strip that was to last six weeks in most areas. By virtue of its comprehensiveness and duration, the curfew was the most severe act of collective punishment of the twenty-four-year occupation. It inflicted lasting harm on the economy and welfare of Palestinians.

After the curfew was substantially lifted in early March, rights conditions improved in some respects and deteriorated in others. The numbers of fatal shootings, administrative detentions, house demolitions, school closings and certain other abuses continued on the downward trend begun in 1990. However, even with this decline, human rights were violated in a widespread and systematic fashion.

The greatest deterioration in the welfare of Palestinians during 1991 was economic. The already depressed Palestinian economy was hard hit by the month-long curfew, new restrictions on working in Israel, a drop-off in funds from abroad due to the Gulf crisis, and the continuing tactics of both sides during the intifada. While economic conditions are not ordinarily a focus of concern for Middle East Watch and the other divisions of Human Rights Watch, they highlight the traditional civil and political rights concerns raised by the arbitrary and discriminatory manner in which Israeli authorities imposed restrictions with economic consequences for Palestinians.

Another issue of growing importance in 1991 was the killing by Palestinians of persons said to be suspected of collaborating with Israeli authorities. Despite some efforts by Palestinian leaders to curtail this practice, the number of such killings rose for the fourth consecutive year.

This chapter highlights some of the year's trends and developments, but is not an exhaustive survey of human rights conditions in the occupied territories. Among the topics not covered which impinge on civil and political rights are violence committed by settlers, arbitrary methods of land confiscation, restrictions on commercial life, and the building and expanding of Jewish settlements, which continued at an accelerated pace in 1991 in the occupied West Bank and Gaza Strip.

The Curfew during the Gulf War and Related Developments

By confining 1.7 million Palestinians to their homes for a full month during the Gulf war, Israeli military authorities completely shut down the Palestinian economy and education system, and turned day-to-day living into an ordeal. On January 16, the day after the U.N.-imposed deadline for Iraq to withdraw from Kuwait, Israeli authorities imposed a blanket round-the-clock curfew on the Gaza Strip; an identical curfew was imposed on the West Bank the following day.¹⁵⁰ This curfew, like previous ones, did not apply to the more than 100,000 Jewish settlers residing in the Gaza Strip and the portions of the West Bank outside of East Jerusalem.

Israeli authorities justified the curfew as a precaution necessary to prevent an explosion of violence in support of Saddam Hussein,¹⁵¹ at a time when, inside Israel, a state of emergency had been declared, schools and many workplaces were closed, and citizens were on constant alert to retreat to sealed rooms in their homes in the event of Iraqi missile attacks.¹⁵² Authorities claimed that Palestinians in the territories, many of whom voiced support for Iraq in its

¹⁵⁰ Some areas had already been under curfew for days or weeks.

¹⁵¹ Brigadier General Freddy Zach, deputy coordinator of government activities in the territories, as reported in Martin Merzer, "West Bank Curfew: 1.7 Million Trapped," *Miami Herald*, February 4, 1991.

¹⁵² Iraq's missile attacks on Israel and Saudi Arabia violated the laws of war by targeting civilians indiscriminately. The attacks are discussed in the above chapter on Iraq.

confrontation with the U.S.-led coalition, had been instructed by the Palestine Liberation Organization (PLO) to wage violence against Israel should war break out.¹⁵³

While such security concerns could legitimately be advanced in support of a curfew, the comprehensiveness and duration of this curfew revealed Israel's disregard of its obligations under international law to attend to the welfare of the population under occupation, and to weigh the steps it takes for its own security needs against that obligation.¹⁵⁴ Israel did not, for example, make adequate and timely efforts to lift the curfew to test its continuing necessity, or to allow exceptions for localities that had been relatively quiet during the intifada and presumably posed a lesser threat to security and public order.

Absent such efforts to tailor Israel's security requirements to the most fundamental needs of the occupied population, the curfew increasingly appeared to be an act of collective punishment against Palestinians for their widespread support of Iraq. Curfews imposed or prolonged punitively are, like all forms of collective punishment, absolutely prohibited by international law.¹⁵⁵

During the curfew, work was not permitted, except for certain basic services,

¹⁵³ See, e.g., the interview with Shmuel Goren, coordinator of government activities in the occupied territories, Jerusalem Israel Television Network in Arabic, February 1, 1991, as reported in Foreign Broadcast Information Service (FBIS), February 4, 1991.

¹⁵⁴ This obligation was recognized by the Israeli High Court of Justice beginning with a concurring opinion in 1971 which held: "The occupant is entitled to impose its authority on the population of the territory...But alongside the right of the occupant is its duty to be concerned with the welfare of the population." *The Christian Society for the Holy Places v. The Minister of Defense et al*, HCI 337/71, Summarized in English in 2 *Israel Yearbook on Human Rights*(1972), pp. 354-356.

¹⁵⁵ See Article 33 of the Fourth Geneva Convention of 1949. Israel has ratified the Fourth Geneva Convention, but maintains that it is not applicable to the territories it has occupied since 1967. Virtually the entire international community, including the U.N. Security Council, the United States and the International Committee of the Red Cross, maintains that Israel is obliged to comply with the Convention in its administration of all occupied territories.

While disputing the convention's *de jure* applicability, Israel has said that it will voluntarily comply with the Convention's "humanitarian provisions." However, it has never specified which provisions it regards as humanitarian, and the Israeli courts have declined to enforce the Fourth Geneva Convention.

such as health care, legal defense, food distribution, and some municipal and relief functions. Even these sectors operated at greatly reduced capacity, since many workers did not receive passes to leave their homes. Medical services, particularly non-emergency and preventive care, were heavily impeded. Outside of some rural areas away from main roads, farmers were unable to work in their fields.

Palestinians without curfew passes could not leave their homes, except for occasional periods of one hour or longer when, on a rotating basis, residents of specified areas were permitted outdoors to shop and run essential errands. All Palestinian schools in the West Bank and Gaza remained closed, even after schools attended by Israeli citizens began to reopen on January 27.

Difficulties mounted for many Palestinians as the curfew continued and they spent their savings and stockpiled goods. While hunger did not become widespread, there were shortages of various staples, and some families, deprived of income, were unable to feed themselves properly. In these respects, Israel violated its duties under Articles 55 and 56 of the Fourth Geneva Convention.¹⁵⁶

Israel's disregard for its humanitarian obligations was also shown in its failure to provide Palestinians with the same protection from Iraqi missiles that it provided its own citizens. Shortly after Iraq's invasion of Kuwait, Israel began preparing civil-defense measures against possible chemical-weapon attacks, distributing free gas masks and anti-gas protection kits to Israeli citizens living on both sides of the Green Line. Palestinians were informed that they would not receive this equipment.

This policy changed only after Israel's High Court of Justice on January 14 labeled it "patent discrimination" and ordered the immediate distribution of masks to the entire population of the occupied territories. Israel was slow to comply with the order, claiming that it did not have enough masks on hand. Some

¹⁵⁶ Article 55 requires an occupying power to ensure "the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territories are inadequate." Article 56 states:

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory...Medical personnel of all categories shall be allowed to carry out their duties.

three weeks later — after eight volleys of Iraqi missiles had landed on Israel and the West Bank — only four percent of the population of the West Bank and Gaza Strip had received gas masks.¹⁵⁷ Nor did authorities provide the occupied territories with the sort of air-raid sirens that inside Israel warned citizens of incoming missiles.

During the curfew, Israel carried out large numbers of arrests. In the first four weeks, 3,005 Palestinians were arrested in the West Bank and 642 in the Gaza Strip, according to the Israeli human rights group B'Tselem. Of those arrested in the West Bank, 1,714 were accused of breaking the curfew; many were held for several days or longer and then released after undertaking to pay stiff fines.

Others were detained on apparently political grounds. Among the prominent cases were philosophy professor Sari Nusseibeh, physician Mamduh al-Aqer and journalist Taher Shriteh, none of whom had been detained before. Their cases exemplify the kind of arbitrariness and ill-treatment to which so many other Palestinians have been subjected when arrested. Of the three, two were never charged at all, and the third was charged only after spending five weeks in detention.

- o Professor Nusseibeh, a political activist who supports the mainstream Fatah wing of the PLO, was arrested on January 27 and accused of providing information by phone to an Iraqi official about where Iraqi Scud missiles had landed in Israel. After thus intimating that Nusseibeh was spying for Iraq, Israeli authorities filed no charges, but instead issued a six-month administrative detention order. They claimed, as they had in defending numerous administrative detentions in the past, that a trial in open court would compromise intelligence sources. Nusseibeh's sentence was later reduced by half, and he was released in April.
- o Dr. al-Aqer was arrested on February 27 and accused of "promoting hostile terrorist activity" and "maintaining connections with terrorist organizations." He spent over five weeks in investigative detention without charge. During this time, he later related, he was prevented from sleeping for a sixty-hour period, forced to stand with a sack over his head and his hands tied behind his back, and confined in a small, closet-like room. Since his release on April 7 he has not been charged.

¹⁵⁷ *Jerusalem Post*, February 4, 1991.

- o Shriteh, a stringer in Gaza for several Western news organizations, was arrested on January 28 and accused of possessing and failing to report his possession of a fax machine received from a friend described by authorities as an activist in the outlawed Islamic movement Hamas. Shriteh spent over five weeks in investigative detention without charge. During this period, he recounted later, he was confined for eleven days in a sixty-by-thirty-inch room, deprived of food for four days, and denied permission to go to the bathroom for long periods. He was released on bail March 7, and was charged a short time later with "failing to prevent a crime" by not reporting to the authorities that the friend who had given him the fax machine was an alleged Hamas member and with accepting the machine for safekeeping. As of December, Shriteh's trial had not begun, and no court date had been set. Meanwhile, impediments continued to be placed in the exercise of his profession. The Civil Administration wrote to Reuters, Shriteh's principal employer, that his application for a license to possess a fax machine would not be considered as long as the case against him was pending. He also has encountered obstacles each time he requests official permission to travel to Jerusalem, where his employers have offices.**

After the Gulf War

The blanket curfew imposed at the outset of the Gulf war began to be lifted gradually in mid-February. In limited numbers at first, schools reopened and workers were allowed to return to their jobs in Israel. On March 3, the daytime curfew was lifted from the entire Gaza Strip for the first time since January 16. However, the nighttime curfew imposed on all 700,000 residents of the Gaza Strip since 1988 remained in effect. The West Bank curfew was lifted with the exception of several towns and villages.

With the lifting of the curfews, Palestinians confronted tough new restrictions on their freedom of movement into and through Israel, including annexed East Jerusalem. These measures dealt a severe blow to the already ailing Palestinian economy.

Before the Gulf war curfew, West Bank Palestinians had been permitted into Israel and annexed East Jerusalem unless explicitly forbidden.¹⁵⁸ After the war, the presumption was reversed. West Bank residents were forbidden to enter unless explicitly permitted.

For Gazans, this reversed presumption had already been in effect since 1989, when military authorities began requiring persons wishing to enter Israel to obtain permits, in the form of magnetic cards. Many men were refused permits either on security grounds or for alleged nonpayment of taxes. In the spring of 1991, the system in Gaza was tightened further when magnetic-cardholders were required to obtain an additional permit to enter Israel.

As a consequence, many workers from the West Bank and the Gaza Strip were forced to abandon jobs or day labor inside Israel and annexed East Jerusalem. On March 8, only 47,200 Palestinian workers entered Israel with permits, according to the *Jerusalem Post*. Eight months later, the number of Palestinians working inside

¹⁵⁸ Since 1989, the Israel Defense Force has issued to several thousand West Bank residents green identification cards which forbid them from entering Israel, including annexed East Jerusalem. In November 1990, Defense Minister Moshe Arens said he had agreed to issue 2,400 new green cards, bringing the total to 10,000. *Jerusalem Post*, November 20, 1990.

Most green-cardholders are men who have served sentences in prison or administrative detention, for whom the travel restrictions are either an improper *ex post facto* penalty, insofar as they are punishment, or a blanket and arbitrary act of discrimination, insofar as they have a security rationale.

Israel had climbed back to 70,000, according to Israeli television. Nonetheless, this represented a loss of 40,000 to 50,000 jobs compared to one year earlier, when Palestinians employed in Israel accounted for one-third of the West Bank labor force and twenty-five percent of its gross national product, and forty percent of the Gazan labor force and half of its gross product.¹⁵⁹

The official justification for reducing the number of Palestinian workers inside Israel was a rash of knife attacks, some fatal, in late 1990 and March 1991, perpetrated by Palestinians on Israeli civilians and soldiers inside the Green Line. The cutback in Arab labor was made more feasible economically for Israel by the entry into the workforce of thousands of Soviet immigrants.

Palestinians without explicit permission to enter Israel were also effectively prevented from traveling between the West Bank and the Gaza Strip, since the connecting roads pass through Israel; and between the northern and southern halves of the West Bank, since the connecting road passes through Jerusalem.

While Israel has the right to restrict entry at its borders, the manner in which the policy has been implemented is objectionable on at least two grounds. First, Palestinians who have not obtained permission to enter Israel are also barred from annexed East Jerusalem, the largest city and *de facto* capital of the occupied West Bank. These Palestinians are thus prevented from reaching not only what the international community considers an integral part of the West Bank, but also such important facilities as the al-Aqsa mosque, Jerusalem's prominent hospitals, and the headquarters of nearly all Palestinian newspapers and professional associations.¹⁶⁰ Second, Israel has restricted entry in an arbitrary and indiscriminate fashion, barring virtually every Palestinian who has ever been arrested on security grounds, including some who had been picked up and then released without charge, as well as others who have never even been arrested.

Many of those affected by the ban were former administrative detainees who had been accused of political activism in the PLO but never of having committed acts of violence. These included professors, journalists and other professionals. Since the reason offered for the new restrictions was to prevent knife attacks on Israelis, the inclusion in the travel ban of people with no history of violence was

¹⁵⁹ Brigadier General Freddy Zach, deputy coordinator of activities in the territories, quoted in the *Jerusalem Post*, January 3, 1991.

¹⁶⁰ See al-Haq, "Restriction of Access to and through East Jerusalem," *Human Rights Focus*, April 4, 1991.

clearly arbitrary. That someone has been interned without trial or meaningful avenue of appeal, or has been picked up and then released without charge, should provide no legitimate basis for restrictions on their freedom of movement.

The arbitrariness of the restrictions is compounded by the limited means provided to contest them. Persons whose movements have been restricted may file a written "objection" with the Civil Administration, but are offered no opportunity for a hearing and, if the restrictions are upheld, no specific reasons why they have been imposed. They have no recourse to the courts other than appealing to Israel's High Court of Justice, which gives wide discretion to the judgment of the Israel Defense Forces (IDF) in deciding which security measures are necessary. Even in cases in which the authorities have rescinded travel restrictions, it has taken as long as six months from the time of filing the objection to obtain renewed permission to travel, according to lawyer Tamar Pelleg of the Association for Civil Rights in Israel.

The restrictions have been disastrous for the Palestinian economy, which during twenty-four years of occupation has grown dependent on exporting labor to Israel, partly as a result of Israeli policies. Workers who lost their jobs had few readily available alternatives in the bleak post-war economy, and unemployment grew rapidly. Israel's failure to provide relief to the affected population arguably violates Article 39 of the Fourth Geneva Convention, which states in pertinent part, "Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents."

As Palestinian employment inside Israel declined, Israeli authorities in 1991 announced several measures to stimulate the economy in the territories.¹⁶¹ While these may strengthen the private sector in the West Bank and Gaza Strip over time, this policy cannot compensate in the near-term for the pauperization of thousands of Palestinians due, among other factors, to the sudden loss of jobs in Israel.

The new restrictions on entry into Israel exacerbated the obstacles surrounding family visits for Palestinians being held in prisons inside Israel, although the problems were gradually resolved during the autumn months. After the Gulf war, the same the restrictions on crossing the Green Line required visiting family members to obtain permits from the Civil Administration. In September,

¹⁶¹ See "Israel Begins Plan for Arab Business," *The New York Times*, December 1, 1991.

visits to prisons other than the Ketsiot Detention Center¹⁶² resumed after Israel dropped the permit requirement for relatives as long as they traveled to and from the prisons in buses operated by the International Committee of the Red Cross (ICRC).

In October, inmates at Ketsiot began to receive family visits for the first time since its opening three and-a-half years earlier. The visits had been prevented by a standoff between the IDF and the Palestinian leadership over the requirement that family members obtain permission from the occupation authorities to travel to Ketsiot, which is in a closed military zone inside Israel. Palestinians insisted that family visits to prisoners should take place as a matter of right, and objected to being forced to submit to an application process involving unrelated conditions. These processes, also endured by Palestinians seeking permission to do such things as travel abroad or obtain a drivers license, usually entail long waits, the approval of numerous agencies, including the security services, and proof that all taxes have been paid.

The impasse was broken when Palestinians and the IDF agreed that the ICRC would act as intermediary between the families and the Civil Administration, so that permits for visits would be granted without the relatives having to apply directly to the authorities. As with other prisons inside Israel, families travel back and forth on ICRC buses.

Middle East Watch holds Israeli authorities responsible for the above-mentioned obstacles to family visits to Palestinian prisoners held in Israel, since the problem stems from Israel's transfer of well over half the Palestinians it holds to facilities inside the Green Line, in violation of the Fourth Geneva Convention. Article 76 of the Convention requires that residents of occupied territories detained or imprisoned serve their sentences in the occupied territory.

¹⁶² Ketsiot, which Palestinians call Ansar III, is the largest detention facility of any kind in Israel or the occupied territories. It was built in 1988 at a remote location in the Negev desert near the Egyptian border, to help to accommodate the thousands of Palestinians arrested since the start of the intifada.

Ketsiot's population consists of Palestinian residents of the occupied territories who have been arrested on security grounds. Authorities at Ketsiot gave its population on October 9, 1991 as 5,897, composed of 466 administrative detainees, 4,640 sentenced prisoners and 791 awaiting trial, including both those not yet charged and those ordered held until the end of trial proceedings. These figures represent a decline from late March, when Ketsiot held over 7,000 inmates.

Excessive Force and Accountability for Abuses

While the post-war period began with a tough new policy on freedom of movement, the incidence of certain other types of human rights abuses continued to decline. During the first eleven months of 1991, security forces shot dead eighty-seven Palestinians, according to the Israeli human rights group B'Tselem. While this number is higher than during any year before 1988, it represents a monthly average that is less than half the average for the thirty-seven months of the Palestinian uprising through the end of 1990.

Though lower than in previous years, the number of Palestinians wounded or killed continues to include many avoidable casualties that are the foreseeable result of Israeli policies. These policies include open-fire orders that are excessively permissive in that they do not conform to internationally accepted principles of permitting the use of lethal force only to counter a mortal threat and only when no lesser means are available.¹⁶³

After four years of the intifada, the IDF continues to use live ammunition in riot-control situations, instead of relying on less lethal means of quelling unrest, and conventional riot gear such as protective shields. Large numbers of Palestinians continue to sustain bullet wounds in the upper parts of their bodies despite open-fire orders requiring soldiers to aim at the legs. The IDF also seemed to step up more pinpointed actions, such as using undercover units to capture suspected activists,¹⁶⁴ and placing sharpshooters authorized to shoot stone-throwers on roads where drivers were considered to be at risk of such attacks.¹⁶⁵

¹⁶³ See Middle East Watch, *The Israeli Army and the Intifada: Policies that Contribute to Killings*, 1990.

¹⁶⁴ The existence of undercover units, which have been active in quelling the intifada since 1988, was confirmed by the IDF in a June 21 broadcast on Israeli television. They have been accused of deliberately executing a number of wanted activists, as discussed below.

¹⁶⁵ According to *Haaretz* of December 21, 1990, the IDF judge advocate-general asserted that the sharpshooters were following the standing orders for opening fire, shooting only when there is a threat to human life or when a suspect disobeys orders to halt and tries to flee. (See FBIS, December 28, 1990.) Nevertheless, the deployment of sharpshooters with live ammunition appears to be a disproportionate use of force. A December 13, 1990 *New York Times* story said the army acknowledged that while there had been many injuries, not one Jewish driver had been killed as the result of a hurled stone since the Palestinian

Moreover, a continuing laxness in investigating and disciplining soldiers encouraged them to believe that they are unlikely to face meaningful punishment if they exceed their orders.

The decline in fatalities reflects mainly a drop in the level of confrontations between Palestinian youths and Israeli soldiers, rather than greater restraint on the part of soldiers in opening fire in given situations, or a tightening of the standing open-fire orders. Some observers attribute the reduction in part to a policy implemented in 1990 under newly installed Defense Minister Moshe Arens to reduce the amount of contact between IDF troops and the Palestinian population. Under this strategy, troops cut back their routine patrols through populated areas to reduce the opportunities for the kind of stone-throwing confrontations that so often ended in gunshot injuries and deaths.

However, when confrontations occurred, the IDF continued to respond with excessive force. One particularly permissive aspect of the open-fire orders concerns firing live ammunition at suspects who ignore orders to halt. The definition of "suspect" in the orders is sufficiently broad to include persons who are posing no imminent physical danger to others.

In May 1991, the Ramallah-based human rights organization al-Haq charged that of the twenty-nine Palestinians it said had been shot and killed by security forces during the first quarter of 1991, ten — thirty-four percent — had died while fleeing from Israeli soldiers. Al-Haq identified "two dominant patterns of the use of lethal force against fleeing suspects: (a) opening fire upon a person, apparently simply because he/she runs away from military personnel; (b) opening fire upon persons suspected of stone-throwing."¹⁶⁶ To this may be added several youths who were injured or killed by live ammunition when or shortly after they were spotted writing political slogans on walls.

There have also been allegations by al-Haq and other human rights organizations that Israeli security forces have ambushed and deliberately executed a number of wanted suspects whom they could have captured.¹⁶⁷ Despite

uprising began three years earlier. Joel Brinkley, "Israel Sends Snipers To Stop Car Stonings."

¹⁶⁶ Al-Haq contended that soldiers often violated their written orders to shout a warning to halt and then fire a warning shot before opening fire at fleeing suspects. "The Illegal Use of Lethal Force against 'Fleeing Suspects,'" *Human Rights Focus*, May 1, 1991.

¹⁶⁷ See al-Haq, *Nation under Siege*, 1990, pp. 60-67.

Israeli denials the army's open-fire orders, at the very least, amount to a "wanted-dead-or-alive" policy toward certain categories of unarmed fleeing suspects.

Even those liberal orders may have been routinely exceeded in some units with the approval of the commanders, as testimony in a recent court-martial suggests. Contrary to the IDF's claim that undercover units must follow its standard open-fire orders, a member of an undercover unit testified in October 1991 that his commander had instructed soldiers to aim at the midsection of suspects, in defiance of orders to aim only at the legs. The commander, a lieutenant colonel, is facing charges in connection with the killing of a youth in Gaza. The trial was continuing as this report went to press.

The fatal consequences of liberal open-fire orders are compounded by the IDF's laxness in investigating and punishing soldiers who violate those orders. In 1991, the military justice system continued to treat abuses by security forces with leniency: few soldiers who injured or killed Palestinians in questionable circumstances were court-martialed, and even fewer received prison sentences.

The Israeli criminal justice system once again showed greater willingness to expose abuses by security forces than to mete out appropriate punishments. Nowhere was this better illustrated than in the vigorous inquest into the October 8, 1990 killings at the Temple Mount/Haram al-Sharif in Jerusalem. After seven months of hearings into that event, presiding judge Ezra Kama released a report in July which blamed police officers for using excessive force at several specific moments that morning against those gathered in the sanctuary.¹⁶⁸ Despite the detailed evidence produced by the judge, not a single policeman or officer involved in the incident has been charged or punished. In a letter dated October 20, 1991, a Justice Ministry spokesman told Middle East Watch that the State Attorney's office was still reviewing the report of Judge Kama.

Similarly, military courts during the past year declined to give prison sentences to the first two high-ranking officers to be convicted for intifada-related abuses. Colonel Yehuda Meir was convicted of aggravated battery — an offense which carries a maximum sentence of twenty years' imprisonment — for ordering his subordinates to arrest, tie up and severely beat a group of twelve West Bank Palestinians in 1988. While calling his orders "patently illegal," the court sentenced him to only a demotion, to the rank of private. Colonel Yaakov Sadeh, who was convicted of negligently causing the death of a Gaza youth he shot during a disturbance in 1989, was given a suspended six-month sentence and a

¹⁶⁸ The inquest by Judge Kama was a vast improvement over the exculpatory report on the events issued October 26, 1990 by the government-appointed Zamir commission.

reprimand.

As this report went to press, two court-martials of lieutenant colonels were in progress. In the first, cited above, the commander of an undercover unit is charged with manslaughter for giving his unit illegal open-fire orders. The second involves an officer in charge of a wing of Ketsiot detention center who is charged with beating inmates.

Fortunately, a bill to amnesty soldiers outright for human rights abuses committed during the early months of the intifada did not advance in the Knesset, after encountering opposition from Defense Minister Moshe Arens and Justice Minister Dan Meridor. Such an amnesty would violate Israel's obligation to punish those responsible for gross abuses.

Elsewhere, the rule of law was undermined by inflammatory statements made by Police Minister Ronnie Milo and other officials urging Israeli policemen and civilians to take the law into their own hands. In March, after a number of knife attacks by Palestinians had left seven Israelis dead and several wounded, Milo declared: "If any Israeli, whether policeman or not, sees someone with a knife trying to kill, he should shoot....If in the past there were doubts and fears about shooting to kill, they have no place today."

Milo's incitement to shoot to kill encourages Israeli civilians and police officers to ignore lesser means when they, too, may be effective in stopping an attack, such as striking an assailant with a rifle butt or firing to wound or disarm him. In this respect Milo's position contradicts both Israeli police regulations and the applicable law. Israeli police regulations require an officer who fires a gun to show that "no other means of force was available to ensure implementation of the mission and that the nature of that mission justified the use of this extreme means." For civilian use of firearms, the applicable section of the penal code is Israel's "law of necessity," which states:

a person may be exempted from criminal responsibility for any act or omission if he can show that it was done or made in order to avoid consequences which could not otherwise be avoided and which would have inflicted grievous harm or injury on his person, honor or property or on the person or honor of others whom he was bound to protect or on property placed in his charge, provided that he did no more than was reasonably necessary for that purpose and that the harm caused by him was not disproportionate to the harm avoided.¹⁶⁹

¹⁶⁹ Section 22 of the Penal Law, 1977.

While somewhat open-ended, this statute makes clear that a civilian's gunfire must adhere to the dual principles of necessity and proportionality.

Milo's endorsement of shooting to kill has not led to any revision of the applicable laws or regulations. Nevertheless, his comments, which he has neither retracted nor adequately clarified, constitute an endorsement of lawlessness by the country's top law enforcement official.

Abuse during Interrogation

Torture is common during the interrogation of Palestinian security suspects by Israel's General Security Service (Shin Bet or GSS), as was persuasively documented in reports issued this year by B'Tselem and Amnesty International. For those who are brought to trial, abuse during interrogation is followed by systematic failure to accord a serious hearing to any claim that a confession had been improperly coerced.

Available data is insufficient to determine whether the level of abuse during interrogation increased or decreased in 1991 compared to earlier years. However, several dramatic developments placed torture on the public agenda inside Israel, beginning with the release of the B'Tselem report in March. B'Tselem reported:

Virtually all our sample [of forty-one detainees from the West Bank and Gaza Strip] were subject to: verbal abuse, humiliation and threats of injury; sleep and food deprivation; hooding for prolonged periods; enforced standing for long periods, sometimes in an enclosed space, hands bound behind the back and legs tied; being bound in other painful ways (such as the "banana" position); prolonged periods of painful confinement in small, specially constructed cells (the "closet" or "refrigerator") and severe and prolonged beating on all parts of the body (resulting sometimes in injuries requiring medical treatment).¹⁷⁰

Amnesty International reported similar abuses, charging that "torture or ill-treatment seem to be virtually institutionalized during the arrest and interrogation procedures preceding the detainee's appearance before a military

¹⁷⁰ *The Interrogation of Palestinians during the Intifada: Ill-treatment, "Moderate Physical Pressure" or Torture?*, March 1991, p. 106.

court."¹⁷¹ Both reports provided evidence to support the kinds of allegations that have been persistent since the early years of Israel's occupation of the West Bank and Gaza Strip.

The B'Tselem report prompted the formation of various governmental committees to investigate its allegations. To date, however, those committees have yet to yield tangible results. The committee formed by the IDF, the only one to publicize its findings so far, helped to initiate several investigations of IDF interrogators for alleged abuses, but made no recommendations that would rein in agents of the Shin Bet, who are primarily responsible for the abuse.

In July, the International Committee of the Red Cross, in a rare departure from its policy of communicating privately with governments, went public with its concerns about the treatment of detainees. "In view of the lack of response to previous representations," the ICRC announced in a July 16 press release that it was submitting "a further report to the highest authorities of the State of Israel, on the situation of detainees undergoing interrogation." The ICRC urged Israel "to give special attention" to this issue and "to implement the recommendations it has already made."

Israel's courts in 1991 deliberated on several important cases involving torture. In a challenge to Shin Bet practices in general, an alleged torture victim from the Nablus district asked the High Court of Justice to order the General Security Service to revise its interrogation methods. In particular, the petition asked the court to declare illegal the endorsement by the government in 1987 of the GSS use of "moderate physical pressure" when interrogating security suspects — a practice approved in general terms by the government-appointed Landau Commission in a 1987 report and formally endorsed by the government; the classified appendix to the report outlined more specifically the approved methods. The lawyer for the petitioner, Avigdor Feldman, submitted the B'Tselem report as supporting evidence. In November, the Shin Bet replied to the petition, claiming that it would be impossible to halt "terrorist" activities in the territories "without the security elements being able to use, in the appropriate circumstances and within the legal limits, the permissible actions [of moderate physical pressure] recommended by the Landau Commission." The case is pending.

In an encouraging development, the Knesset ratified the Convention against

¹⁷¹ *Israel and the Occupied Territories: The Military Justice System in the Occupied Territories: Detention, Interrogation and Trial Procedures*, July 1991, p. 45.

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by the U.N. General Assembly in 1984), along with three other major human rights conventions.¹⁷² The Torture Convention defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession." The General Security Service, in responding to the petition before the High Court of Justice, denied that the forms of "moderate physical pressure" approved in the classified annex to the 1987 Landau Commission report amounted to torture. However, the Convention's definition of torture is easily met by several of the routine methods of pressuring suspects that were documented in 1991 by BTselem and Amnesty International.

In a positive step for accountability within the Shin Bet, two interrogators received six-month sentences for negligently causing the death of suspect Khaled Sheikh Ali during interrogation in 1989. The sentences, which were the outcome of a plea bargain in which the charge of manslaughter was dropped, were deplorably short. Nevertheless, they are believed to be the first time that Shin Bet agents were imprisoned for abuses. The sentences were upheld by Israel's Supreme Court.

Detentions, Deportations and House Demolitions

The number of Palestinians in administrative detention — internment without charge or trial — declined during 1991 to 457 as of October 22, according to the office of the IDF spokesperson.¹⁷³ For much of the first two years of the intifada, the number exceeded two thousand; by mid-December 1990, however, it had declined to 910, according to the IDF Judge Advocate-General.

Despite the welcome drop in the number of administrative detainees, Israeli use of administrative detention does not conform to the limited use of this extrajudicial measure permitted by the Fourth Geneva Convention. Article 42 of that Convention authorizes the internment of individuals "only if the security of the Detaining Power makes it absolutely necessary." The authoritative commentary to

¹⁷² They are the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the U.N. Convention on the Rights of the Child.

¹⁷³ Cited in BTselem, *Human Rights Violations in the Territories 1990-91*.

that Convention stresses the exceptional character of that measure.¹⁷⁴

Under Israeli law, military authorities have the power to place individuals under administrative detention for renewable twelve-month periods. Most orders are initially of shorter duration. Probably the longest-held detainee at present is Sami Samhadana of the Gaza Strip who, if he serves out his current term in Ketsiot, will have spent a total of five and a half years in administrative detention since 1985, with only brief intervals outside. The Association for Civil Rights in Israel (ACRI) has filed a suit with the Israeli High Court of Justice challenging Samhadana's lengthy internment without charge.¹⁷⁵

The total number of West Bank and Gazan Palestinians incarcerated by Israel by all means — both administratively and on criminal charges — appears to have declined slightly during 1991 from more than 14,000 earlier in the year to approximately 13,000 in September, according to official sources. If considered as a separate country, the occupied Gaza Strip and West Bank (excluding annexed Jerusalem) would have an incarceration rate of roughly 750 per 100,000 Palestinian residents, which is higher than any country that issues such statistics.¹⁷⁶ The vast majority of these inmates are being held not for common crimes but for offenses or accusations that Israel considers security-related. Within this population, Middle East Watch views as political prisoners those in administrative detention and those who have been arrested or convicted on charges of belonging to, or serving, any outlawed political organization, including the PLO, as long as they have not been convicted of individual responsibility for activities directly linked to violence.

¹⁷⁴ "The Convention stresses the exceptional character of measures of internment and assigned residence by making their application subject to strict conditions...[O]nly absolute necessity, based on the requirements of state security, can justify recourse to these two measures, and only then if security cannot be safeguarded by other, less severe means. All considerations not on this basis are strictly excluded." *Commentary*, IV Geneva Convention, p.258.

¹⁷⁵ At one point, the IDF proposed to release Samhadana if he agreed to stay abroad for three years. He refused. ACRI's petition is pending.

¹⁷⁶ By comparison, Northern Ireland's rate of 120 per 100,000 in 1989 made it one of the few places in Western Europe to exceed 100 per 100,000. The U.S. rate that year was 426 per 100,000. Marc Mauer, "Americans behind Bars: A Comparison of International Rates of Incarceration," The Sentencing Project, Washington, D.C., 1991.

Military authorities continued to demolish the homes of the families of Palestinians suspected of committing grave, politically motivated acts of violence, nearly always before the suspect had been tried or convicted. As with other extrajudicial measures, families may file an appeal before Israel's High Court of Justice, but such appeals rarely succeed, since the court will not scrutinize the IDF's assessment of security needs, but examines only narrow issues of procedure and whether the military officials exceeded their broadly defined authority.

In 1991, the number of demolitions declined somewhat compared to previous years. From January until October 18, forty-eight houses were totally demolished as punishment for security offenses, five were partially demolished, thirty-five were totally sealed and thirteen were partially sealed, according to the human rights organization al-Haq.¹⁷⁷

Middle East Watch until recently had been unaware of any country besides Israel that punished the families of suspected offenders by demolishing their homes. This year we ascertained that Israel shares this distinction with Iraq, where the regime of Saddam Hussein has been known to demolish the homes of families of suspected dissidents.

In 1991, the practice of deporting suspected activists was revived, despite vigorous international opposition. No deportations had been carried out since the first two years of the intifada, when fifty-eight Palestinians were expelled on security grounds. In January 1991, four Gazans were deported to Lebanon after being accused of inciting violence against Jews, and another four were deported on the same grounds in May. In both instances, the arrests and deportation orders came after a rash of stabbings inside Israel by Palestinians, but in neither case did the authorities accuse the deportees of direct involvement in the stabbing incidents.¹⁷⁸

¹⁷⁷ Many other houses were demolished not for security offenses but, rather, on the grounds that they had been built without the required permit. Such permits are inordinately difficult for Palestinians to obtain, especially when compared to the ease with which Jews are able to build or expand settlements in the West Bank. See B'Tselem, "Limitations on Building of Residences on the West Bank," August 1990, and Database Project on Palestinian Human Rights, "Israel's War by Bureaucracy," August 1988.

¹⁷⁸ The four Gazans deported in January were accused of being active in the militant Islamic organization Hamas, which had called for lethal attacks against Israelis and had claimed responsibility for the fatal stabbing of three Israelis in Jaffa on December 14, 1990. The four deported in May were accused of being active in the mainstream PLO wing Fatah

On a positive note, one Palestinian deported in 1985 was permitted to return to the West Bank in September 1991 as part of a deal between Israel and Palestinian groups to obtain the remains of an Israeli soldier killed in Lebanon several years ago.

Family Reunification

The expulsion of Palestinians related to legal residents of the territories but who lack Israeli-issued residence papers themselves became a contentious issue again in 1991 after the practice was halted in early 1990. Affected are Palestinians who have been unable to obtain residency permits which would allow them to live legally in the territories with spouses or children who are legal residents. The vast majority of Palestinians who apply for permanent residence in the territories on family-reunification grounds are turned down by the Israeli authorities, including those filed on behalf of immediate relatives.¹⁷⁹ Because of the cost, conditions and uncertainties of the application process, many Palestinians without residence permits do not bother to file an application but instead enter on a short-term visitor's visa and then stay on illegally after the visa expires, risking expulsion.

Palestinians in this predicament include those who were outside the occupied territories when Israel conducted a one-day census of the area shortly after the June 1967 war, and refugees who grew up in Jordan or elsewhere and then married residents of the occupied territories. Also affected are the children of one spouse who is a legal resident and one who is not, because such children are not automatically given resident status.

In the fall of 1991, two Israeli human rights organizations, B'Tselem and the Association for Civil Rights in Israel (ACRI), accused the military authorities of breaking a pledge made in the spring of 1990 to grant "non-resident" Palestinian wives and children longer-term visitor visas so that they could remain with their

and, according to Defense Minister Moshe Arens, of stirring up the atmosphere "that leads in the end to murder." Thomas L. Friedman, "U.S. Condemns Deportations in Gaza," *The New York Times*, March 26, 1991.

¹⁷⁹ Al-Haq reported in 1990 that seventy-five percent of applications that failed involved residents applying to be reunited with their spouses and/or children. Al-Haq, *The Right to Unite: The Family Reunification Question in the Palestinian Occupied Territories: Law and Practice*, 1990, p. 10.

Palestinian husbands in the West Bank and Gaza. The IDF defended its actions by explaining that the more liberal procedures it announced in 1990 applied only to wives and children already in the territories, and not to those who entered the territories subsequently. ACRI and B'Tselem presented the names of more than twenty "non-resident" women who had been ordered to leave, and filed a suit in Israel's High Court of Justice challenging the restrictive reunification policy. That suit is pending.

In expelling non-resident Palestinians, Israel claims that it is exercising its sovereign right to deport illegal aliens. Middle East Watch disputes this claim; Israeli policy in this area, both in the arduous application process and the rejection of the vast majority of reunification requests, including those made to reunite immediate family members, violates the occupying power's obligations under Article 27 of the Fourth Geneva Convention to respect the "family rights" of the protected population "in all circumstances." Middle East Watch believes that family rights encompass, at the very least, the right of husband and wife and dependent children to live together, although it is not explicitly stated in the Convention.¹⁸⁰ Insofar as Israel refuses to grant residency rights to former long-time residents of Israel or the occupied territories, we also maintain that the Israeli policy violates the right of Palestinians to enter their "country," as affirmed in Article 12 of the International Covenant on Civil and Political Rights; there is no reason to believe that the framers of that covenant meant to exclude from this right persons residing in occupied or administered territories.

Israel's restrictive policy on family reunification also exacerbated the problems faced by Palestinians who fled or were forced to leave Kuwait during Iraq's occupation and the post-liberation period, as described in the chapter in this report on Kuwait. Since the start of the Gulf war, Israel has admitted some thirty thousand West Bank and seven thousand Gazan Palestinians who had been living and working in Kuwait and Saudi Arabia.¹⁸¹ However, an indeterminate

¹⁸⁰ The authoritative commentary to the Fourth Geneva Convention develops the concept of family rights, but stops short of affirming a family's right to live together: "Respect for family rights implies not only that family ties must be maintained, further that they must be restored should they have been broken as a result of wartime events." pp. 202-203. For more discussion of the relevant international law, including the right to leave and return to one's country and the rights of the child, see al-Haq, "The Right to Unite," 1990, pp. 20-26.

¹⁸¹ *Al-Hamishmar*, September 16, 1991. The Israeli Consulate in New York told Middle East Watch on October 18, 1991 that between 35,000 and 40,000 West Bank and Gazan Palestinians returned home from the Gulf since August 1990.

number of Palestinians residing in Kuwait who were born either in British Mandate Palestine or the Gaza Strip, as well as their children, could not enter the occupied territories on the grounds that they lacked residence papers. Most Kuwaiti Palestinians who have Jordanian passports fled to Jordan; of these, only a portion wished to reside in the West Bank or Gaza Strip but are prevented from doing so, while many preferred to remain in Jordan. But an estimated 23,000 to 25,000 Palestinians of Gazan origin faced possible expulsion from Kuwait with nowhere to turn because Israel would not permit their return to Gaza, either because their Israeli-issued residence papers had expired or because they had left Gaza prior to the 1967 occupation. Israel's indefensibly restrictive policy on granting residence status to Palestinians thus helped to worsen the effects of the refugee crisis emanating from the conflict in the Gulf.

School Closures and Curfews

Military authorities permitted three Palestinian universities to reopen in 1991, leaving only Bir Zeit, the flagship of Palestinian universities, still closed. In early December, the Defense Ministry renewed the closure order of Bir Zeit through the end of February 1992. All six campuses had been closed since at least early 1988. In 1990, al-Quds and Bethlehem universities were permitted to reopen, but were closed down again at the start of the Gulf war. In mid-March, they were permitted to reopen. In May, Hebron University was permitted to reopen, followed by al-Najah University and Gaza's Islamic University in the fall.

With the exception of the period of the Gulf war curfew, elementary and secondary schools were closed less frequently than in previous years. For the first time during the intifada, military authorities permitted schools to remain open in the summer months to make up for lost days.

Since April 1991, the scope of curfews seems to have declined somewhat compared to previous years, both in geographical scope and duration.¹⁸² However, in December, a harsh two-week curfew was imposed on more than thirty thousand residents of the West Bank towns of Ramallah and el-Bireh, after unknown assailants fatally shot a Jewish settler in the vicinity. Denying that the measure was collective punishment, West Bank Commander Major General Danny Yatom said that the curfew was intended to facilitate the hunt for the perpetrators of the slaying.¹⁸³ Schools and workplaces were shut, and soldiers conducted extensive

¹⁸² Partial statistics are provided in B'Tselem, *Human Rights Violations in the Territories 1990/91*.

house-to-house searches, arresting scores of persons.

The Killing of Suspected Collaborators

Murders and violent acts committed by Palestinians against suspected collaborators with Israeli authorities continued to be a major concern in 1991. According to the tally of the Associated Press, 471 Palestinians said to be suspected of collaboration have been killed by other Palestinians since the beginning of the intifada, 147 of them during the first eleven months of 1991.

It is the duty of the Israeli government, as the *de facto* power in the occupied territories, to arrest, charge and prosecute those who commit such violent assaults and homicides. Indeed, many Palestinians have been given long prison sentences for killing or injuring collaborators.

There is, of course, no Palestinian state apparatus with the capacity to perform these law-enforcement and judicial functions. Nor is there a Palestinian government to hold responsible for the killings. However, the Tunis-based PLO and the pro-PLO Unified National Leadership of the Uprising (U.N.L.U.) inside the occupied territories, as the political entities that wield the most influence over Palestinians, have a duty not only to refrain from such acts but also to use their influence to curtail them through public condemnation and repudiation. Middle East Watch deplores the failure of both entities to do so in an unequivocal manner.

The data on collaborator killings is inevitably imprecise. The basis for the charge of collaboration is rarely made public in any detail; some of the killings appear to have had other motives. It is also often difficult to know who is behind individual attacks; some appear to have been carried out by persons acting independently or on behalf of groups outside the PLO umbrella, such as break-away PLO factions and Islamic groups.

Some Palestinians defend the killing of suspected collaborators as necessary to protect the population from informants who aid Israeli security forces by identifying intifada activists and thus put these activists at risk of arrest or physical injury. In addition, Palestinian collaborators, some of whom are issued arms by the Israeli army, have themselves been responsible for killing thirteen other Palestinians from the beginning of the intifada through the end of November 1991, according to B'Tselem. They have also caused injuries and property damage

¹⁸³ Al-Haq press release, December 8, 1991; Clyde Haberman, "Israelis Restrict Movement of Palestinians at Night," *The New York Times*, December 16, 1991; and Jackson Diehl, "Israel Sets New Ban in West Bank," *The Washington Post*, December 16, 1991.

in many instances.

Palestinians claim that most of those who are punished for alleged collaboration had received warnings and an opportunity to respond to the allegations during some form of trial. However, such warnings and "trials" fall far short of guaranteeing accused collaborators due-process rights. There is no independent tribunal or assured right to representation by counsel, and torture is reportedly employed in at least some cases to secure confessions.

These violations of due process are all the more disturbing in light of the severe punishment meted out. They cannot be excused on the grounds that the military occupation prevents the establishment of a formal Palestinian-run judiciary and penal system. Nor can they be justified by the gravity of the accusations against any suspected collaborator. Even if one were to accept the contention that some collaborators are combatants and therefore legitimate military targets, those executed while in the custody of the perpetrators were *hors de combat* and thus entitled to full due process protection according to the principles of humanitarian law set forth in the 1949 Geneva Conventions. The PLO, by seeking to become a party to the Geneva Conventions in 1989, has pledged to abide by these standards.¹⁸⁴

Since late 1989, the public position of Palestinian leaders on the killing of "collaborators" has improved, but still generally falls short of a clear and absolute prohibition. At the end of 1990, for example, the U.N.L.U. issued orders forbidding activists from killings suspected collaborators unless a decision is taken at the highest level — suggesting that the U.N.L.U. continued to approve of killing collaborators in principle, even if under the circumstances it was trying to bring the problem under control.

In 1991, the persistence of such killings prompted the most extensive public airing of concerns to date by several Palestinian leaders in the territories. The killings, however, have continued.

It does not help that the Palestinian leadership continues to send mixed signals about attacks on those who cooperate with Israel. In leaflets issued in the fall of 1991, the U.N.L.U. affirmed that a death sentence will be executed against anyone "who is proven to have sold, or to have contributed to selling, one inch of [the West Bank, East Jerusalem, or Gaza Strip] to Jews." Although the issue of land sales is in many respects distinct from what Palestinians term "collaboration," the decision to declare it a capital offense at a time when Palestinians are

¹⁸⁴ Paul Lewis, "P.L.O. Seeks to Sign Four U.N. Treaties on War," *The New York Times*, August 9, 1989.

executing several collaborators each month lends legitimacy to acts of violent retribution.

The Right to Monitor

Human rights work in the occupied territories is permitted under certain constraints. Those constraints are far less onerous for Israeli and foreign monitors than they are for Palestinians. This discriminatory treatment applies equally to journalists who report on conditions in the territories, and the following remarks apply to them as well.

Foreign and Israeli human rights monitors and journalists generally need no special permission to enter the occupied territories. They are able to travel about and collect information on human rights abuses, and to disseminate that information with only rare obstruction from the military censor. They have no need to fear arrest or expulsion for their reporting.

However, on innumerable occasions, their access to events or places in the territories is restricted by the military authorities, either by decisions made at a senior level to close off an area by declaring it a "closed military zone," or by local commanders or soldiers who spot journalists or human rights workers at checkpoints or at work in the field and order them out of the area.

The orders for monitors and journalists to leave areas often come at moments when their presence as witnesses is most critical, such as when the IDF moves to quell disturbances or carry out arrests, or when a curfew has been imposed. Military authorities generally claim that the presence of journalists incites Palestinians to resist Israeli authorities.

In 1991, the most flagrant restriction on outside monitors was the decision to bar outsiders from the territories during the Gulf war curfew, except for journalists entering with an IDF escort.¹⁸⁵ At a time when there were reports of severe food shortages, medical emergencies and mass arrests, journalists and nearly all human rights investigators were prevented from witnessing conditions. Palestinian human rights monitors remained in the area, but like the rest of the

¹⁸⁵ The IDF told the human rights group B'Tselem that its representatives could enter the territories only with a military escort -- a condition which B'Tselem refused. However, ACRI attorney Tamar Pelleg, who has many clients in Gaza, was permitted to enter Gaza without an escort, and traveled throughout the Strip in the company of Palestinian lawyers who had curfew passes.

population, were confined to their homes and unable to work unless they were lawyers and received curfew passes as such.

Fortunately, field staff of the ICRC and the United Nations Relief and Works Agency (UNRWA) were for the most part able to move about in the West Bank and Gaza Strip, as they have been permitted to do before and after the curfew.¹⁸⁶ But the role of these organizations as human rights watchdogs is limited, since they do not ordinarily publicize what they observe.

As in previous years, Palestinian monitors and journalists operated under greater restraints than their Israeli and foreign counterparts. Employees of the two main Palestinian human rights organizations, al-Haq in Ramallah and the Palestine Human Rights Information Center (PHRIC) in Jerusalem, risked arrest and harassment when they identified themselves to soldiers manning checkpoints and conducting routine checks.

Palestinian human rights workers who were arrested in 1991 include PHRIC researcher Mahmoud Jiddah, 43, who was taken into custody on October 8 in Jerusalem when copies of PHRIC's report on the October 1990 killings at the Temple Mount/Haram al-Sharif were found in his bag. He was told that these papers were illegal and constituted incitement, and was detained for one day. The papers were later returned to him, and no charges were filed.

Two other PHRIC workers spent four months in administrative detention during late 1990 and early 1991, and one al-Haq field worker spent two months in administrative detention in 1991. Although they allegedly have been detained for reasons unrelated to their work, the Israeli government's failure to charge or try creates the suspicion that they were detained for their activities on behalf of human rights.

At least thirteen al-Haq and PHRIC workers were barred from entering Israel, including annexed East Jerusalem, during part or all of the period since the end of the Gulf war curfew because they lacked the special permits required for such travel. The restrictions, which were later lifted in some cases, effectively prevented some of the workers from meeting with other staff members or reaching their organizations' headquarters.

Despite these obstacles to their work, Palestinian human rights organizations were able to hold press conferences and to publish reports

¹⁸⁶ While UNRWA's refugee affairs officers (RAOs) generally enjoy freedom of movement, soldiers have on numerous occasions threatened, pushed and beat RAOs, particularly when they have interceded between soldiers and Palestinians. RAOs, who are foreign nationals, are authorized by UNRWA to attempt to negotiate with soldiers in threatening situations.

throughout 1991 that were highly critical of Israeli policies and practices. These organizations were also able to work closely with visiting delegations that come to learn first-hand about human rights conditions. Their findings are freely reported on by the foreign and Israeli press, although the Palestinian press is often censored when it attempts to do so. Many human rights stories in the East Jerusalem-based Palestinian press are censored by the military even when they pose no apparent threat to security, the official justification for the censorship.

Israel has also allowed limited monitoring of prisons by independent groups. Regular access is provided to delegates of the ICRC who, in keeping with that organization's policy worldwide, do not publicize their findings but instead make them known privately to Israeli authorities.

In 1990, Israeli authorities allowed Middle East Watch to visit and interview prisoners in a variety of prison facilities inside Israel and the occupied territories.¹⁸⁷ A lawyer from the Association for Civil Rights in Israel visits Israel's largest prison, the Ketsiot Military Detention Center, on a weekly basis, and reports regularly on the conditions there. The Israeli chapter of the organization Defense for Children International has visited several facilities in which juveniles are held.

The most severe gap in the access of outsiders to Israeli prisons is the refusal of authorities to allow visits to Palestinian security suspects during the initial phase of investigative detention — the period when mistreatment is most severe. The ICRC is granted access only after fourteen days, while defense lawyers are often prevented from visiting detainees for longer periods.

While lawyers are generally allowed access to their clients in prison following the initial interrogation phase, one Israeli lawyer was barred from entering HaSharon prison in Israel on what Middle East Watch viewed as a flimsy pretext. Yosefa Pick of the Tel Aviv-based Woman's Organization for Political Prisoners, who had been conducting regular visits to Palestinian women security prisoners at HaSharon and issuing sharply critical reports on their conditions of incarceration, was told by the warden in June that she would no longer be allowed to visit inmates after guards had found a pocket knife in her purse. Pick denied that she was attempting to smuggle the knife into the prison, and claimed she had always carried the knife in her purse. The district attorney declined to press charges against her; nevertheless, the warden refused to lift the ban.

¹⁸⁷ See *Prison Conditions in Israel and the Occupied Territories*, June 1991.

U.S. Policy

Before Iraq invaded Kuwait in August 1990, Israel was criticized publicly for human rights abuses by the Bush Administration more often than any other country in the Middle East. Frequent criticism is wholly appropriate since Israel, a country of only five million people, receives more U.S. aid than any country in the world, and more than the sum of what all other countries in the Middle East receive. Of course, appropriate public criticism should also be leveled, at minimum, at other major aid recipients with poor human rights records, such as Egypt and Morocco.

The criticism that the United States has leveled at Israeli abuses against Palestinians under occupation has been less effective than it could have been for two principal reasons. Foremost is the Administration's unwillingness to link, at least publicly, Israel's human rights record with the amount of aid it receives or the favorable trade relations it enjoys, although, as discussed below, President Bush has twice dragged his feet on housing loan guarantees as a way of pressuring Israel on the peace process and settlements.

Second, the United States has long made clear that its concern for human rights abuses committed by Israel is subservient to the goal of bringing Israel and her neighbors into a peace process. Administration officials have often either chosen to avoid chastising Israel on the grounds that this would be counterproductive to the peace process, or denounced Israeli abuses not as human rights violations but as impediments to the peace process.

In 1991, the subordination of human rights concerns to other regional policy objectives became more pronounced than ever. During the Gulf war in January and February, U.S. relations with Israel seemed to focus entirely on dissuading Israel from retaliating against Iraq for its Scud attacks or from doing anything to Palestinians under occupation that would threaten Arab participation in the U.S.-led coalition against Iraq. American officials made almost no public comments about human rights issues, as discussed below.

Then, with the war concluded, the Bush Administration launched its most vigorous effort yet to coax Israel and its neighbors into face-to-face peace talks. During Secretary of State James Baker's eight trips to the region between March and October, the Bush Administration said virtually nothing publicly about the human rights abuses being perpetrated by any of the governments that it was trying to bring to the negotiating table.

The U.S. Administration is not alone in its implied view that the cause of

human rights for Palestinians is best served by focusing on the larger goal of a peace settlement that ends the military occupation and addresses Palestinian political aspirations in some fashion. Many Palestinians and Israelis have articulated this view in various forms.

Middle East Watch is aware of the merits of this argument, as well as of the delicate nature of the diplomacy needed to advance this process. Nevertheless, given that the peace process is likely to take years, the United States cannot simply stand silent in the face of the grievous abuses that are, unfortunately, likely to continue in the region. The United States, we maintain, can forcefully advocate human rights in the region without jeopardizing its status as a neutral arbiter of peace, so long as its advocacy of rights is perceived as even-handed and consistent toward all countries of the region. Indeed, we believe that a failure to address human rights violations as an integral part of the move toward peace reflects a narrow view of regional security which is likely to produce a weak, hollow and short-lived peace.

Israel has received U.S. financial support since its creation in 1948. Since 1976, it has been the largest aid recipient each year. This aid is justified on the grounds of the close strategic and political alliance between the two countries, and the continuing state of belligerency between Israel and some Arab states. The aid is also intended "to provide the kind of support for Israel that will make Israeli decisions in the peace process easier to take," Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs Daniel Kurtzer told the House Subcommittee on Europe and the Middle East on March 6.

The United States has been "Israel's closest friend in the world" for more than forty years, President Bush declared on September 12, vowing that this relationship would continue. On November 13, he reportedly told Jewish leaders that he remained committed to Israel's qualitative edge in armaments.

The four billion dollar figure cited by President Bush consists of the annual package of \$1.2 billion in economic grants, \$1.8 billion in military grants that Israel has been receiving each year for several years, and several additional programs. In March 1991, the U.S. government approved a one-time cash grant of \$650 million to compensate Israel for losses sustained during the Gulf war. Israel also benefits from drawdowns in defense equipment and an unusual arrangement by which its aid is delivered in full at the beginning of the year, allowing Israel rather than the United States to earn the interest on the money.

U.S. aid to Israel comes with the stipulation that it is not to be used anywhere across the Green Line, so that in theory, it does not directly subsidize practices of the occupation authorities that violate human rights. U.S. military assistance is for the acquisition of big-ticket items like aircraft and not for the kind of equipment

used in suppressing demonstrations. While Israel signs this stipulation each year, the money is, of course, fungible; grants to Israel free up money that can then be allocated to activities in the occupied territories. This fungibility was the impetus in 1991 for an amendment proposed by the House of Representatives to trim the aid package to Israel by \$82.5 million, the amount that Washington estimates Israel spent on settlements in the territories. That amendment was easily defeated in June.

Each year, the most detailed — though not necessarily the most influential — statement of the U.S. view of human rights conditions in Israel is contained in the State Department's *Country Reports on Human Rights Practices*, released in February. The chapter on the occupied territories in 1990 covered virtually every major category of human rights violations in a technically accurate fashion. However, the report failed to convey the systematic nature of the abuses, because it failed either to characterize their extent or to place them in the appropriate context.

In 1990, it was revealed that the State Department's Human Rights Bureau in Washington had softened the critical tone of the draft chapter covering 1989 which had been prepared by the highly regarded team of officers at the Jerusalem consulate and Tel Aviv embassy who are responsible for human rights monitoring.¹⁸⁸ This editing by the bureau in Washington was heavier than is commonly the case for other chapters.

The tone of the 1990 chapter is disturbingly similar, although it is not known whether this is due to rewriting in Washington. Facts are presented accurately but disembodied from their larger contexts, and findings about certain controversial but important matters, such as the prevalence of torture, are attributed to others without a clear position being taken by the State Department. A few examples are provided here.¹⁸⁹

- o On torture, the report states on pages 1479-80 that "critics" allege that various forms of mistreatment are inflicted on suspects under interrogation, and that such abuses "reportedly have continued since they were confirmed in the 1987 report of the officially appointed Landau Commission."¹⁹⁰ By

¹⁸⁸ See Human Rights Watch, *World Report 1990*, p. 477fn.

¹⁸⁹ Further analysis of the *Country Reports* chapter can be found in critiques prepared by al-Haq and the Lawyers Committee for Human Rights.

¹⁹⁰ This tentative language contrasts with the report's characterization of abuse in

contrast, in response to a congressional question posed in February 1991 about the Landau Commission's endorsement of "moderate physical pressure" by the Shin Bet, Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter stated, "We have made it clear that we consider all forms of 'physical pressure' on persons under detention unjustifiable." It is disappointing that this categorical position is not reflected in the bland treatment of torture in the *Country Reports*.

- o The report states on page 1487 that when soldiers were disciplined in cases involving the deaths of Palestinians, "some punishments appeared lenient." In fact, leniency is endemic: only a handful of soldiers have been sentenced to at least one year or more in prison for a wrongful death during the intifada, and no soldier has received more than a two-year prison term.
- o On page 1491, the report cites Israeli claims that in 1990, 326 family-reunification applications were approved for Palestinians to reside in the West Bank and Gaza and 269 were rejected. This figure misleadingly suggests that most "non-resident" Palestinians who apply are given permanent-resident status by the Israeli authorities. To be fair, the State Department report should also have included data on how many applications were submitted and are still pending, and how many Palestinians have given up applying altogether because of the cost and duration of the application process.¹⁹¹

Morocco:

The number of credible reports of torture and degrading treatment remains relatively high...Torture and other forms of cruel treatment occur most often during incommunicado detention following initial arrest in order to extract confessions which are then used to convict the suspect. Methods of torture include beatings, sleep deprivation, keeping prisoners blindfolded and handcuffed for weeks on end. (p.1548)

¹⁹¹ While the available statistics are sometimes incomplete or inconsistent, the State Department could have given longer-term figures to suggest the magnitude of the problem. For example, on January 30, 1990, then-Defense Minister Yitzhak Rabin told the Knesset that Israel had granted 13,509 of 88,429 requests for reunification since 1967. (Sami Aboudi,

Defending their tempered response to Israeli human rights practices, U.S. officials often claim that most of their communication with Israel is through private channels. Secretary Schifter asserted in 1990 that the United States communicated with Israel on human rights matters more than with any other country.¹⁹²

In our view, private human rights diplomacy is insufficient to address Israel's human rights abuses. Private diplomacy theoretically could be effective coupled with representations that aid or other benefits will be cut if human rights abuses are not curtailed, but the Bush Administration's public posture makes it unlikely that such representations are being made. Absent such linkage, the only effective U.S. human rights policy toward Israel must be based on the stigmatization that consistent public criticisms of abuses can help to produce.

In 1991, U.S. officials adopted a quieter approach to Israeli human rights abuses than in previous years. Criticisms were less frequent and usually uttered by lower-level officials, despite Secretary Baker's eight visits to Israel between March and October, after not having visited the country once during his first two years in office.

The marked difference from late 1990 to 1991 revealed the degree to which U.S. human rights policy toward Israel is held hostage to other objectives. From October 1990 until mid-January 1991, the United States took an unusually active role in criticizing Israel at the United Nations, backing two Security Council resolutions on the Temple Mount/Haram al-Sharif killings and one on deportations. On January 4, following a particularly violent week in the territories, the United States did not block a Security Council statement "deploring" Israel's use of force against Palestinian civilians.

Those who dismissed the new U.S. zeal on human rights as a stratagem to preserve the anti-Iraq coalition could feel vindicated once the war began on January 17. As soon as Iraqi Scud missiles began landing in Israel, the principal

"Israel Temporarily Halts West Bank Deportations," *The Washington Post* February 1, 1990.) The International Committee of the Red Cross was reported in *The Washington Post* of January 30, 1990 ("Non-resident" Palestinians Forced Out) as saying that nine thousand of 140,000 requests had been granted between 1967 and 1987. Although current cumulative figures are not available, decisions since 1990 have not altered the basic practice of rejecting the vast majority of applications.

¹⁹² See Human Rights Watch, *World Report 1990*, p. 476.

U.S. policy objective became to persuade Israel not to enter the war. Human rights criticism virtually stopped.

Most noteworthy was the U.S. silence on the matter of the blanket curfew in effect for over a month in the West Bank and Gaza Strip. We are not aware of a single public statement by U.S. officials concerning this devastating restriction on the lives of 1.7 million people. No public comment on the curfews came during Deputy Secretary of State Lawrence Eagleburger's two trips to Israel in January, during Defense Minister Moshe Arens's meetings in Washington in February with President Bush, Secretary of State Baker and Secretary of Defense Dick Cheney, or at any other time. It seemed as if the U.S. was relieved that relative calm had been achieved in the territories by confining all Palestinians to their homes, minimizing the risks of a Temple Mount-like conflagration that would jeopardize continued Arab participation in the U.S.-led alliance.

It is not known whether U.S. officials privately voiced concerns to their Israeli counterparts about the effects of the curfew on the Palestinian populace. What is clear, however, is that the mild reaction to the curfew continued even after the war had ended, as was made apparent by Secretary Schifter's written reply to questions for the record about the curfew posed by the House Subcommittee on Human Rights and International Organizations on February 26:

Q. Are curfews still being imposed on the territories due to the war? What effect have these curfews had on the Palestinian community in the territories? Do you think the measure is warranted?

A. The wartime curfews have been ended. They severely restricted economic life in the Occupied Territories. The Israeli government evidently considered them a necessary measure. Curfews continue to be widely imposed following security incidents. These, too, can cause economic and social hardships.

When specifically requested for the U.S. view on the wartime curfew, Schifter merely stated that the Israelis considered it necessary. Nor did the Administration use the occasion of granting Israel \$650 million in March, as compensation for losses during the Gulf war, to call attention to the proportionately greater economic losses to Palestinians, due, in part, to the stringent wartime curfew imposed by Israel.

While failing to respond to the single most pressing human rights issue during this period — the curfew and its effects — the United States did voice dissatisfaction at the detention without charge of certain prominent Palestinians,

a practice which it has often criticized in the past. The administrative detention of Sari Nusseibeh in January prompted a statement from State Department spokeswoman Margaret Tutwiler that "The charges against Dr. Nusseibeh, like those against other administrative detainees, ought to be made public and a chance should be given to him to defend himself in a court of law." A nearly identical statement was issued when Gaza journalist Taher Shriteh was detained one month later.

In March, the United States deplored Israel's decision to deport four Palestinians, as it has criticized deportations consistently in the past. Both U.S. Ambassador Brown and the State Department spokeswoman deplored the measure, and the United States supported a critical presidential statement from the U.N. Security Council. The Department spokeswoman again criticized the deportations when they were finally carried out in May, and said that Secretary Baker had raised the matter when he was in the region.

If Secretary Baker had indeed raised the matter, he did so only privately. From March onward, his efforts were devoted almost exclusively to the sensitive task of persuading Israel, the Palestinians and Syria to attend peace talks. Both he and other senior U.S. officials shunned public criticism of human rights abuses by Israel.

Typical of the State Department approach during this period was its reaction to reports of a March 31 Israeli cabinet decision to increase deportations, house demolitions and restrictions on the entry of Palestinians into Israel, in response to a spate of knife attacks on Jews by Palestinians inside Israel. Administration comment came in the form of a statement issued by the State Department on April 12 which blandly stated that the United States had raised its "concerns" with the government of Israel, and that "Israel should be looking for ways of promoting and developing dialogue and trust with the Palestinians, not imposing new restrictions."

In July 1991, the Administration avoided commenting on the release of the report by the Israeli investigating judge that some of the shooting deaths at the Temple Mount/Haram al-Sharif in October 1990 had been unjustified. "The president and the Department of State reacted to the Temple Mount tragedy right after it happened on October 8 [1990]," the spokesperson said on July 19. While the original statements condemning the use of excessive force were both strong and public, there was a new development that was worthy of comment: an Israeli investigation had determined that unjustified deaths had occurred, and yet not a single police officer or commander had been charged or disciplined in connection with the incident.

While avoiding direct criticism of human rights abuses, Secretary Baker

reportedly asked Israel to consider confidence-building gestures during this period such as halting deportations, releasing prisoners, and reopening closed universities. On the eve of Baker's visit to the region in April, Israel announced a new tax-incentive plan for investment in Gaza and the release of some one thousand Palestinian prisoners, a higher number than it usually releases at that time of year, on the occasion of the Muslim holy month of Ramadan. An Israeli Defense Department spokesman denied that these measures were a response to the U.S. call for goodwill gestures.¹⁹³

The issue that senior U.S. officials raised most insistently in public was Israel's accelerated construction and expansion of settlements on the West Bank. In our report on U.S. policy toward Israel in 1990, we praised the Bush Administration for using the occasion of Israel's request for \$400 million in housing loan guarantees to express disapproval of Israel's settlement policies in the occupied West Bank and Gaza Strip. The delay in releasing those guarantees until 1991 while the Administration demanded stronger assurances that the money would not be used for construction in the occupied territories provided a mild but, under the circumstances, potent reminder of how the United States should be using its considerable aid to Israel to focus attention on human rights concerns.

In 1991, a request by Israel for \$10 billion in housing loan guarantees again provided the only occasion on which the Bush Administration behaved as if aid to Israel should be conditioned on its policies toward Palestinians. Unhappy with the Shamir government's conditions for participating in peace talks and its continuing policy of building and expanding Jewish settlements in the occupied territories, President Bush prevailed on Congress in September to delay for 120 days consideration of the loan guarantees.

As critical as the Bush Administration has been of settlements, it has never publicly characterized them as illegal under the Fourth Geneva Convention — a view expressed by the Carter Administration but not since. Nor have senior officials publicly condemned the arbitrary means by which land for settlements has been confiscated from Arabs, or the discrimination that favors Jewish settlements over Palestinian communities in terms of building and land use permits, government funds and services, and the pricing of water. By condemning settlements only as obstacles to peace, the United States has given Israel a pretext to continue settlements as a bargaining chip in the peace process, rather

¹⁹³ Jackson Diehl, "1,000 Arab Prisoners Are Freed by Israel as Baker Visit Begins," *The Washington Post* April 9, 1991.

than as an illegal act that should be halted unconditionally.

The tension over settlements began building shortly after the Gulf war. In his first visit to Israel in March, Secretary Baker is said to have voiced concern with Prime Minister Shamir about reports that Israel was planning ten thousand housing units for new immigrants in the occupied territories.¹⁹⁴ The following week, the State Department delivered to Congress a report charging that Israel was building and expanding settlements more rapidly than most people were aware, and that four percent of the Soviet Jews who had emigrated to Israel in 1990 had settled in the occupied territories including East Jerusalem.

Reacting to reports of a new settlement, White House spokesman Marlin Fitzwater again called settlements "an obstacle to peace" on April 16. The U.S. ambassador in Tel Aviv, William Brown, denounced the settlements in a speech on May 3 before an audience of Israeli businessmen.

The sharpest criticism of settlements came from Secretary Baker, when he told the House Foreign Affairs Committee on May 22:

Nothing has made my job of trying to find Arab and Palestinian partners more difficult than being greeted by a new settlement every time I arrive. I don't think that there is any bigger obstacle to peace than the settlement activity that continues not only unabated but at an enhanced pace.

President Bush followed with hints that if Israel persisted in building settlements, he might oppose the ten-billion dollar loan guarantee which Israel was planning to seek from the United States to help resettle Soviet immigrants.¹⁹⁵ In a July 1 press conference, he declined to state this condition publicly, but forcefully condemned the settlement policy:

I don't think [approval of the loan guarantees] ought to be a *quid pro quo* [for an Israeli pledge not to build new settlements]. What I do think, and I've said this over and over again, that it is against U.S. policy for these settlements to be built. So, I'll leave it right there and avoid the linkage that you understandably ask about....[But] we have not changed our

¹⁹⁴ David Hoffman and Jackson Diehl, "Baker Asks Israel for Peace Moves," *Washington Post*, March 13, 1991.

¹⁹⁵ Jon D. Hull, "The Good Life in Gaza," *Time*, July 1, 1991; and Thomas L. Friedman, "Bush Presses Syria and Israel on Peace," *The New York Times*, July 2, 1991.

position...on settlements, and we're not going to change our position on settlements. So please, those in Israel, do what you can to see that the policy of settlement after settlement is not continued. It is counterproductive [to the peace process].

Tension over the settlement issue came to a head in September, the month that Israel intended formally to request the loan guarantees. Eager to avoid complications to the now-likely peace conference, Secretary Baker urged Prime Minister Shamir to postpone the request. When Shamir refused, President Bush asked Congress to put off consideration of the request for four months, explaining: "It is in the best interest of the peace process...We don't need an acrimonious debate just as we're about to get this peace conference convened."

The debate became acrimonious anyway, and the Administration's position hardened in response to Israel's refusal to retreat. President Bush said in a September 13 press conference that "during the current fiscal year alone, and despite our own economic problems, the United States provided Israel with more than \$4 billion in economic and military aid, nearly \$1,000 for every Israeli man, woman, and child, as well as with \$400 million in loan guarantees to facilitate immigrant absorption."

Then, on September 17, Secretary Baker made explicit to reporters what had been implicit for months: the Bush Administration intended to link the loan guarantees to tough new restrictions on the construction of settlements in the occupied territories. For the first time, the Administration seemed to be threatening to condition aid on Israel halting its settlement policy.¹⁹⁶

By the end of September, President Bush had mustered support for delaying consideration of the loan request until after the peace talks had begun, and on October 2, the Senate formally agreed to the postponement. The month-long confrontation over the issue was a humiliating defeat for Israel, which had apparently overestimated American support on this issue.

The toughening U.S. stand on settlements is consistent with a muted approach to other human rights abuses committed by Israel: both are guided by a desire to avoid complicating the peace process. To its credit, the Administration devoted more effort in 1991 to advancing that process than any administration had since the Camp David accords were signed in 1978. The coming year may

¹⁹⁶ In delaying the \$400 million in loan guarantees in 1990 the U.S. attached explicit conditions only to how that particular sum was to be used, not to Israel's settlement policy in general.

well reveal much about whether the single-minded promotion of peace talks can also be an effective human rights policy.

The Work of Middle East Watch

During 1991, Middle East Watch issued a number of reports on Israel. Two principles helped to determine our choice of subjects: a determination to continue monitoring issues that we have covered in the past and, in consultation with local human rights groups a desire to issue reports that fill critical gaps in the vast literature on human rights in the occupied territories.

In addition, sometimes our motive was simply to highlight a dire situation that may not have been widely known. In January and February, when the world's attention was riveted to the conflict in the Gulf, Palestinians were chafing under the strictest curfew of the twenty-four-year occupation. When hostilities broke out, Middle East Watch sent a telegram to Israeli authorities deploring their failure to provide gas masks to Palestinians to the same extent that they had equipped Israeli citizens. We also issued a press release urging all parties to the conflict to abide by the relevant laws of war and reminding Israel of its continuing obligations toward the population under its control.

A January 27 newsletter described and criticized the severity of the curfew which had then been in effect for eleven days. A newsletter issued in February provided a case study of a reporter who had been detained without charge during the curfew. The evidence strongly suggested that Reuters stringer Taher Shriteh had been punished for journalistic activities. The following month, Middle East Watch protested to Israeli authorities the detention without charge of physician Mamduh al-Ager.

In April, Middle East Watch released a report on conditions in prisons, police jails and army-run detention centers, in both Israel and the occupied territories. The report, based on visits to twelve facilities, reserved its sharpest criticism for the army-run detention centers, in which the majority of Palestinian inmates are held, and the Russian Compound police jail in Jerusalem. The Israeli Foreign Ministry issued an eight-page rebuttal, which was reproduced in the printed version of the report.

In July, Middle East Watch protested to prison authorities the decision to ban Israeli lawyer Yosefa Pick, who is associated with the Tel Aviv-based Women's Organization for Political Prisoners, from visiting Palestinian women prisoners. In our view, the accusation by prison authorities that Pick had attempted to smuggle a knife into HaSharon prison was a pretext to prevent her from consulting with the

inmates and publicizing their complaints. The ban on her visits continued even after the state prosecutor declined to file criminal charges, and the Association for Civil Rights in Israel has filed suit in the High Court of Justice seeking to restore her access to prisoners.

In September, Middle East Watch issued a newsletter analyzing the clashes that had occurred on October 8, 1990 at the Temple Mount/Haram al-Sharif in Jerusalem, in light of an Israeli judge's inquest into the events. The newsletter continued Middle East Watch's scrutiny, begun with its 1990 report entitled *The Israeli Army and the Intifada*, of the failure of Israeli authorities vigorously to investigate and punish members of its security forces for acts of excessive force. In the newsletter, we praised the thoroughness of the inquest but condemned the failure of Israeli authorities to prosecute or punish a single policeman or commander whose conduct had contributed to the avoidable deaths that had occurred that day. Letters urging appropriate disciplinary action were sent to Israel's police and justice ministers.

As part of its work on human rights in Kuwait, Middle East Watch issued a newsletter on October 23 documenting the plight of stateless Palestinians in that country. The report described Israel's restrictive residence policies toward Gazan Palestinians who for one reason or another lack residence permits, and called on Israeli authorities to ease those policies so that a greater number of these Palestinians who fled or were forced out of Kuwait could return to the Gaza Strip.

On October 28, Middle East Watch released a report in Madrid on the human rights record of the principal regional parties at the Madrid Peace Conference. The report contained an overview of Israeli abuses in the occupied West Bank and Gaza Strip, as well as a section on the killing by Palestinians of suspected collaborators. In the report and in its lobbying efforts with the various delegations at the talks, Middle East Watch urged that respect for human rights be made an explicit part of the agenda for the multilateral talks, as they were in the 1975 Helsinki accords in Europe and the Central American peace plan of 1987.