



350 Fifth Ave 34th Floor
New York, N.Y. 10118-3299
<http://www.hrw.org>
(212) 290-4700

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-- Testimony to Human Rights Watch

BASRA: CRIME AND INSECURITY UNDER BRITISH OCCUPATION

1630 Connecticut Ave, N.W., Suite 500
Washington, DC 20009
TEL (202) 612-4321
FAX (202) 612-4333
E-mail: hrwdc@hrw.org

2nd Floor, 2-12 Pentonville Road
London N1 9HF, UK
TEL: (44 20) 7713 1995
FAX: (44 20) 7713 1800
E-mail: hrwuk@hrw.org

15 Rue Van Campenhout
1000 Brussels, Belgium
TEL (32 2) 732-2009
FAX (32 2) 732-0471
E-mail: hrwbe@hrw.org

**BASRA:
Crime and Insecurity under British occupation**

Table of Contents

I. Summary and Introduction	2
II. Recommendations	4
To British Forces Occupying Basra and Misan Governorates:.....	4
To the Provisional Coalition Authority, including the Office of Reconstruction and Humanitarian Assistance (ORHA):.....	5
To the Special Representative of the Secretary-General of the United Nations and U.N. Agencies:.....	6
III. The Context of Insecurity	7
IV. The security situation immediately after the fall of Basra.....	8
V. Six weeks later: Continuing Criminality in Basra	11
Homicides and Possible Reprisal Killings	13
Lack of Security and Humanitarian and Medical Operations	14
Problems Particular to Women and Children.....	15
Continuing Lack of Security at Basra University	16
VI. Legal Obligation of Coalition Forces to Provide Security in Iraq.....	16
VII. Coalition Attempts at Reconstituting Security in Southern Iraq.....	18
Policing.....	18
Penal System and Prisons	22
Legal system	23
Acknowledgements	24

I. SUMMARY AND INTRODUCTION

The city of Basra, with population of 1.5 million, is Iraq's main seaport and second largest city. It is situated some 550 kilometers south-east of Baghdad along the western shore of Shatt-al Arab, at the confluence of the Tigris and Euphrates rivers, 130 kilometers from the Persian Gulf.

Basra suffered tremendously during Saddam Hussein's rule. The vast majority of the city's population are Shi'a Muslim Arabs. Shi'a Muslims comprise an estimated 55 percent of Iraq's population.¹ Despite their numbers, Shi'a Muslims have been historically disempowered and oppressed in Iraq. As one of the chief population centers of Iraq's Shi'a Muslims, the city was a center of opposition to the Ba'th government. Basra's Shi'a residents rose up against Saddam Hussein after the rout of Iraqi forces in 1991, spurred in part by then-U.S. President George H. Bush's call to the Iraqi people to "take matters into their own hands to force Saddam Hussein, the dictator, to step aside."² The uprising began in Basra and quickly spread to other major Shi'a areas in southern Iraq (as well as to the predominantly Kurdish areas in northern Iraq). Throughout the south, vengeance killings took place as the population vented its anger against anyone associated with the Ba'th government, killing hundreds of Ba'th party officials, local bureaucrats, and intelligence agents. However, the Iraqi government managed to maintain its control over the country and launched a brutal campaign of reprisal when the United States failed to support the uprising. In the ensuing retaliation, thousands of civilians from Basra were killed and thousands more imprisoned or "disappeared."³

Ongoing opposition to the Iraqi government provoked numerous campaigns of oppression throughout the 1990s. The most serious crackdown occurred in March and April of 1999 after the assassination of Ayatollah Sadiq al-Sadr, a Shi'a Muslim religious leader, who was killed in Najaf while driving home on the evening of February 19, 1999, along with his two sons. Following the murder, Basra was rocked by heavy clashes between protesters and security forces, including attacks on members of the Ba'th party.⁴ The government response was swift and severe: according to research by Human Rights Watch, at least 150 Shi'a protesters were extrajudicially executed and thousands were imprisoned, had their houses razed, and were banned from holding many jobs.

Basra was relegated by the government of Saddam Hussein to secondary status in terms of economic development. Therefore, with the imposition of international sanctions on Iraq in 1990 after Iraq's invasion of Kuwait, Basra was particularly vulnerable and its population was further impoverished. Basra was heavily bombed during the 1980-1988 war with neighboring Iran, and targeted again during the 1991 Gulf War and the fighting in March and April 2003.

Southern Iraq and Basra's strategic seaport, Umm Qasr, were among the first targets of U.S.-led coalition forces in March 2003. British forces headed the drive to secure the seaport and occupy Basra. The city was encircled after intense air and artillery bombardment. By March 27, British troops effectively controlled the city's suburbs and all access to the city, and faced resistance only from Iraqi militia and irregular troops belonging to the so-called Saddam's Fedayeen units. As a result of the fighting, Basra's infrastructure suffered significant damage, aggravating its already degraded pre-war conditions, with the city's water system breaking down completely.

¹ Human Rights Watch (formerly Middle East Watch), *Human Rights in Iraq*, (New York: Human Rights Watch, 1990).

² "Excerpts from Statements by Bush on Strategy in Gulf," *New York Times*, February 16, 1991.

³ Human Rights Watch, *Endless Torment: The 1991 Uprising in Iraq and its Aftermath*, (New York: Human Rights Watch, 1992). This report documented the atrocities perpetrated by the Iraqi government forces after the 1991 uprising, and included testimonies from Iraqi refugees who had fled to Iran, Kuwait, Saudi Arabia, and Kurdish-controlled northern Iraq.

⁴ Human Rights Watch, *Human Rights Watch World Report 2000* (New York: Human Rights Watch, 2000).

This was the condition of the city on April 5, 2003, when British troops, as part of the U.S.-led coalition, first drove into the city center and, as the occupying power, assumed primary responsibility for the security of civilians and humanitarian groups trying to assist them. As of this writing, the population of Basra feels very insecure, due partly to the week of frenzied looting that immediately followed the British occupation, and continuing as a result of the lower intensity but steady crime wave (including daily killings, looting of private property, and car-jackings) now engulfing Basra like many other cities in Iraq. This report, based on four weeks of field research by Human Rights Watch researchers in southern Iraq, shows that more than six weeks after the fall of Basra, the security situation remained poorly addressed by coalition forces. Despite efforts by the British military to deploy their relatively small number of troops to improve security conditions in the city, the population continued to live in fear of violent crimes and with growing concerns about the failure of the coalition forces to provide them with greater security.

By mid-May British forces had instituted some measures to improve security—such as beginning to reconstitute a police service and a judicial system. But crime levels were still noticeably higher than the pre-war period: hospitals reported six or seven violent homicides daily and an equal number of injuries attributed to gunshot wounds; carjacking and violent home invasions occurred at the rate of one or two daily. The people's anxiety about lack of security was further compounded by a sense of confusion about what, if anything was being done to protect them. In this security vacuum, Iraqis have increasingly looked to the former government's police forces as possible protectors, despite very serious misgivings about that police force's history of brutality and corruption. Although British patrols became more visible around the city center, and at least four police stations reopened with some five hundred active Iraqi police officers, this police presence was completely inadequate for meeting the security needs of a city the size of Basra, particularly in the climate of heightened lawlessness following the fall of Saddam Hussein's government.

British military forces were aware of this problem, and were actively casting about for solutions. Senior British and U.S. military officers repeatedly told Human Rights Watch that they had been given an impossible task in converting their small combat units into a force sufficient for the task of providing security to civilians. As a result, British officials, like U.S. military officials from other Iraqi cities interviewed by Human Rights Watch, appeared to be improvising different responses in each city they controlled. These efforts have been hampered by inadequate manpower and insufficient support and direction at a national level.

The lack of a centralized system for gathering information about crimes and communicating information about any prosecutions has further aggravated the sense of insecurity felt by ordinary Iraqis interviewed by Human Rights Watch. In large part, this is due to the failure of ORHA (Office of Reconstruction and Humanitarian Assistance, effectively the coalition's civilian administration in Iraq, which has been subsumed under the Coalition Provisional Authority since early May) to take on responsibilities for coordination and direction at the national level. During the first six weeks after the occupation of Iraq, Human Rights Watch researchers found no centralized system for law enforcement; no system for gathering or tabulating national or local data relating to criminal incidents; no coordination between coalition security and police forces in different sectors of the country; very little coordination between U.S. and U.K. zones, and very little coordination in terms of how to treat, investigate, and prosecute criminal suspects.⁵ Human Rights Watch spoke to coalition forces responsible for security in the three main southern cities: Basra, al-'Amara, and al-Nasiriyya. British forces occupy the first two; the last is occupied by U.S. troops. While coordination did exist between Basra and al-'Amara, there was little communication between the British and U.S. zones, and military officials in all three cities stated they had received little, if any, direction from ORHA.

The failure of the U.S. and British to prepare for fulfilling their obligations after occupying Iraq is all the more glaring in light of two relevant factors: first, coalition forces should have expected an outbreak of looting and other crimes given of the experience of severe lawlessness following the first Gulf War in 1991, the economic

⁵ Paul Bremmer, head of the Provisional Coalition Authority, convened the first meeting of military police authorities from around Iraq on May 18, 2003. Human Rights Watch interview, Basra, May 18, 2003.

hardships facing the Iraqi population, the release of thousands of prisoners convicted for criminal offences from Iraqi jails in October, 2002, and the wide availability of firearms among the population.

Second, in addition to these Iraq-specific conditions, general experience with peacekeeping operations in post-conflict situations in Bosnia, Kosovo, and East Timor all demonstrate the importance of providing security immediately after the end of military conflict. For instance, in Kosovo, as in Iraq, U.S. and British forces controlled territory essentially without any government structure, prey to rampant criminality, and requiring investigation of large numbers of past and ongoing human rights abuses. Given the presence in Iraq of many military officers who had served in Kosovo (especially among British forces), one would have expected coalition troops to apply the lessons learned from Kosovo in Iraq. Human Rights Watch's research in southern Iraq showed this not to be the case. As is set out in more detail below, coalition forces committed several grave errors in the first weeks of occupation that aggravated the current climate of insecurity in southern Iraq. Chief among these avoidable errors were:

- Failure to adequately prepare for the predictable breakdown in law and order following military operations and the fall of the civilian administration;
- Reliance on combat troops for police and security duties;
- Late and insufficient deployment of military police;
- Failure to deploy international civilian police;
- Failure to deploy international legal and judicial personnel;
- Failure to train adequately coalition forces on local law and customs;
- Failure to provide adequate protection for victims and witnesses regarding past and current crimes;
- Failure to secure evidence for investigations of past and current crimes;
- Failure to communicate with the local population on security issues.

II. RECOMMENDATIONS

To British Forces Occupying Basra and Misan Governorates:

- Ensure there are a sufficient number of Royal Military Police forces available to provide security;
- Deploy, as a matter of urgency, international civilian police necessary to provide security in major cities and on major roads;
- Increase the number of patrols by British forces and joint British-Iraqi police forces throughout the major cities and on the roads of British-occupied southern Iraq;
- Vet all members of a reconstituted judiciary and police force by widely disseminating information about the proposed personnel of the reconstituted police force and judiciary;
- Establish and communicate to the people of southern Iraq the standards to be used for vetting any new or returning law enforcement and judicial personnel;
- Publicize the identity of all prospective law enforcement and judicial officials before they assume their positions, using all available local media, as well as informational posters distributed around major community centers such as mosques, schools, and commercial districts;
- Create confidential and safe channels for receiving information from the community about these personnel;
- Establish an ombudsman's office, using British and Iraqi staff, to monitor any reconstituted Iraqi law enforcement system as well as policing provided by British or international civilian police;

- Establish open and safe channels of communication for Iraqi citizens to contact an ombudsman for information and complaints about the conduct of Coalition and Iraqi law enforcement officials;
- Institute and implement plans for refurbishing or constructing prisons conforming with international human rights standards;
- Disseminate widely in Arabic the criminal and penal standards applicable to Iraqi citizens;
- Protect members of the former Iraqi government and the Ba'th party from reprisals;
- Create a program to protect witnesses and victims of current crimes, as well as human rights abuses perpetrated by the former government of Iraq.

To the Provisional Coalition Authority, including the Office of Reconstruction and Humanitarian Assistance (ORHA):

In addition to the relevant recommendations above, the following recommendations should be implemented throughout Iraq:

- Establish and communicate to the people of Iraq, as a matter of urgency, plans for improving security throughout Iraq;
- Deploy, as a matter of urgency, coalition and other military police or constabulary units to provide security throughout Iraq;
- Establish training facilities and programs for reconstituted Iraqi law enforcement agencies, focusing on proper treatment of suspects, effective investigative techniques, and international standards of due process;
- Immediately deploy emergency judicial teams of international judges, prosecutors, and correctional officers to operate an interim judicial system capable of addressing the growing number of criminal suspects apprehended by coalition forces;
- Ensure that international law enforcement and judicial personnel, particularly those with an executive (as opposed to advisory) role, are deployed for periods of no less than one year in order to ensure a minimum of continuity;
- Establish national level law enforcement regulations consistent with international human rights standards;
- Ensure that international standards of due process are observed in vetting any law enforcement and judicial personnel;
- Integrate the special rights of women (including those afforded under the Convention on the Elimination of All Forms of Discrimination Against Women) as part of any training for law enforcement officials, including judges, prosecutors, and police;
- Integrate the special needs and rights of children (including those afforded under the Convention of the Rights of the Child and international juvenile justice standards) as part of any training for law enforcement officials, including judges, prosecutors, police, and other officials whose work brings them in contact with children;
- Initiate public education efforts to discourage the disorderly exhumation of graves and recovery of bodies;

- Facilitate preservation of evidence related to crimes committed by the former Iraqi government;
- Undertake mine action activities (survey, marking, risk education, and clearance), covering antipersonnel landmines, unexploded ordnance, and abandoned Iraqi weapons and ammunitions caches.

To the Special Representative of the Secretary-General of the United Nations and U.N. Agencies:

Under the terms of the mandate granted under Security Council Resolution 1483:

- Establish, as a matter of urgency, a full-fledged human rights monitoring presence throughout Iraq, to investigate past abuses by the Ba'ath government, as well as ongoing human rights violations;
- Assist the occupying power and transitional Iraqi authorities with vetting of public officials, particularly law enforcement and judicial personnel, to remove those with a past history of human rights abuse in a manner consistent with international standards of due process;
- Assist the occupying power and transitional Iraqi authorities to provide human rights training to Iraq law enforcement and judicial personnel;
- Assist the occupying power and transitional Iraqi authorities to coordinate training efforts of law enforcement and judicial personnel;
- Assist the occupying power and transitional authorities with public education efforts to discourage the disorderly exhumation of graves and recovery of bodies;
- Mobilize international resources in support of the deployment of international law enforcement and judicial personnel for immediate assistance in law enforcement and training;
- Mobilize international assistance and resources to facilitate preservation of evidence related to crimes committed by the former Iraqi government;
- Mobilize, as a matter of urgency, international resources for mine action activities (survey, marking, risk education, and clearance), covering antipersonnel landmines, unexploded ordnance, and abandoned Iraqi weapons caches;
- Press for the establishment of an international commission of experts to make recommendations regarding the type of international justice mechanism best suited to addressing crimes and atrocities committed by the previous Iraqi government, consistent with the Security Council's past practice in Resolution 780 (1992) with respect to the former Yugoslavia;
- Press for the inclusion of the rights of women (including those afforded under the Convention on the Elimination of All Forms of Discrimination Against Women) as an integral part of any training for law enforcement officials, including judges, prosecutors, and police;
- Press for the inclusion of the special needs and rights of children (afforded them under the Convention of the Rights of the Child and international juvenile justice standards) as an integral part of any training for law enforcement officials, including judges, prosecutors, police, and other officials whose work brings them in contact with children;
- Press for the protection of vulnerable sub-groups of children, including girls, street children, and children from disadvantaged social groups from discrimination and abuse by peacekeepers, law enforcement officials, and aid workers.

III. THE CONTEXT OF INSECURITY

Coalition forces occupying Iraq should have been better prepared for providing security in Iraq in the aftermath of invasion. Several clear historical and social factors, set out below, indicate that Basra's intense looting and continuing crime wave were foreseeable and thus avoidable.

In the aftermath of the 1991 Gulf War, law and order broke down throughout Iraq as government forces were expelled from Kuwait, triggering a popular uprising throughout southern, predominantly Shi'a Muslim, Iraq. As the government's tight grip loosened, the political uprising was accompanied by an intense period of looting and lawlessness throughout southern Iraq.⁶ Basra's citizens still cite the memory of this period of political and criminal unrest (and the brutal repression of it by Saddam Hussein's government) as one of the reasons for their sensitivity to current conditions and their frustration at the lack of adequate preparation by coalition forces.

Basra's population was increasingly impoverished in the years after 1991. Saddam Hussein's government made little effort to help the city's economy. For example, numerous date palm plantations surrounding the city were destroyed partly as a result of the Iran-Iraq war in the 1980s, and partly as a result of the Iraqi government's anti-Shi'a policies in the 1990s. Date production was an important source of income for many villages, and the loss of these plantations further pauperized the population and generated an influx of poor and poorly-educated villagers into Basra. Many Basra residents and British officers view these displaced and impoverished people as forming the bulk of the scavengers and looters still operating around Basra.

In October 2002, Saddam Hussein released thousands of prisoners, mostly common criminals, from prisons around Iraq.⁷ Eyewitnesses have claimed to Human Rights Watch that they recognized several such freed prisoners among the more organized groups of looters that attacked banks and government institutions immediately after British occupation began. Many of Basra's citizens believed that these elements have been behind organized gangs involved in car-jackings and home invasions. Well-armed Arab tribes living in the areas north of Basra and among the marshes of southeastern Iraq also are blamed by many Iraqis as a source of organized criminal activity on the roads connecting Basra to the rest of Iraq and, increasingly, inside the major cities of the south.

Once British troops were inside the city they were confronted by two other factors which contributed to the atmosphere of chaos and insecurity. First, the citizens of Basra, like other Iraqis, are heavily armed. Immediately before the onset of the war, the Iraqi government distributed weapons to its supporters among the civilian population who in many cases abandoned them after the fall of the Ba'ath government. In the chaos following the war, more weapons were stolen from warehouses and armories around the city by ordinary citizens. The government left behind huge stashes of weapons and ammunition, including mortar rounds, rocket propelled grenades, Katyusha rockets, and bullets for a variety of weapons. British forces were unable or unwilling to secure and clean these sites, leaving them open to any criminal or political groups seeking arms (and, at the same time, endangering children dismantling the weapons for gunpowder used in firecrackers).⁸

The second factor was the destruction of Basra's communications system. Without a local media in Basra to convey news to the city's population, British law enforcement authorities encountered difficulties in communicating effectively with the civilian population. In mid-May, British Military Police finally set up a telephone system to receive complaints, but many people in Basra—especially in the poorer neighborhoods—do not have access to a telephone, and the existing system is unreliable. It is still difficult for ordinary Iraqis to gain access to any of the four police stations operating around the city; the population retains its natural suspicion of the police; and lack of translators and bilingual officers render the British forces more remote (although British

⁶ *Endless Torment*.

⁷ Thomas Ferraro and Nadim Ladki, "Saddam Rallies Support with Prisoner Amnesty," Reuters, October 20, 2002.

⁸ See Human Rights Watch press release, "Basra: Unprotected Munitions Injure Civilians," May 6, 2003.

forces are noticeably more open than their U.S counterparts, who still wear full combat gear and typically operate from behind cement barricades and barbed wire fences). In this atmosphere, news spreads around the city by word of mouth only, often distorting and exaggerating incidents of lack of security and criminality around the area. Basra has become a city rife with rumors, mostly of violence and crime, further heightening the sense of insecurity felt by those living there.

IV. THE SECURITY SITUATION IMMEDIATELY AFTER THE FALL OF BASRA

The British entry into Basra's city center in the first week of April immediately set off uncontrolled looting that continued at a diminished level six weeks later. The extent of the looting in the first week, and British failure to respond to it, convinced many residents of Basra that their security was not a priority for British forces. As conditions gradually calmed down, the ongoing lack of a strong British security presence on the streets and the complete absence of any police force further cemented this conviction.

The lawlessness that followed the fall of the city was created by roving gangs of looters. Some were well-organized, others apparently opportunistic. As in several other cities in Iraq, the looters focused on banks, government buildings, and other major state and commercial institutions. Western journalists entering the city in the wake of British forces reported thousands of looters carrying on in plain view of British troops.⁹

In response to press inquiries as to why the British forces stood by and allowed the looting, Brigadier Graham Binns, Commander of the British Seventh Armored Brigade responsible for taking the city, explained that he lacked sufficient troops to protect the city, and had to focus on protecting vital infrastructure, such as oil facilities and food warehouses.¹⁰ Other British troops at the time offered a less benign explanation: that coalition troops tolerated, and even encouraged, the looting of government buildings as the population's cathartic reaction to the fall of Saddam Hussein's government.¹¹ While this may explain British inaction in the face of attacks on government buildings, it does little to explain why coalition forces stood by as other important civilian and commercial locations were looted.

Certainly, government institutions were a favored target of the looters. Looters ransacked government security buildings, such as the General Security Directorate and the General Intelligence Directorate building, for several days on end. Documents and records were either destroyed or taken away. Human Rights Watch researchers witnessed looters with unhindered access to these buildings as late as April 28. Not all the looters were interested in the substance of these institution's operations. Nearly all furniture, office equipment, and even transportable building material like ceiling tiles, electrical fixtures, and cables were stripped from many government buildings in Basra.

More troubling, Basra's central suq (market) and old commercial district, al-Ashar, was also abandoned to looters for nearly a week as British forces stood by. Mutlaq Kitab Hamud, a fifty-two-year-old cloth merchant with a shop in al-Ashar market, described the chaos of the first two days after British forces entered the city.

I was in my shop because I was trying to protect it. The first day that the British came to central Basra, their forces stopped at the Ashar River [which bisects central Basra from West to East]. They were stopped on the other side of the river before noon. Their tanks were just waiting there. Then an hour or so after noon, they crossed the river and went through the streets of the center. At that time, there were two or three hundred people waiting in groups behind them. It was a big mob. Some of them had acetylene torches and welding masks, and they headed straight for the Rafidain Bank [a branch of one of

⁹ Among news reports, see "Looters Take Over: Crowds Flood Iraq's Second City as British Troops Enter," ABCNews.com, April 7, 2003 [online], <http://abcnews.go.com/section/world/WorldNewsTonight/iraq-looting030407.html>.

¹⁰ Marc Santora, "Scholars Feel Helpless as they See Their Campus Destroyed," *New York Times*, May 19, 2003.

¹¹ For instance, see Michael Georgy, "Basra Residents Say Looting Rampant, Demand Action," Reuters, April 8, 2003.

Iraq's largest banking groups]. The British tanks were standing right in front, but they didn't do a thing to stop the criminals. They were even encouraging them, saying "Go in Ali Baba, go in."

Human Rights Watch interviews with nearly a dozen shop owners from al-Ashar market area substantially supported this account of British inactivity in the face of widespread looting. Muhammad Akhdar 'Abbud, a forty-year-old tailor in al-Ashar market, described the scene thus:

On the first two days after the British entered the city, the looters were everywhere. I think many of them looked like criminals newly released from prison; they had tattoos. They were using welding equipment to get into the Rafidain and Rashid banks [in the center of al-Ashar market]. There were maybe two hundred looters there. A British tank was in front of the Rafidain bank but it did not do anything. After a while, the tank just left. We asked the British to stay because there was looting going on, to protect us, but they just left.¹²

British troops only interfered in the looting in the city center when looters fired their guns. An extended gunfight on April 8 between two groups of looters fighting over access to the banks prompted a rapid British response. In the ensuing firefight, several looters were killed; the bodies of four looters shot and killed while attempting to escape in a Toyota remained in an intersection for several days thereafter. Apparently, even this grim reminder did not deter looters from continuing their work—armed only with clubs and knives.¹³

Basra's hospitals, already taxed to the breaking point by casualties related to the conflict, also faced persistent problems with looting and lack of security. Immediately after British forces entered the city, they provided security only to the city's largest hospital, the al-Jumhuri General Hospital. Other hospitals were initially left to fend for themselves with medical and support staff taking up primitive weapons and standing guard around the clock to deter looters. Some relief came from the local mosques within the week, with clerics organizing small groups of men to act as unarmed guards for the hospitals.

Physicians at the other three major hospitals in Basra, al-Ta'limi (Teaching) Hospital, al-Tahrir Hospital, and Ibn Ghazwan Maternity and Pediatrics Hospital, told Human Rights Watch that they had to specifically ask British troops for protection in the first days of the occupation. British troops did provide some security to these hospitals, but this protection was sporadic and looters continued to threaten staff and supplies.

Dr. As'ad 'Issa, director of the Ibn Ghazwan hospital, told Human Rights Watch that he and his staff had organized twenty-four-hour patrols, armed with makeshift weapons like wooden clubs, to protect the hospital immediately after the occupation began, saying they did not receive adequate protection from British troops despite numerous requests.

On the first day, two physicians from the hospital went to ask for protection from the British. That night, a British tank did a circuit around the hospital, but then it left. The second day, I went to the ICRC [International Committee of the Red Cross] to get help from anyone, and they directed us again to the British. That night, they sent two tanks to go around the hospital, but they left after a while, and we stayed up all night because we could see gangs of looters outside the gates. Looters had already totally gone through the electrical supply building behind the hospital, and they were after the propane tanks we store behind the hospital. We were scared that they would set off an explosion if they tried to take the tanks.

The third night, we had no protection at all. We were too busy dealing with patients to go ask for it. At about 4:30 a.m., we found a group of three looters in the hospital, one of them armed with an AK-47, trying to steal our air conditioning unit. We confronted them in a group, and they finally just ran away. The following nights, we asked for protection from the British again, and they promised us some troops,

¹² Human Rights Watch Interview, Muhammad Akhdar Abbud, Basra, April 24, 2003.

¹³ Human Rights Watch interview, Ayyad Sa'afi, Basra, April 24, 2003.

but they only sent a tank to do a round. So ultimately we asked for protection from committees organized by the mosques, who sent us young men with wooden clubs. They help us, but it's only an emergency measure.¹⁴

Other institutions also were under siege. Businesses and institutions around Basra had begun relying on their own employees for protection due to the lack of response from British forces. The Iraqi Tankers Oil Company, a major petroleum distribution facility located on Sa'ad Square, one of Basra's most important crossroads, was severely looted in the first week of April. Akid Muhammad Jamil, a thirty-six-year old employee of the company, was asked by his supervisor to report to the company in order to help protect it after the initial wave of looting had already resulted in the loss of much of the company's belongings—not just fuel, but also office equipment, instruments, air conditioning units, office furniture, cabinets, and even electrical and telephone cables.

Five days after the British came, some looters came to the warehouse at midday. They had no guns, but they threatened us—they said they would beat us up, and if we opposed them they would return at night with guns. There were four British tanks on Sa'ad Square, so we went to the British to ask them to help us. We said there are looters inside the building, threatening us. We even had to lie to tell them that they had guns, so that maybe the British would come. But they didn't. So we returned to the building and saw that the looters were taking some stuff, and we eventually managed to chase them off. But they returned at 4:30 p.m., the same group. By then we got ourselves a gun, and this time we held them off. We were afraid to shoot because we knew that would attract the British and that they would shoot us. When the looters left, they said they would return at night with guns. At 9:30 p.m., some other looters came by, in a stolen sanitation company car, and demanded fuel. They had a gun with them, so we were afraid. But we had no fuel left, so we eventually argued them out of it. All the time, four British tanks were just sitting in the street.¹⁵

On the other side of Sa'ad Square, Basra University was looted and gutted in plain view of British troops during the first few days after British forces entered the city. The initial wave of looting burned down the library, estimated to hold some one million volumes, including important manuscripts about the history of the Persian Gulf. Looters also completely tore apart the university's planetarium, whose blue dome is a Basra landmark. Looters essentially emptied the university's several faculties of books, school supplies, and furniture.¹⁶

After being attacked by Iraqi militia hiding in the university and the adjacent faculty residences, British forces entered the university on April 6 and established a camp in the College of Arts. The following day, as mobs of looters swarmed the university, British forces decided to leave the university to the looters.

Professor Kadhim K. 'Ali, who teaches English translation at the Faculty of Arts, returned to the university on April 7 to find hundreds of looters rampaging around the university while British troops were camped in the arts faculty, where he teaches. "I saw groups of looters just taking everything, all over the university, while the British were just standing there. The only building intact was the arts faculty, where the British were," he told Human Rights Watch.¹⁷

I went to a British major who was standing with his troops on the main street of the campus. I told him I am a professor and I would like to remove the furniture and property from the arts faculty building to protect it.... A group of other professors, including the chair of the history department, tried to talk to the British troops to get them to do something to protect the arts faculty. But the British said they couldn't let them in because it was too unsafe. So that faculty was ultimately looted also."¹⁸

¹⁴ Human Rights Watch interview, Dr. As'ad 'Issa, Basra, April 21, 2003.

¹⁵ Human Rights Watch interview, Akid Muhammad Jamil, Basra, May 12, 2003.

¹⁶ Marc Santora, "Scholars Feel Helpless as They See Their Campus Destroyed," *New York Times*, May 19, 2003.

¹⁷ Human Rights Watch interview, Basra, May 12, 2003.

¹⁸ Human Rights Watch interview, Basra, May 12, 2003.

Ramadhan M. Sa'adkhan, an assistant professor at the arts faculty, returned to the university on April 8. By that time, the arts faculty had been looted. "I saw the looters just running wild. It wasn't even looting. I saw them set books on fire, loot books that were of no use to them. We had a major library collection relating to the historical heritage of Basra, it was completely ransacked."

Prof. Sa'adkhan also expressed astonishment that British forces, who by his reckoning had four armored vehicles parked immediately outside the university, did nothing to stop the rampant looting. "When I asked the U.K. forces to stop the looters, they said 'We can bring back better books and equipment.' But when is that going to happen? We have no idea. It would have been easier to just stop the looters then."¹⁹

V. SIX WEEKS LATER: CONTINUING CRIMINALITY IN BASRA

Six weeks after the British forces took over the city, Basra continued to suffer from lack of security and a serious crime wave. The city's streets showed some visible signs of improved security: traffic was heavy, apparently almost back to pre-war levels, and the shops on the main thoroughfares remained open until 10 p.m. But gunfire was still a nightly occurrence, averaging about thirty incidents of single or multiple gunshot incidents every night.²⁰ Basra's hospitals reported some three to five gunshot homicides daily, with another five to seven cases of injuries attributed to gunshots.²¹ Physicians told Human Rights Watch that gunshot wounds before the war, limited to one or two a month at each hospital, were mostly of an accidental nature, while after the war intentional gunshot wounds predominated.²²

The frenzy of the first week of looting of money and furnishings in government buildings gave way to more systematic stripping down of public buildings, including the university, and violent thefts of private property and of individuals. In addition, reports of reprisal killings were on the increase in some areas of southern Iraq.

The overall scale of the security problems was (and remains) difficult to fully assess in the absence of reporting by local media and without a centralized system of data gathering about criminal activity. In such circumstances the rumor mill turned a single criminal incident into a whole series of crimes. As an example, one widespread rumor about criminality concerned a rash of carjackings purportedly taking place in the Basra region in the first week of May. Human Rights Watch researchers contacted mosques, hospitals, and other community centers to gather information, and found that in some instances, the same incident was recounted several times as separate incidents, falsely inflating the sense of insecurity. Nevertheless, it was obvious that violent carjackings were taking place throughout the Basra region at a high rate, rendering traffic on secondary roads in the city, and major roads outside the city, vulnerable to attack. Human Rights Watch documented five incidents between May 1 and May 4 alone, targeting pickup trucks, sports utility vehicles, and minibuses.

On May 3, six men with handguns surrounded a house in Basra's al-Jenina quarter and stole the family's car by holding the owner's eight-year-old son at gunpoint. Walid Hamid Kadhim, thirty years old, is the car owner's brother-in-law:

We were inside the house after lunch, when the looters lured the children outside [the house] by offers of money. When my brother-in-law [Nasir 'Abdul Hussein] went out to see what was going on, the looters held his son and put a handgun to his head. They said we want your pickup truck. Nasir tried to reason with them, but they quarreled and the looters threatened his child. So he said leave my child and take the car. They said if you tell the British about this we will come back and kill your child.²³

¹⁹ Human Rights interview, Ramadhan M. Sa'adkhan, Basra, May 12, 2003.

²⁰ Joint NGO Emergency Preparedness Initiative, Situation Report, May 21, 2003.

²¹ Human Rights Watch interview, Dr. Heidar T. al-Ba'aj, Basra, May 17, 2003.

²² Human Rights Watch interview, Dr. 'Adnan al-'Azari, deputy director, al-Ta'limi Hospital, Basra, May 5, 2003.

²³ Human Rights Watch interview, Walid Hamid Kadhim, Basra, May 4, 2003.

Karim Salem Khiwan, 42, manager of the oil company in al'Amara, some 185 kilometers north of Basra, was shot during a carjacking on the road between al'Amara and Basra on May 4.

I was accompanying four company tanker trucks from al'Amara to Basra. I was seated in a pickup truck at the end of the convoy, next to the driver, with two passengers on the back seats. Suddenly, a land cruiser [generic reference to sports utility vehicles] and three pickup trucks full of armed people drove up and surrounded our vehicle. The driver stopped the vehicle and I asked the armed people what they wanted. Without any warning, they started shooting at close range. I was hit in the back. I was nevertheless able to leave the car with the other passengers.

Karim Salem was hospitalized in al-Ta'limi hospital in Basra.²⁴

Another series of incidents plagued a single family in rapid succession, raising the possibility that the family was somehow targeted for its wealth and position with the former Iraqi government.

On the night of May 1, 'Ali Rahim Muhammad, a thirty-year-old policeman, was riding in his vehicle alone when five men in another car armed with Kalashnikov guns attacked and forced him to pull out. As 'Ali Muhammad explained, "One of the assailants put a gun against my head and a rope around my neck. The same attacker dragged me to the sidewalk while another one got into the car. Someone then shouted: 'Let's kill him,' but I then heard someone else ordering the others to let me go. The men left the place quickly with the car, a Honda microbus."

The next day, someone came to 'Ali Muhammad's family's house and claimed to know where the car was. This person was able to recount precisely all the details of the carjacking and said that the vehicle could be found in al-Qurna district, 60 kilometers north of Basra. 'Ali Muhammad's older brother, Tahseen Rahim Muhammad, thirty-five years old, decided to go to Qurna and the informer introduced him to another person who agreed to take him there.

Tahseen went to Qurna with several friends and, through a chain of contacts, was able to meet a group of armed people in possession of the car. According to Tahseen, the armed group belonged to the same tribe as the carjackers. Tahseen negotiated with them and paid a sum of one million Iraqi dinars [then equivalent to about U.S. \$500] to retrieve the vehicle.²⁵

On May 2, when 'Ali's sixty-year-old father, Ibrahim Muhammad Sindal, a senior manager with a maritime commercial firm in Baghdad, received word that his son had been attacked and his vehicle stolen, he decided to go from his home in al'Amara to Basra to help his family. A few miles before al'Uzayr, 100 kilometers north of Basra, Ibrahim Muhammad realized that another car was following his Mercedes. After entering the village of al'Uzayr, Ibrahim Muhamaed stopped his car in a crowded area in order to discourage the attackers. Nevertheless the attackers drove next to him and scared the crowd off with their guns. They threatened Ibrahim Muhammad, who was forced to pay his assailants the equivalent of US\$200. Once the money was paid, the attackers quickly left the area.

Two other brothers of the family, Qusay Rahim Muhammad, twenty-five years old, and Muhammad Rahim Muhammad, a thirty-two-year old driver, left Baghdad by car for Basra at 3 p.m. on May 2 with three other people in their car to help their father and their family. At around 6 p.m., while approaching al'Aizar village, the road was blocked by another car and they were forced to stop. They realized too late that a fake accident had been set up and that six men carrying Kalashnikovs were waiting for them. Without any warning, the gang started shooting at them. Muhammad was hit in the back but managed to pass the assailants' car and sped away. Qusay was also hit by a bullet in his right arm. The three other passengers were unharmed. They informed

²⁴ Human Rights Watch interview, Karim Salim Khiwan, Basra, May 4, 2003.

²⁵ Human Rights Watch interview, Ali Rahim Muhammad, Basra, May 4, 2003.

the British army in the next village, 80 kilometers from Basra. The British provided first aid, and then convoyed them with two cars to the main road. The two brothers decided to return to al-'Amara to spend the night there. They eventually stayed one night at al-'Amara's hospital. The next morning, they came to Basra's al-Ta'limi hospital, where Human Rights Watch interviewed them.²⁶

Homicides and Possible Reprisal Killings

The targeted attack on the Rahim Muhammad family raised the possibility that the family may have been targeted for its wealth or possible links to the former government of Iraq. This latter motive holds troubling implications, given the history of severe political reprisals that occurred in Basra after the 1991 Gulf War. According to information provided by hospital staff, Basra witnessed a nearly thirty-fold increase in gunshot homicides and injuries in the first month after British forces entered the city, but because of the absence of any police investigative capability, it was very difficult to ascertain what motivated these homicides.

Western journalists who arrived in Basra immediately after British troops reported seeing dozens of corpses around the cities, reportedly belonging to Ba'th Party members and military officials.²⁷ However, such open targeting of officials of the former government clearly subsided after the first week of British control. After the initial period of violence Human Rights Watch received unconfirmed reports of nearly a dozen such attacks in Basra during the last week of April and the first two weeks of May, but could only gather detailed information about three possible reprisal attacks in the Basra region. Of these, Human Rights Watch could not confirm the nature of two of the incidents due to the reluctance of the families of the victims to speak publicly and thus to identify themselves as having had positions with the Ba'th Party or the former Iraqi government. An other incident, however, seems clearly to have been an instance of reprisal killing.

In that instance, Human Rights Watch spoke to the family of twenty-six-year-old 'Abdullah Sa'dun, who was killed on April 22 by a masked gunman who stepped out of a car, shot him, and then drove off. 'Abdullah owned a compact disc distributing business, but there was no suggestion that his commercial activities had made him a potential target of violence. The Sa'dun family has been powerful in Basra for many decades, cooperating with successive Iraqi governments since the Second World War, including that of Saddam Hussein. Twenty-one year old Ahmad Turki Za'abi, a close friend of 'Abdullah, witnessed his murder.

At about 11 p.m. we were at the end of this street in front of some shops. There were five or six of us, just standing around. A Toyota pickup truck drove up. It looked like a government car, but it was probably stolen. There were two people inside. They stopped next to us. The passenger left the car with a handgun. He had his face covered. When 'Abdullah saw him he said 'God save me.' The man shot 'Abdullah once in the abdomen and once in his chest. The shooter was about five meters away from 'Abdullah.²⁸

'Abdullah's father, 'Abdul Majid al-Sa'dun, denied that his son's murder was motivated by the family's previous activities, although he could not explain why his son would be targeted in public, without any attempts to attack his companions or to rob him.²⁹ Other family members indicated that they viewed the attack as an attack on the family, and not just 'Abdullah. Walid Sabri Sa'dun, forty, was 'Abdullah's cousin and brother-in-law. He stated that after 'Abdullah's murder, he was concerned for the security of the rest of the family, and that he had asked British forces to protect the family from any further attacks. "If they don't do it, then they should let us do it," he said. "We have guns and we can protect ourselves."³⁰

²⁶ Human Rights Watch interview, Muhammad Rahim Muhammad, Basra, May 4, 2003.

²⁷ Human Rights Watch interview, *New York Times* journalists Marc Santora and Alan Chin, Basra, May 11, 2003.

²⁸ Human Rights Watch interview, Ahmad Turki Za'abi, Basra, April 24, 2003.

²⁹ Human Rights Watch interview, 'Abdul Majid al-Sa'dun, Basra, April 24, 2003.

³⁰ Human Rights Watch interview, Basra, April 24, 2003.

As more and more gravesites around Iraq are exhumed and bodies are identified, Human Rights Watch is concerned that this may inflame the desire for reprisal and further violence targeting officials of the former government of Iraq, members of the Ba'th Party, and their families.

For instance, the city of al-'Amara, 185 kilometers north of Basra, with a population of about 350,000, reported five homicides related to attacks on Ba'th party members and their families and several incidents of arson against their residences. According to British and Iraqi law enforcement officials, these incidents, all of which occurred since the last week of April and the beginning of May, reflect the settling of scores based on the availability of once-secret documents from the Iraqi government that identify government agents and collaborators.³¹

British and local Iraqi police officers independently confirmed for Human Rights Watch the account of the first widely reported instance of reprisal and counter reprisal in al-'Amara: Salam Ghanim Batul discovered that his brother, Rahim, missing since 1991, was among the bodies found in a grave site near Baghdad after the fall of the Iraqi government. Salam Batul apparently identified the person responsible for naming his brother to the government through documents found after the ransacking of the offices of security and intelligence forces. Since this person was already dead, Salam Batoul sought out his son, Najim Abboud Araby, and killed him in public at 11 a.m. on April 22. That afternoon, members of the Araby family attacked Salam Batul's residence, killed Salam, and burned his house.³²

In another case, forty-five year old Mahmood Dawood Menni was killed in his shop, apparently in retaliation for the role played by his brother, Karim Dawood Menni, a local senior Ba'th Party member, in the death of several opponents of the Iraqi government. British and local officials stated that Mahmood was not in any way active with the Ba'th Party or the government, but that the customs of blood-feuds and retaliation made him a target for revenge by his brother's possible victims.

Human Rights Watch was also told by local officials of several attacks on family members of Ba'th Party members, including one shooting of a wife of a Ba'th Party member, and at least two cases of arson directed at residences of families of Ba'th Party members. Local law enforcement officials, with British assistance, have positioned extra patrols around the residential quarters of Ba'th Party members, in part to protect them from reprisals, and in part to monitor their activities.³³

Lack of Security and Humanitarian and Medical Operations

International humanitarian law as embodied in the Geneva Conventions explicitly obliges the occupying power to ensure the safety of humanitarian and medical personnel in carrying out their operations.³⁴ Six weeks after the fall of Basra, lack of security and criminal activity were among the most serious problems facing humanitarian groups and hospitals. Large areas of the city remained off-limits to U.N. agencies and aid groups. At least one medical NGO faced an attempted forced entry by armed men. Hospitals and major institutions also complained about ongoing problems with looters and criminals.

In the first two weeks of May, armed carjackers stole two vehicles from the Ibn Ghazwan Pediatric Hospital. According to the hospital's director, the hospital's minibus, used for transporting staff to and from work, was carjacked in broad daylight on a major thoroughfare and its driver was pistol-whipped. A week later, a Land Rover belonging to the hospital was stolen on May 14 when its driver was threatened with a gun held to his head. Dr. 'Issa, the hospital's director, was concerned that his staff, particularly women, would refuse to report to duty unless security improved.³⁵

³¹ Human Rights Watch interview, Brigadier Sabir, al-'Amara's chief of police, al-'Amara, May 10, 2003; Human Rights Watch interview, Major Brin Parry-Jones, Royal Military Police, al-'Amara, May 10, 2003.

³² Human Rights Watch interviews, al-'Amara, May 10, 2003.

³³ Ibid.

³⁴ Fourth Geneva Convention, arts. 18 and 56, among others, explicitly oblige the occupying power to ensure the proper functioning of hospitals and medical staff.

³⁵ Human Rights Watch interview, Dr. As'ad 'Issa, Basra, May 17, 2003.

Inside the hospitals, on several occasions, patients or their relatives have brandished weapons and threatened physicians with bodily harm. Human Rights Watch was told that at least one such incident occurred daily at the city's three main hospitals. As recently as May 25, the United Nations reported that a patient was murdered inside the al-Ta'limi hospital, while intimidation of hospital staff by armed members of patients' families was routine.³⁶

One of the most highly publicized and troubling incidents of this sort occurred on May 7 at al-Ta'limi Hospital, when aggressive visitors to the hospital brandishing weapons threatened the hospital's director, Dr. Akram Hamudi because they insisted he provide a different course of treatment to save the life of their family member. Dr. Hamudi, a very highly regarded member of Basra's medical community and the teacher of many of the physicians with whom Human Rights Watch spoke, lost ten members of his own family as a result of coalition bombing on April 5. After he was threatened in this way, he felt unable to continue working at the hospital.

Some of these problems have occurred despite the presence of British troops ostensibly to provide security at the hospitals. Human Rights Watch researchers discovered very little coordination between hospital staff and British security forces, often simply because they did not or could not speak to each other. British military personnel provided Basra's main hospitals with a contact telephone number in case of emergencies, but physicians expressed dissatisfaction about this arrangement, saying that emergencies often were too sudden and too chaotic to enable physicians to call for British assistance.³⁷ The physicians complained of inattentiveness by British soldiers, who in turn complained that they were frequently not told about security problems until long after they had been resolved.³⁸

Medical staff, particularly women, expressed strong concerns about their working conditions and the insecurity of their commute to and from work. At al-Ta'limi hospital, the administration requested that all staff, particularly women, travel in groups; the hospital uses ambulances to transport some staff who live in particularly dangerous neighborhoods.³⁹ Female staff are also particularly vulnerable while at work. Dr. Uruba Mazhar Hassan explained that she and her colleagues regularly face threatening situations at the hospital because of the large number of criminal suspects brought in for treatment. Dr. Hassan also repeated the concern voiced by several other physicians about the inability to protect medical staff from distraught or hostile family members of patients.⁴⁰ While these concerns, and their impact on medical staff, are very real, Human Rights Watch researchers could not confirm any serious incidents of attacks on female hospital medical staff.

Problems Particular to Women and Children

In situations of extreme lack of security, women may be targeted for sexual harassment and assaults, and Human Rights Watch received several reports about kidnappings and rapes in Basra. Due to the sensitive nature of such crimes and the conservative religious atmosphere of Basra, it is extremely difficult to document attacks which include elements of sexual violence. Human Rights Watch therefore could not confirm a pattern of attacks targeting women. However, based on discussions with medical personnel, Human Rights Watch confirmed three incidents of abduction of girls or women, possibly involving sexual violence. One incident, occurring on the week of May 11, involved the daytime abduction of a young woman from a city street; the woman's body was found three days later in a field outside the city.⁴¹ Two others incidents, both of which occurred in the first week of May, apparently involved family disputes. Human Rights Watch could not establish whether there were further such incidents during this time period, nor could Human Rights Watch ascertain the incidence of sexual violence in Basra before British occupation in order to provide a basis for comparison.

³⁶ United Nations Iraq Security Office, Security Update, May 25, 2003.

³⁷ Human Rights Watch interview, Dr. Heidar T. al-Ba'aj, al-Ta'limi Hospital, Basra, May 17, 2003.

³⁸ Human Rights Watch interview with staff of al-Jumhuri General Hospital, and British tank crew stationed on hospital grounds, May 5, 2003.

³⁹ Human Rights Watch interview, Dr. Heidar T. al-Ba'aj.

⁴⁰ Human Rights Watch interview, Dr. Uruba Mazhar Hassan, Basra, May 17, 2003.

⁴¹ Human Rights Watch interview, Dr. A., name withheld on request, May 17, 2003.

The general fear of attacks on women and girls also affected students, particularly girls at schools and university. Female students at Basra University expressed their worry about going back to the university or attending classes while looters and scavengers still freely roamed the university. Younger students had similar worries. While most parents with whom Human Rights Watch spoke generally welcomed the reopening of schools, they also expressed their concern about the security of their children. Parents looked to British forces to ensure the security of children on their way to and from school. Another major source of concern for parents was the widespread presence of unused ammunition and unexploded ordinance in many schools. Human Rights Watch documented several instances of children maiming or killing themselves while playing with ammunition or explosives.⁴²

Continuing Lack of Security at Basra University

More than a month after British occupation and the unbridled vandalism that followed it, looting at Basra University had subsided to haphazard scavenging. On two separate occasions when Human Rights Watch visited the university in mid-May, small groups of men could be readily seen hauling away the few remaining items of any value—window frames, cables, even ceiling tiles—on handcarts. “The worst of the looting is now over,” Prof. Sa’adkhan, a member of the faculty of arts, said. “But that is because there is nothing left to loot.”⁴³

Still, insecurity at the university remained a very real threat. Prof. Kadhim ‘Ali, another member of the faculty of arts, said “A week ago [on May 8] we were threatened by looters in broad daylight. They wanted to steal the electrical cables. So a group of professors went to the British to ask for patrols. A tank came and stood by the university that night for a few hours and then left. No British soldiers have come back to help us yet.”⁴⁴

As of May 14, the day of Human Rights Watch’s final visit to the university, there was no schedule for resumption of classes. The university will require a massive investment to repair its buildings and provide even basic facilities required for teaching.

VI. LEGAL OBLIGATION OF COALITION FORCES TO PROVIDE SECURITY IN IRAQ

A sentiment common among Iraqis speaking to Human Rights Watch was to blame U.K. and U.S. forces for failing to stop the ongoing problems with lack of security and criminality. Most often, this complaint was couched in terms of the legal obligations of the occupying power, which are quite well known among Iraqis. References to the Fourth Geneva Conventions Relative to the Protection of Civilian Persons in Time of War, which covers situations of military occupation, abounded in discussions with community and religious leaders, as well as Iraqi citizens from various educational levels and geographic backgrounds. In this environment, the failure of coalition forces to meet this standard has, and will continue to do so, fostered Iraqi resentment toward coalition forces.

International humanitarian law, as reflected in the U.S. military’s own guidelines, obliges the occupying power to restore and ensure public order and safety. Law enforcement must, itself, be conducted in conformity with international human rights law standards. These standards apply to all those acting under U.S. authority, including non-U.S. members and coalition armed forces, Iraqi police, and any international law enforcement officers who may eventually serve in Iraq.

The duty to provide security for civilians attaches as soon as the occupying force exercises control or authority over civilians of the occupied territory—that is, at the soonest possible moment. (This principle is stated in U.S. Army Field Manual 27-10 as well as the Fourth Geneva Convention, art. 6.) Military commanders on the

⁴² See Human Rights Watch Press Release, “Basra: Unprotected Munitions Injure Civilians,” May 6, 2003.

⁴³ Human Rights Watch interview, Prof. Ramadhan M. Sa’adkhan, Basra, May 12, 2003.

⁴⁴ Human Rights Watch interview, Prof. Kadhim ‘Ali, Basra, May 12, 2003.

spot must prevent and where necessary suppress serious violations involving the local population under their control or subject to their authority.⁴⁵

The occupying force is also responsible for protecting the population from violence by third parties, such as armed groups or forces of the former regime (Fourth Hague Convention, art. 47). Ensuring local security includes protecting persons, including minority groups and former government officials, from reprisals and revenge attacks. Occupying forces may have to be deployed to secure public order until the time local or international police can be mobilized for such responsibilities. Up to the time of writing, local or international police have been insufficient or unavailable in Iraq, placing the burden of law enforcement squarely on coalition forces.

Given the absence of civilian (or even military) police, coalition forces relied extensively on combat troops for policing duties. Unless such forces are facing hostilities, the use of force is governed by international standards for law enforcement. That is, only absolutely necessary force may be used and only to the required extent, in accordance with the principle of proportionality. In the first few weeks after the end of active military conflict, soldiers fresh from the “shooting war” were pressed into patrolling duty, often without training in basic law enforcement techniques. This approach—dictated by the relatively small number of troops deployed by the United States and the United Kingdom—resulted in inadequate policing and, simultaneously, incidents of improper treatment of civilians.

Generally, an occupying power is responsible for ensuring that food and medical care are available to the population under its control, and for facilitating assistance by relief agencies. An occupying force has a duty to ensure the food and medical supplies of the population, as well as maintain hospitals and other medical services, “to the fullest extent of the means available to it” (Fourth Geneva Convention, arts. 55 and 56). This includes protecting civilian hospitals, medical personnel, and the wounded and sick. Medical personnel, including recognized Red Cross/Red Crescent societies, shall be allowed to carry out their duties (Fourth Geneva Convention, arts. 56 and 63).

The Fourth Geneva Convention states that while the occupying power has a duty to restore public order and safety, the criminal laws of the occupied country remain in effect. The occupying power may only set aside or modify laws that contravene humane and nondiscriminatory treatment or which pose a security threat to the occupying power (Fourth Geneva Convention, arts. 64 and 27). Any criminal laws enacted must be publicized in the local language; (retroactive) laws are prohibited. Through mid-May, Human Rights Watch could not confirm the existence of an Arabic translation of the criminal laws enforced by British troops in Basra, or more generally, by coalition troops across Iraq. No Iraqi interviewed by Human Rights Watch was aware of the existence of any criminal laws enacted by the coalition (and naturally, of an Arabic version of such laws).

So long as they can ensure the effective administration of justice, the courts of the occupied territory shall continue to function (Fourth Geneva Convention, art. 64). Until Iraqi courts are able to function, or where Iraqi penal law has been displaced or supplemented, the occupying power may set up “properly constituted, non-political military courts” with local or foreign judges to sit in the occupied country (Fourth Geneva Convention, art. 66); such courts must apply international fair trial standards. As of the time of writing, local courts were only tentatively being reconstituted in al-ʿAmara, and were not yet operational in other cities in southern Iraq.

These duties incumbent on the coalition as occupying powers have been strengthened by U.N. Security Council Resolution 1483 of May 22, 2003.⁴⁶ In the fourth paragraph of that resolution, the Security Council,

⁴⁵ This principle was clearly stated in the aftermath of World War II. See for instance *United States v. List, et al.*, 11 Trials of War Criminals 757 (1948), where a military tribunal stated: “A commanding general of occupied territory is charged with the duty of maintaining peace and order, punishing crime, and protecting lives and property within the area of his command.” Jordan J. Paust, “The U.S. as Occupying Power Over Portions of Iraq and Relevant Responsibilities Under the Laws of War,” ASIL Insights, April 2003.

⁴⁶ United Nations Security Council Resolution 1483 at paragraph 4, S/RES/1483(2003) available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement>

acting on its Chapter VII powers, called on the occupying powers “to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people may freely determine their own political future.” Moreover, such action is to be “consistent with the Charter of the United Nations and other relevant international law.”

VII. COALITION ATTEMPTS AT RECONSTITUTING SECURITY IN SOUTHERN IRAQ

Human Rights Watch heard Iraqis across the south of the country argue that if coalition forces could not protect them, they should be allowed to arm and protect themselves. Many residents also urged, somewhat reluctantly, that the old police force should be returned to the streets with weapons in order to provide security. Attempts to create a new police force, utilizing some former police as well as new recruits, have already begun throughout the cities of southern Iraq, albeit with little or no guidance or coordination at the national level. Similarly, efforts to provide new judges and prisons suitable for a proper criminal justice system are hampered by lack of coordination. Human Rights Watch’s research demonstrated that serious problems exist with the vetting and training (or retraining) of returning or new police officers and judicial administrators.

Coalition forces seem to have arrived unprepared to meet their obligations to provide security and justice in the areas under their occupation. They lacked troops trained to provide direct security to the civilian population and military police were scarce and late, with some 400 Royal Military Police available only in late April for patrolling British military installations as well as the entire British controlled areas of Basra and Misan governorates. More than a month after they took control of Basra, judicial and legal personnel capable of administering a justice system in the short-term, and helping recreate a local system in the medium and long-term, had still not arrived. As of mid-May, there was still no indication of a national level effort to coordinate the restructuring or recreation of the police and justice systems. No real commitments had been made to bring international civilian police and legal experts to the area. These shortcomings are all the more glaring in light of the experience of many coalition troops (and in particular British forces) with similar problems in peacekeeping in Bosnia, Kosovo, and East Timor.

The experience of coalition forces in Kosovo is specially relevant because of the broad similarities between peacekeeping following that conflict and the situation in Iraq: the absence of any government infrastructure, the predictability of an outbreak of severe lawlessness, and a history of tremendous human rights abuses.

Some of the key lessons learned in previous international peacekeeping efforts seem to have been forgotten in southern Iraq—most significantly, the necessity of deploying international law enforcement and judicial personnel as quickly as possible after the end of hostilities. In Kosovo, law enforcement personnel were not in place until more than six months after the end of hostilities, providing a crucial window of opportunity for criminal and political elements opposing the peace process to coalesce and take root. Military forces did not have the mandate or the training to provide security or to collect evidence necessary for providing accountability for old and ongoing human rights abuses. Finally, the international personnel provided were poorly educated in local customs and at any rate were deployed for short periods of time, minimizing their ability to supervise justice and law enforcement and to provide training to local officials.

Four years after the end of military activity in Kosovo, the peace process there is hampered by a cycle of violence fueled by failure to bring accountability for human rights abuses, rampant criminality, and ongoing reprisals. In retrospect, the failure to address these issues immediately after the end of military activity fostered and aggravated these problems in Kosovo. The same problems can and must be avoided in Iraq.

Policing

Peacekeeping efforts in Kosovo, Bosnia, and East Timor have demonstrated the importance of deploying civilian police missions without delay alongside the military and the problems caused by failing to do so. Where deployment occurs after massive human rights abuses and crimes have been committed, the missions should also include emergency judicial teams of international judges, prosecutors, and correctional officers. Officials with

experience in managing courts and police departments should be recruited to build local capacities. These lessons, learned through difficult experience in a variety of settings, seem not to have been implemented in Iraq.

Despite the knowledge gained from these experiences, coalition forces in Iraq clearly were incapable of providing adequate security for the population in Iraq living under occupation. Due to the lack of sufficient troops to effectively patrol and secure the cities of southern Iraq, coalition forces have had to improvise to provide even minimal security. For the first three weeks after the occupation, combat troops were responsible for providing security due to the absence of military police. These troops, untrained in the basics of police work and investigation, were ill-suited to the task, but had to suffice in the absence of military police or international civilian police. In Iraq, by all accounts, the focus of coalition forces was on force protection, to the detriment to Iraqi civilians. One result, frequently commented upon by Iraqis, was a focus on responding robustly to any use of weapons, while essentially ignoring other incidents of lawlessness and looting.

One notable example investigated by Human Rights Watch occurred on April 20, when a dispute between two neighbors prompted British overreaction, resulting in a British armored vehicle driving into a neighboring house and setting it on fire while its residents were sheltering inside. The family of 'Abdul Karim 'Ali Muhammad, the house's owner, including his parents, his wife and three children, and his brother's family, miraculously emerged unscathed from the conflagration.

According to several eyewitnesses, a long-standing dispute between two neighbors culminated with one taking up an AK-47 and firing it at the other. The altercation attracted the attention of British forces (local residents suspected that the aggrieved neighbor had told British troops that a member of the Iraqi government militia known as Saddam's Fedayeen was sheltering in the area), who responded with at least three armored vehicles. In the ensuing confrontation, eyewitnesses unanimously stated that British forces came under attack from the neighbor, using AK-47s. The same witnesses were equally clear that British troops responded with overwhelming force in a manner potentially disastrous for civilians in the area.

Walid Amin 'Abdul Razzaq, a neighbor, described the scene:

The British armored vehicle stopped in front of our neighbor's house. We were all hiding on the other side of the street. Then we saw the armored vehicle go through our neighbor's wall, into their garden, and then it seemed to fire inside the house. Suddenly the whole house seemed to explode. Later, we saw an armored vehicle trying to move in the street. Our neighbor tried to get his car out of the way so the tank could move, but the British didn't wait, they just drove on even though they could see the driver in the car. The British just drove over the back of the car, while the driver ran out. It was a miracle that he wasn't killed.⁴⁷

British military officials in charge of policing told Human Rights Watch five days after the incident that they had no information about this incident because it had not been reported by the troops involved.⁴⁸ Human Rights Watch was told on May 13 that the Basra city authorities had contacted British military authorities for information and possible reparation for the family.

In other instances of criminality, when guns or important infrastructure were not at issue, British combat troops appeared either incapable or uninterested in providing security.

Due to the lack of reasonable alternatives (for instance, an international civilian police force), coalition forces were forced to rely on local police officers or new recruits to patrol the cities. During the first three weeks, these local forces were unarmed and had no power of arrest or investigation. By the second week of May, local police forces in al-Nasiriyya and al-'Amara were rearmed by coalition troops in response to the rising crime wave.

⁴⁷ Human Rights Watch interview, Basra, April 23, 2003.

⁴⁸ Human Rights Watch interviews, Major Henry Cummings, Captain Chris Heron, Major Nadine Heron Basra, April 25, 2003.

Most Iraqis openly called for the return of their former police force, preferably armed, in order to protect them as coalition forces could not.

The residents of Basra were unanimous in their negative assessment of their former police force, which as one resident said was more concerned with enforcing the government's will than protecting the people.⁴⁹ Shop owners in Basra stated that they viewed the old police as corrupt, inefficient, and brutal. Still, they explained that they preferred to have the old police back if it meant having better security.

Current British plans for policing Basra envision the return of a large number of former police officers to duty, due to the unavailability of sufficient numbers of British troops, particularly military police. Human Rights Watch research into the reconstitution of the police force in Basra raised serious concerns about the vetting process while selecting members of the new force, and about the training they would receive.

A city the size of Basra, with a population of at least 1.5 million, requires some five to six thousand police officers on the ground, with one thousand in administrative and support roles, according to Lieutenant Colonel Eddie Forster-Knight, the British officer responsible for police forces in the British zone. By mid May, some 480 members of the Royal Military Police (RMP) were available in the British zone to cover the two provinces of Basra and Misan. Of this group, one hundred were dedicated to garrison duty and 320 to street patrols. Some one hundred RMPs were on active patrols in Basra, an insufficient number for providing security to the city's population.⁵⁰

British plans include a possible contingent of up to 1,500 international civilian police to help protect the city and train the new Iraqi police. As of this writing, it was not clear which country or countries would contribute this number. Even with this number, coalition forces would not have sufficient police to provide adequate security for Basra. Several British officers responsible in different capacities for providing security to Basra told Human Rights Watch of their frustration about the lack of proper planning for the rapid deployment of such a force, given the peacekeeping experience of British troops in Kosovo.

To make up for the shortfall in coalition forces, British military authorities created a six-hundred-strong force, the Auxiliary Police, comprised mostly of former police officers, along with new recruits, to patrol the streets. This force will receive new uniforms but no guns.

Another group, the Guard Service, will police sites such as banks, government buildings, and main crossroads. This service is comprised of personnel deemed unsuitable for the actual police force. At this point, the Guard Service will include some one thousand members who will be paid by the institutions and utilities they protect.

The centerpiece of the British plan is the Auxiliary Police. British Military Police have conducted joint patrols with the Auxiliary Police, and British authorities told Human Rights Watch that they had provided some basic training to this new police force, covering investigative techniques, self-defense, and the handling of suspects. The goal is, as Lt. Col. Forster-Knight put it, to create a police service serving the community instead of a police force ruling over the populace.

However, newly commissioned Iraqi police officers interviewed at random by Human Rights Watch complained about lack of training, inadequate direction, and pervasive lack of security. There was little esprit de corps or professional pride evident among the members of the new police service.

One new recruit, Ahmed H., 24 years old, told Human Rights Watch:

⁴⁹ Human Rights Watch interview, Dr. As'ad 'Issa, May 17, 2003.

⁵⁰ Human Rights Watch interview, Lt. Col. Eddie Forster-Knight, Basra, May 7, 2003.

This cap that I am wearing is the only piece of police uniform on me [he wore a baseball cap with a “Police Basra District” insignia]. But only a few of us have got caps like this. The British promised to give us uniforms. I did not serve in the police before the war. I was a soldier, a tank driver. I have to support my big family, which is why I decided to go to the police. When I came to the British a week ago they did not even ask me for my ID or passport. I just told them my name. The British did not give me any training. They told us though that the training will be conducted in ten days. My training is my daily experience. There are more new people in the police than those who served in the old police. I have not received my salary yet so I do not know how much it is. The British never told me that. But they say that we all will sign formal contracts. It is very difficult for us to stop the crime wave because we do not have weapons. There is no security at all in the town. Some of us, like me, came from the army, some are former policemen, some were civilians.⁵¹

Other police officers were careerists from the old force. Kazim, a 27-year veteran of the former police force, said:

On April 19, I went to the former police station, where the British were, and volunteered to work with them. I told them that I want to serve my country. They said that they want me to work with them but in civilian clothes. The British did not want to see any of my certificates or documents. They did not give us any training. There are many former policemen who serve in the new police. We also have new people, young ones, who did not serve in the old police. They did not receive any training either. But the British promised to train us all. Sometimes they want us to serve as security guards at gas station and to keep order there. We do not have the authority to arrest someone. We report to the British, they come and arrest suspects and deliver them to the police. We do not do any kind of investigations. Sometimes we try not only to report about crimes, but to prevent them or try to arrest the suspect even if we do not have guns. Everyday we detain many people, suspected in looting or other crimes. We work in three shifts. The safety of the people is lower now than before because we do not carry guns, but the British promised to allow us to have guns and wear uniforms.⁵²

Until the middle of May, British forces were unclear about how extensive future training would be, or how they would be paid for. They were also unclear about how other cities in the U.S.-controlled areas were reconstituting or training their police forces.

U.S. officials in al-Nasiriyya told Human Rights Watch they had not received any directives about how to restructure the city’s police force. Instead, the Marines who first occupied the city have been forced to improvise, drawing on the experiences of a number of reservists who serve as police officers or lawyers in their civilian lives. Major Dan Schutta, a Marine reservist who serves as a police officer in New York City, is helping lead the creation of a new Iraqi police force in al-Nasiriyya.

We’re trying to teach them about investigation, rules of engagement, the force continuum—we’ve had a few sessions where we’ve been able to work with them on this. And the best training for them is to have us patrol with them. But they’re still a far distance from being able to run a real police force. We’ve rearmed them with AK-47s so that they can be more effective, but for now their real fear is of carrying guns and being accidentally shot by Marines, so they’re not too eager to carry their guns. Which greatly decreases their effectiveness as a police force.⁵³

The reconstitution of police forces in Iraq raised concerns among the populace that the same individuals responsible for enforcing the abusive rule of the previous government would return to positions of power under the cover of the coalition forces. In order to prevent such an outcome, it is essential to vet the police and judicial personnel to keep out individuals who are inappropriate due to corruption, human rights violations, or war crimes.

⁵¹ Human Rights Watch interview, Ahmad H. [full name withheld to protect his identity], Basra, May 8, 2003.

⁵² Human Rights Watch interview, Kazim [full name withheld to protect his identity], Basra, May 8, 2003.

⁵³ Human Rights Watch interview, Maj. Dan Schutta, al-Nasiriyya, May 9, 2003.

Some British and U.S. officials in southern Iraq spoke of using coalition military intelligence sources as a first level of vetting, followed by reliance on information gathered from locals. Others stated that coalition military intelligence did not seem to provide much help when dealing with lower or middle level personnel.

Human Rights Watch found that use of local sources, potentially a useful method of prohibiting the return of abusive personnel, has not been implemented effectively. There is still no systematic public mechanism in place now for the local population to learn the identities of new law enforcement personnel, or to comment on such personnel let alone to do so without fear of reprisal or persecution. As a result, it is possible—indeed, likely—that many of the same people who were involved in the repression of the Iraqi people will resume new positions of authority. Most Iraqis seemed to welcome such an outcome, if it improved their security in the short term.

Penal System and Prisons

The persistent looting and lawlessness in Basra and across the south of Iraq is aggravated by the inability of coalition forces to prosecute and imprison criminals systematically. None of the cities in southern Iraq have prison facilities suitable for use by coalition forces. Even Basra, the largest city in the south, does not have any prison facilities that could be used by British forces in a manner consistent with their obligations under international human rights law.⁵⁴ Those apprehended for nonviolent looting or theft, are held overnight and released with a verbal reprimand. The result is a climate of criminal impunity for all but the most serious crimes.

According to British officials in the British-controlled governorates of Basra and Misan, those arrested for committing violent crimes are investigated by British legal officers, and if reasonable grounds for detention are found, are sent to a facility within the Umm Qasr prisoner of war camp. There, according to British forces, the detainees are supposed to be kept apart from the prisoners of war, subject to a twenty-one-day detention followed by a legal review of their status pursuant to British legal standards. The first cases of criminals arrested after British occupation came up for review in mid-May, and Human Rights Watch has not been able to confirm the operation of this system.

To add to the general confusion and lack of coordination, British and U.S. forces in southern Iraq are not using the same legal process for detaining people. In al-Nasiriyya, the only major southern Iraqi city held by U.S. forces, violent criminal acts involving firearms are classified as having a “military dimension,” that is, as acts possibly involving hostile enemy forces.⁵⁵ Based on this reasoning, those suspected of violent criminal acts are treated as prisoners of war and processed as such. U.S. troops in al-Nasiriyya simply accept that they do not have the capacity to investigate or incarcerate criminals at the moment, except for a handful of small holding cells in the old police station, used to hold petty criminals overnight. Human Rights Watch spoke with four men who were released from overnight custody in al-Nasiriyya, followed by a public scolding by a Marine officer whose admonishments were being translated for the men’s benefit. None admitted to any wrongdoing, claiming that they had been arrested because they had been at the wrong place at the wrong time. None reported any mistreatment by U.S. forces. However, at least two intimated that they had been arrested before and released after a day.⁵⁶ U.S. forces had not received any indications from ORHA or other superiors about how or when the prison system in al-Nasiriyya would be rebuilt. Coalition forces throughout the south told Human Rights Watch that they were unclear about how to proceed with their efforts to provide security.

In Basra, British authorities have begun contacting private companies to assess existing prison facilities for refurbishment, or possibly construct new prisons altogether. In the interim, British forces are scrambling to create makeshift facilities that can be used to hold suspected criminals. British forces told Human Rights Watch that they expected the British Department for International Development (the British equivalent to the U.S. Agency for International Development) to pay for some initial assessments and possible construction, but that it

⁵⁴ Human Rights Watch interview, Lt. Col. Nick Mercer, legal advisor to the 7th Armored Brigade, Basra, April 25, 2003.

⁵⁵ Human Rights Watch interview, Maj. Dan Schutta, al-Nasiriyya, May 8, 2003.

⁵⁶ Human Rights Watch interviews, names withheld upon request, al-Nasiriyya, May 8, 2003.

remained unclear who will pay for the construction or refurbishment of prisons, or for the training of personnel necessary to administer such prisons effectively and in conformity with international standards.

Legal system

The reconstitution of an effective legal system in Iraq is even farther behind than the regeneration of a police force. Under the Fourth Geneva Convention, occupying powers must use the Iraqi penal system to the extent possible, except where it would seriously endanger the security of the occupying powers or violate international standards.⁵⁷ As of mid-May, there was still no revised version of the Iraqi penal code broadly distributed for use by coalition law enforcement officials. British forces were using a list of twelve crimes as guidance. As the lead legal officer in the British sector explained, “these are pretty basic: no murder, no rape, no assault, no looting.”⁵⁸ International law specifies that any such criminal laws must be publicized before they are enforced. Human Rights Watch could not confirm the existence of an Arabic translation of the criminal laws enforced by British troops in Basra, or more generally, by coalition troops across Iraq.

In the absence of functioning local courts, coalition forces hold the responsibility for providing basic legal services. Occupying powers are also obligated to observe international standards of due process.⁵⁹ Satisfying these obligations in Iraq requires immense commitment of resources and staff from coalition forces—a commitment absent until now.

Experience from operations in Kosovo and East Timor suggest that international legal personnel should be on the ground in the immediate aftermath of the conflict to provide basic legal services in the absence of local courts. As local personnel assume more authority, international advisors are necessary to help this transition. Although senior British officers operating in southern Iraq had direct experience with this process, mainly from previous work in Kosovo, they told Human Rights Watch that no such preparations had been made for British forces in Iraq.⁶⁰ For now, British military judicial staff handle all routine and serious criminal cases in Basra and al-’Amara. It remains unclear how and when a proper legal system will be implemented in Iraq.⁶¹

Across southern Iraq, courthouses were looted and documents and files were destroyed. The Iraqi judicial system was highly compromised through its control by the Ba’th Party under Saddam Hussein’s government. British forces in Basra and al-’Amara were working with local judges and bar associations to identify personnel who could acceptably administer basic legal services, but Human Rights Watch did not learn of any systematic efforts to retrain these judges. As one British officer, requesting anonymity, explained to Human Rights Watch:

We’re waiting for Baghdad to let us know when we can turn over the courts to Iraqis. Someone has to help the local judges, who are certainly capable and well-educated, get accustomed to a new system where defendants have rights. In Kosovo, we had international experts and professors who could help with this. Now, we don’t know who is going to do this or who is going to pay for it, although we’re confident that once the dust settles we will have the ability to hand over the system to Iraqis.

U.S. forces in the south also lacked direction on how to rejuvenate the Iraqi legal system so as to allow basic legal and penal matters to proceed. Major Ralph Dengler, an intellectual property lawyer from New York City, was trying to return some of al-Nasiriyya’s former judges to work in order to allow the criminal system to operate. “We’ve been able to get some basic things accomplished here, because we have a lot of Marines with police and criminal investigation backgrounds here, but we have not yet received any directives from ORHA about overall strategy. We have not been visited by anyone from ORHA yet at all,” he said.⁶²

⁵⁷ Fourth Geneva Convention, art. 64.

⁵⁸ Human Rights Watch interview, Lt. Col. Nicolas Mercer, Basra, May 26, 2003.

⁵⁹ Fourth Geneva Convention, arts. 65-77.

⁶⁰ Several senior British officers requested Human Rights Watch not use their names or ranks when discussing this issue.

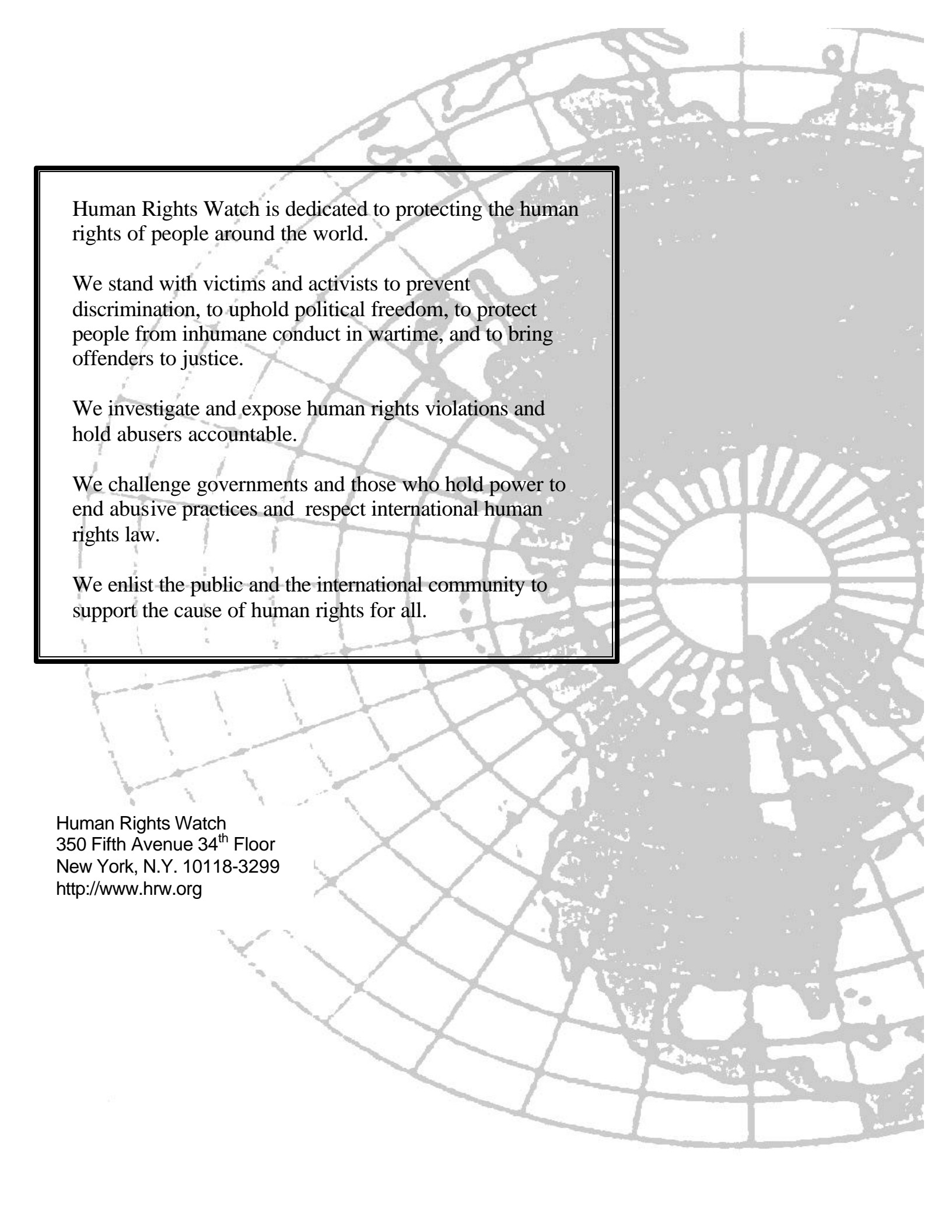
⁶¹ British forces in Basra told Human Rights Watch they planned to return some authority to the local judicial system by June 6.

⁶² Human Rights Watch interview, Maj. Ralph Dengler, Al-Nasiriyya, May 9, 2003.

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Human Rights Watch
350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
<http://www.hrw.org>