

## **`Ali Hassan al-Majid and the Basra Massacre of 1999**

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*Even I have a gun, like everyone else now. But I have locked it away, and I don't tell my family that I have it. If they find out that I have this gun, they will take it and use it to kill the Ba`th Party members that used to live here, because we know they were responsible for Mustafa's death. ... Even I could not control myself. I have lived my life and I have buried my son ... I want justice.*

Jawad Kadhim `Ali, Basra, May 7, 2003

## I. Introduction

Jawad Kadhim `Ali held the funeral service for his son, Mustafa, on May 7, 2003, in Tanuma, a poor suburb east of Basra. The coffin was empty; the last time Jawad saw Mustafa was four years earlier, on March 19, 1999, when Iraqi security agents and members of the Ba`th Party forcibly took Mustafa from his bed. Mustafa was nineteen years old then, in his final year of high school.

Mustafa was arrested two nights after the start of an uprising by Shi`a Muslims that constituted one of the most serious internal challenges to Saddam Hussein's rule since the 1991 Gulf War. Thousands of Shi`a Muslims across Iraq took to the streets, and in some cases, attacked Iraqi government officials and buildings to protest the assassination of Grand Ayatollah Muhammad Sadiq al-Sadr, one of Iraq's most senior Shi`a Muslim clerics, almost certainly at the hand of agents of the Iraqi government. Saddam Hussein responded to the uprising (which came to be known as the "al-Sadr intifada") quickly and brutally. In the ensuing crackdown, the government summarily executed scores of people and dumped their bodies in hastily dug mass graves, arbitrarily imprisoned and tortured thousands of their family members, and in many cases, destroyed their homes and livelihoods. Mustafa and his family were among those punished during this campaign of reprisal.

Mustafa's family knew nothing of his fate for four years; they were never told whether he had been charged with a crime, or put on trial, or imprisoned; they never received notification of his death, much less his body. But they received two critical bits of information in the days immediately after U.S. and British forces ousted Saddam Hussein in April 2003. The information was contained in a document—a handwritten list—found during the looting of government offices following the occupation of Basra. Human Rights Watch researchers in Basra obtained four pages of this document in April

2003.<sup>1</sup> The document lacks any official identifying marks, but circumstantial evidence (described more fully below) strongly suggests it is an authentic contemporary Iraqi government document. The four pages of the document that Human Rights Watch has names 120 men who were executed in March, April, and May of 1999 for “taking part in the events of March 17 - 18”—the al-Sadr intifada.

The first, terrible bit of information contained in that document was Mustafa’s name among those executed. His name appeared on a page listing the date of his execution as May 8, 1999, thus destroying his family’s tenuous hope that he was still alive, and allowing them to hold his funeral almost exactly four years after he was killed, even though his body has never been found.

The second important piece of information contained on this Execution List was clues about the identity of those responsible for killing Mustafa and scores of other young men. In Mustafa’s case, the document states that “officers of the police directorate” had carried out the execution. Other pages indicate that another group of young men was executed by family members of Ba`th Party officials who were killed during the uprising, while yet another group was killed by senior Ba`th Party members from Basra and nearby Umm al-Ma`arik. But most significantly, the document’s first two pages bear notes stating that the executions were carried out “under order of the Commander of the Southern Sector.” At the time this was `Ali Hassan al-Majid, Saddam Hussein’s cousin and close associate, better known as “Chemical Ali.”

Al-Majid earned the sobriquet “Chemical Ali” because of his role in the genocidal Anfal campaign between February and August 1988, and his use of chemical weapons against Kurdish villagers in northern Iraq beginning in April 1987. He was subsequently in charge of Iraq’s military occupation of Kuwait, and led forces that suppressed the popular uprising in the south of Iraq in March 1991, following the 1991 Gulf War. Al-Majid also played a leading role in the campaign against Iraq’s Marsh Arab population in the 1990s. All of these campaigns were marked by summary executions, arbitrary arrests, disappearances, torture, and other atrocities.

The Iraqi government’s crackdown after the al-Sadr intifada utilized many of the same brutal and illegal tactics. Research conducted by Human Rights Watch in Basra in 2003 strongly suggests that Iraqi security forces and Ba`th Party members, under the direct command and supervision of `Ali Hassan al-Majid, engaged in systematic extrajudicial

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<sup>1</sup> A copy of this list is attached as Appendix to this report.

executions, widespread arbitrary arrest and detention, torture, and collective punishment. These acts constitute gross violations of human rights and crimes against humanity.<sup>2</sup>

Three months after Mustafa's funeral, on August 21, 2003, U.S. forces captured al-Majid. On December 18, 2004, an Iraqi investigative judge conducted a pre-trial hearing in which he questioned al-Majid.<sup>3</sup> Comments by Iraqi government officials suggest that he will be among the first defendants to be tried before the Iraqi Special Tribunal.

For the families of the victims of the 1999 crackdown, al-Majid's trial is important for two distinct reasons: first, it can lead to justice and accountability for the perpetrators of horrific abuses; second, the trial raises the possibility that families of the missing will obtain information that may help them learn the fate of their loved ones. Many Iraqi families still have no conclusive information whether missing family members are alive or dead. However, the gathering of such information, as part of the trial process, is likely to be limited, because the main task of criminal tribunals is to procure and introduce evidence necessary for a successful prosecution. Such tribunals lack the resources and mandate to help families identify the missing, whether by forensic testing of exhumed mass graves, or through investigation of witnesses and government documents. Another mechanism will need to be established to assist with these humanitarian tasks, so to help families resolve their ongoing loss and grief.

Human Rights Watch strongly believes that there must be accountability for massive crimes, including genocide, crimes against humanity, and war crimes, committed during the Ba`th Party's rule in Iraq. At the same time, Human Rights Watch is concerned that the Iraqi Special Tribunal statute incorporates provisions of Iraqi law that permit the death penalty for certain crimes, and, together with the draft rules of procedure and evidence, contains inconsistencies that could be interpreted to undercut fair trial standards. After working closely with many of the victims of the events in Basra of 1999, as well as victims of other official Iraqi crimes, Human Rights Watch urges U.S.

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<sup>2</sup> At the time of these events, crimes against humanity were being prosecuted before the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda. Crimes against humanity are any of the following crimes when committed as part of a widespread or systematic attack directed against any civilian population: murder; extermination; enslavement; deportation; imprisonment; torture; rape; persecutions on political, racial and religious grounds; and other inhumane acts. See Statute of the International Criminal Tribunal for the former Yugoslavia, S.C. Res. 827, U.N. Doc. S/Res/827 (1993, as amended (found at <http://www.un.org/icty/legaldoc/index.htm>), Art. 5, and Statute of the International Criminal Court for Rwanda, S.C. Res. 955, U.N. Doc. S/Res/955 (1994), as amended (found at <http://www.ictt.org/ENGLISH/basicdocs/statute.htm>), Art. 3. An "attack" against a civilian population need not be part of armed conflict. See, e.g. *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T (Trial Chamber) September 2, 1998 para 581.

<sup>3</sup> Sameer Yacoub, "Iraqi Judges Interrogate Saddam's Aides," *Associated Press*, December 18, 2004; John F. Burns, "Iraqi Judge Questions Aides of Hussein With Lawyers," *New York Times*, December 19, 2004, p. 18.

and Iraqi authorities to take the necessary steps to ensure that those responsible for the atrocities that occurred in 1999 will face justice, not mere vengeance.

Due to security concerns, the names of the witnesses and victims in this report have been changed except where the witnesses have expressly requested otherwise.

## **II. Identifying the Perpetrators**

There are several reasons why the events of 1999 present a unique opportunity to investigate how Saddam Hussein's government systematically oppressed groups whom he felt threatened his rule, and al-Majid's key role in carrying out that oppression.

First, the victims of this massacre, as well as witnesses with information about the massacre, are concentrated in and around Basra, a relatively secure area of Iraq. In 2003, Human Rights Watch researchers were able to conduct numerous interviews with victims and eyewitnesses to gather the information provided in this report. In addition, many of the Iraq government and Ba`th Party officials, who may have information about the uprising and subsequent crackdown in 1999, reportedly still live in and around Basra. Much of this information is still readily available for investigators working with the Iraqi Special Tribunal. The severity of the abuses perpetrated during the crackdown merits a thorough investigation by experts in criminal justice investigations, and prosecution of those responsible.

Second, some victims of the 1999 massacre remain buried in unmarked or undisturbed gravesites. Professional forensic exhumations of these grave sites could develop further evidence that would be valuable for criminal investigations and prosecutions.

Finally, the lists of names that identified Mustafa as among those killed, along with other potential documentary evidence, also provide clues about the identities of those responsible for ordering and committing these murders—not just al-Majid, but the agents who actually carried out the executions.

### ***The Basra Execution List***

This Execution List, like similar lists that have been discovered since the fall of the former government, does not bear any insignia, letterhead, or signature. A copy of the Execution List first appeared on the bulletin board of the Imam `Ali mosque and the al-Jumhuriyya mosque in Basra immediately after the city's occupation by British troops in

April 2003. The mosques' custodians told Human Rights Watch that they retrieved the list from the offices of *Mudiriyyat al-Amn al-'Amma*, the General Security Directorate, during the general looting of government buildings that followed the arrival of British troops in Basra.<sup>4</sup> Human Rights Watch is not aware of the chain of custody for the document; most Shi'a mosques in Basra eventually posted photocopies of the list, and copies were circulated widely among the families of those missing. Human Rights Watch secured four pages of the list in April 2003. Human Rights Watch knows of at least two more pages of the document containing lists of people executed.

The four pages of the Execution List in Human Rights Watch's possession contain the names of 120 victims in all, numbered consecutively over the four pages. All the names are those of young men—the youngest listed was sixteen years old, the oldest thirty-six—with places of residence in and around Basra. The four pages have the same five columns: Number, Full Name, Date of Birth, Home Address, and Notes. The pages have identical headings: "List of the names of the criminals who confessed to taking part in the event of March 17-18, 1999."

Each page of the Execution List refers to a different date of execution for the persons listed, and the "notes" column refers to different local authorities from Basra or the southern region of Iraq, who carried out the execution. For instance, twenty-eight other names appear on the same page as Mustafa's in neatly ruled columns, stating their names, their places of residence, dates of their execution, and the identities of the agents who carried out the actual executions—in Mustafa's case, "the officers of the Police Directorate."

*First page: Thirty-three men executed on March 25, 1999:*

This list contains thirty-three names (numbered in the list from #1 to #33). The note reads: "On March 25, 1999, the ruling of the people was carried out against the criminals by the families of the martyrs under order of the Commander of the Southern Sector."<sup>5</sup>

*Second page: Thirty-one men executed on April 18, 1999:*

This list contains thirty-one names (numbered in the list from #34 to #64). The note reads: "On April 18, 1999, the ruling of the people was carried out against the criminals by Basra and Umm al-Ma'arik leadership and members of the ruling party under order of the Commander of the Southern Sector."

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<sup>4</sup> Interview, Sayyid Hassan al-Haidar (his real name), al-Jumhuriyya mosque, April 24, 2003.

<sup>5</sup> The term "martyrs" here most likely refers to members of the Ba'th Party who were killed during the uprising.

*Third page: Twenty-eight men executed on April 19, 1999:*

This list contains twenty-eight names (numbered from #65 to #92). The note reads: “On April 19, 1999, the ruling of the people was carried out against the criminals by the officers of our Police Directorate.”

*Fourth page: Twenty-eight men executed on May 8, 1999:*

This list contains twenty-eight names (numbered from #93 to #120), including that of Mustafa Jawad. The note reads: “On May 8, 1999, the ruling of the people was carried out against the criminals by the officers of our Police Directorate.”

### ***Information about the Perpetrators***

The Execution List, if authenticated, helps to identify those who have information about the identity of perpetrators directly responsible for serious and systematic violations of human rights in Basra in 1999. As described more fully below, the testimony of surviving victims and eyewitnesses corroborates the basic facts set out in the Execution List: namely, that dozens of men were detained by Iraqi security forces and Ba`th Party members after the al-Sadr intifada, and that dozens of men were executed summarily and en masse by security forces and party members in deserted areas in and around Basra over the space of several weeks in March, April, and May of 1999.

Strong circumstantial support for the list’s authenticity comes from the fact that it includes the names of twenty-nine persons who were presumptively identified among remains of thirty-three people exhumed from a mass grave site in Basra. Human Rights Watch researchers did not witness these graves being exhumed, but examination of the remains a few days after they had been removed from their original burial site revealed cloth strips on several of the bodies consistent with blindfolds and ropes that could have been used to tie hands and feet. Several skulls visually inspected by Human Rights Watch exhibited wounds consistent with possible bullet entry.



A blindfold was found on these human remains dug up by family members at the al-Birgisia site. (c) 2003 Human Rights Watch





Ligatures were found on these human remains dug up by family members at the al-Birgisia site. (c) 2003 Human Rights Watch

The first two pages of the list bear notations stating that the executions were carried out by “order of the Commander of the Southern Sector.” In 1999, `Ali Hassan al-Majid held this post. He referred to himself by this title in official Iraqi government communiqués at the time.<sup>6</sup> Every person interviewed by Human Rights Watch in Basra in 2003 identified the “Commander of the Southern Sector” in 1999 as al-Majid. Furthermore, everyone interviewed by Human Rights Watch believed that al-Majid directly oversaw all military and security operations in southern Iraq, including Basra, during the uprising and subsequent crackdown.

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<sup>6</sup> See, for instance, Republic of Iraq Radio [via BBC Monitoring Service], “Commander of southern region informs Saddam of bringing down of plane,” Dec. 30, 1998 (text of official communiqué in which al-Majid signed his name as “Commander of the Southern Sector”).

Witnesses and surviving victims of the 1999 crackdown repeatedly accused Mahdi al-Dulaimi, an army officer who headed the General Security Directorate in Basra, of involvement in the murders and other crimes. Jawad Kadhim `Ali, father of Mustafa Jawad, told Human Rights Watch:

I can give you the name of the person, who is responsible for the killings and torture that occurred in Basra. His name is Mahdi al-Dulaimi. He was the head of the Security Directorate in Basra for many years, one of the five most important prosecutors in Iraq. Saddam Hussein very much relied on him. I do not know his current whereabouts. He was one of Chemical `Ali's subordinates. ... Mahdi reported directly to Chemical `Ali.<sup>7</sup>

Sayyid Haidar al-Hassan, a religious and community leader from the al-Jumhuriyya mosque, also pointed to Mahdi al-Dulaimi as possibly culpable for, and certainly knowledgeable about, the 1999 massacre:

He had been in Basra since long ago. He knew everything about Basra and the people of Basra. He was a criminal in the past. He had tracked down the Islamic movement in Basra since the beginning of the 1970s and developed his own method for getting confessions. He used all kinds of horrible instruments of torture. Sometimes he used members of a family [to torture other members of the same family].<sup>8</sup>

The Execution List also provides possible evidence of the identity of the agents who physically carried out the execution orders. "On March 25, 1999," reads the first page of the list, "the ruling of the people was carried out against the criminals by the families of the martyrs." This suggests that relatives of Ba`th Party members killed during the uprising may have been given the first opportunity to exact revenge. Investigators for the Iraqi Special Tribunal or other tribunals should attempt to ascertain the identity of those Ba`th Party members killed during the uprising through archival and eyewitness testimony, thus helping to identify which families may have had a hand in carrying out the 1999 massacres.

Another group implicated in the massacre is senior Ba`th Party members from the Basra area. According to the list, the thirty victims killed on April 18 were murdered by "Basra

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<sup>7</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

<sup>8</sup> Human Rights Watch interview with Haidar al-Hassan, May 13, 2003, Basra, al-Jumhuriyya mosque.

and Umm al-Ma`arik leadership and members of the ruling party.” Archival evidence about the membership of the Ba`th Party, particularly at the leadership levels, can be used to establish a list of suspects for questioning about their involvement with these killings. Numerous witnesses from Basra and its environs who were involved with the Ba`th Party can provide information about its leadership structure.

Similarly, the list indicates that fifty-five other young men were killed on April 19 and May 8, 1999 by “the officers of our Police Directorate.” The members of the police force were known and can be identified on the basis of staffing and organizational charts. They should be questioned regarding their role in the events of 1999.

Dozens of Basra residents generally confirmed that Ba`th Party members and police and security officers arrested, detained, tortured, and executed persons suspected of participating in the uprising and their families. During the course of its investigation, Human Rights Watch was able to obtain names of many Iraqi officials implicated in the mass arrest and execution campaign following the al-Sadr intifada. Because Human Rights Watch could not independently corroborate the identification of those perpetrators, Human Rights Watch cannot release the names of these suspected perpetrators. Identifying the officials who were responsible for the mass executions will require additional investigations, but it is clear that there is sufficient evidence to establish who many of the perpetrators were.

British troops in Basra have conducted preliminary investigations at some mass gravesites by photographing graves and taking witness statements.<sup>9</sup> As far as Human Rights Watch is aware, no comprehensive investigation has yet been undertaken into the al-Sadr uprising and the identity of those responsible for crushing it.

### **III. The al-Sadr Intifada of 1999**

The list bearing Mustafa Jawad’s name<sup>10</sup> proclaimed that he, and dozens of other young men, were killed after they supposedly confessed to taking part in the widespread uprising of Iraqi Shi`a Muslims protesting the assassination of one of their most prominent religious leaders, Grand Ayatollah Muhammad Sadiq al-Sadr. The ayatollah was assassinated on February 19, 1999, in the holy city of al-Najaf while driving home

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<sup>9</sup> Based on a visit by Physicians for Human Rights to Basra, June 2, 2003.

<sup>10</sup> Jawad Kadhim `Ali requested that Human Rights Watch use his and his family members’ real names.

along with his two sons, Mustafa and Mu`ammal, who served as his chief assistants, and their driver.

The assassination shocked Iraq's Shi`a Muslim communities, an estimated 60 percent of Iraq's population. During the late 1970s and especially after Saddam Hussein assumed power as Iraqi head of state in 1979, the Iraqi government targeted for harassment and persecution Shi`a clerics whom they considered sympathetic to Iran's revolutionary government. In fact over time, this policy, aimed at strengthening Saddam Hussein's grip on power, led to the emergence of a more potent Shi`a Islamic movement in Iraq.<sup>11</sup>

Ayatollah Sadr succeeded Ayatollah Abu al-Qassim al-Kho'i as Grand Ayatollah in 1992, following al-Khoi's death.<sup>12</sup> The Iraqi government recognized Ayatollah al-Sadr as grand ayatollah, apparently in the belief that it could manipulate him. Ayatollah al-Sadr had initially advocated keeping the clergy out of politics. But he later began distancing himself from government policies in Friday sermons and urging people, against government wishes, to attend mass prayer gatherings. In early December 1998, he reportedly called off a march to the shrine of Imam Hussain in Karbala after the government placed security forces around the city to enforce its ban on the march. On March 5, 1999, *The Independent* (London) published an account of what allegedly was Ayatollah al-Sadr's last sermon, delivered on February 12, 1999, and recorded on a tape smuggled out of Iraq. According to this account, Ayatollah al-Sadr demanded the release of more than one hundred Shi`a clergy, who had been detained following the March 1991 uprising, and whose fate or whereabouts had not been accounted for.

The murder of Ayatollah al-Sadr and his sons prompted several days of heavy clashes between protesters and security forces in heavily Shi`a neighborhoods of Baghdad<sup>13</sup> and in majority Shi`a cities such as Karbala, al-Nasiriyya, al-Kufa, al-Najaf, and Basra. Scores were killed and hundreds arrested.<sup>14</sup>

In Basra on March 17, 1999, at about 11:30 p.m., groups of armed demonstrators attacked governmental buildings, intelligence service headquarters, and Ba`th Party offices. Press reports at the time indicated heavy clashes between protesters and

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<sup>11</sup> See Faleh A. Jabbar, *The Shi`a Movement in Iraq* (London, Al-Saqi, 2003).

<sup>12</sup> The title of Ayatollah ("Sign of God") denotes that the bearer has achieved the highest degree of scholastic learnedness in matters of theology in Shi`a Islam.

<sup>13</sup> For instance, in the densely populated neighborhood built after the 1958 revolution, initially known as Madinat al-Thawra (City of the Revolution), renamed Madinat Saddam by the government in 1982, and known since the fall of the government as Madinat al-Sadr.

<sup>14</sup> Human Rights Watch, *World Report 2000*, p. 359.

government forces, even involving heavy armored units and artillery.<sup>15</sup> Several witnesses told Human Rights Watch that protesters attacked and killed at least forty Ba`th Party members. The exact number remains unknown because Iraq's government never acknowledged the extent of the uprising. Several eyewitnesses told Human Rights Watch that in some Basra neighborhoods, shootings continued for more than an hour. In other parts, automatic gunfire was heard throughout the night.

#### **IV. Reprisals: Gross and Systematic Violations of Human Rights**

##### ***Arbitrary Arrest of Suspects***

Groups of heavily armed Ba`th Party members, sometimes supported by members of the General Security Directorate, began arresting people in Basra the next morning, on March 18, and continued for several days. One detainee, Hussain, forty-five years old, told Human Rights Watch:

The next morning Ba`th Party members started to arrest people in our neighborhood [Tanuma, east of the Shatt al-Arab river from Basra]. They came in groups of approximately fifteen people, all dressed in olive Ba`th Party uniforms, in three pickups and one truck. My friend Muhammad Mazlum Hussain [age thirty-four] and I were arrested at nine in the morning on our way to the field where we worked. They blindfolded us, put us in a car and first drove us to the Ba`th Party building, located close to the Shatt al-Arab, then soon after to the Ba`th Party headquarters on al-Hakimi Avenue.<sup>16</sup>

The account provided by Jawad Kadhim `Ali about the arrest of his son, Mustafa, was typical of what several others described to Human Rights Watch:

Mustafa was arrested in 1999, March 1999. He was in the sixth grade [of high school, equivalent to the twelfth grade]. He was arrested because he was accused of taking part with a group against the government. He was accused of being for Ayatollah al-Sadr. He was arrested around forty days after the al-Sadr assassination. All the people were angry then but they did nothing because they were afraid.

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<sup>15</sup> "Iraqi Forces Clash with Shiites," *Associated Press*, March 20, 1999.

<sup>16</sup> Human Rights Watch interview with Hussain, May 9, 2003, Basra, Tanuma neighborhood.

On March 17 at around 11 p.m., a group opposing the government shot at government buildings, especially at Ba`th Party buildings. They killed some people in the government, some important people. All in all, they killed less than forty people. My son was accused of taking part in this group.

But that night [March 17] I was working as a taxi driver. I came home late, saw him asleep in his room. On March 19, I saw him asleep too when I returned home. That night, many armed people from the Security Directorate knocked on my door and said, "We need your sons." They asked for Basim [my older son] and Mustafa. There were a lot of people there, some in uniform, others not. They were inside and outside.<sup>17</sup>

Many of those arrested during this period claimed that they had not participated in the uprising and were arrested as part of a round-up of all persons considered "suspicious" by the authorities. One of the duties of Ba`th Party members was to gather information and report about all suspicious activities in the neighborhoods where they lived. Nasir, sixty-three years old, whose three sons Ali, Muhammad, and Hassan were arrested, told Human Rights Watch:

They were not involved in the intifada, and were accused wrongfully. They [Ba`th Party members living in the same neighborhood] repeatedly came to my house [before the uprising] asking whether my sons `Ali and Hassan are going to go to Iran, and about Muhammad [who was studying religion at the seminary in al-Najaf, 140 miles northwest of Basra].<sup>18</sup>

Nasir described the arrest of two of his sons in the weeks after the uprising:

There was only one person from the Ba`th Party in our neighborhood, so there wasn't much attacking by the protesters. I believe that person was attacked. Two of my sons were with me. They were in Basra, living with their families with us. [My other son] Muhammad was a *talib* [seminary student] in al-Najaf. He was at the final stage, after five years. He was almost done. He wasn't in Basra when the fighting happened.

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<sup>17</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

<sup>18</sup> Human Rights Watch interview with Nasir, May 10, 2003, Basra, Tanuma neighborhood.

When everything quieted down that night [March 17] I saw my two sons asleep at our house, so I fell asleep. I don't think they were involved in the fighting, they were at home. We are not political people. We had no trouble.

On March 25 they searched my house. They were people in uniform, as well as Ba`th Party members. They were six people. The search occurred in the morning. They didn't find anything then. After two days they came back to search. These were different people, five or six of them, probably Ba`th Party members. They also searched other houses in the neighborhood.

On April 7 at 2 a.m., a group of six came with a car. They entered the house. They jumped over the wall, broke the door. My sons were sleeping inside. There were five more people outside the house. That night they arrested `Ali and Hassan. We never saw them after that night.<sup>19</sup>

When suspects could not be immediately arrested, Iraqi authorities resorted to threats and trickery. In the case of Nasir's family, Iraqi security officers enticed the mother of the family to turn in her son, who was at large, in exchange for the safety of her two incarcerated sons. As Nasir explained:

Three days later on April 10 they said if you bring the third one [Muhammad] for questioning we will set free the other two. We believed it was just for questioning. They had not done anything. So my wife went to al-Najaf in the morning to bring back Muhammad. He came voluntarily. He said he was going to help get his brothers free. So he went to the prison in Basra with his mother.<sup>20</sup>

Muhammad was never seen again by his family. By May 2003, with evidence mounting that Muhammad was killed by security forces along with his two brothers, Nasir described the toll taken on the family:

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

My wife has lost her mind. She has no peace anymore. She sits in the room and bites her fingers because she believes that she took her own son to be killed. Until now we could believe that they were alive. But now I have seen their names on the list. Two of their names. Maybe my third son is alive. No, we have to face the reality... They took all my sons. Now I have four girls left, and all their children. I have to take care of a family of eleven. Where are my sons to help me? <sup>21</sup>

Some people managed to avoid arrest or bribed their way to freedom. Mahmud, forty-one years old, told Human Rights Watch that his brother Muhammad was in jail between April 4 and April 10, 1999, and was released after he paid \$500 in bribes through a member of the Sa`dun family, a local tribe with a long history of cooperation with various Iraqi governments, including that of Saddam Hussein. Another brother, Ibrahim, and his family spent seven months in hiding.<sup>22</sup>

### ***Mass Summary Execution and Burial at Unmarked Mass Graves***

Basra residents told Human Rights Watch that hundreds of men arrested immediately after the al-Sadr intifada were never heard from again. Estimates of the total number killed vary. There was no official statement from the government about the crackdown. The Execution List obtained by Human Rights Watch names 120 people who were killed, although it is almost certain that more names appeared on other pages not in Human Rights Watch's possession. The Basra Association of Political Prisoners, an organization established after the fall of Saddam Hussein by former political prisoners and dissidents, told Human Rights Watch that it had reliable information regarding 220 people executed in the first three months following the uprising. The Association based its claim in large part on documents it said it had retrieved from looted government offices, but Human Rights Watch was not able to examine or verify the contents of these documents. Local religious leaders, such as Sayyid Haidar Hassan of al-Jumhuriyya mosque, put the total number of executions at 350.<sup>23</sup>

Based on eyewitness testimony, the testimony of family members, and documentary evidence, it seems that the Ba`th Party and the General Security Directorate began executing people from the first days after they suppressed the 1999 uprising.

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<sup>21</sup> *Ibid.*

<sup>22</sup> Human Rights Watch interview with Mahmud, May 10, 2003, Basra, Tanuma neighborhood.

<sup>23</sup> Human Rights Watch interview with Sayyid Haidar Hassan, May 13, 2003, Basra, al-Jumhuriyya mosque.



For instance, one eyewitness, `Abdullah, who was arrested immediately after the uprising, told Human Rights Watch: “A squad of Ba`th Party members drove us to the party headquarters on al-Hakimi Avenue. There were over fifty people there. Some of them were shot on the spot right there. I heard gunshots and people screaming.”<sup>24</sup>

However, most of those executed seem to have been killed en masse and buried in unmarked graves around Basra. For instance, the Execution List identifies four separate groups of men executed together between March 25 and May 8, 1999.

Human Rights Watch separately interviewed two witnesses who claimed to have seen mass executions and burials in and around Basra in the spring of 1999. Their accounts independently corroborated a reported pattern of executing detainees in groups and burying them in mass graves, consistent with the crackdown on the al-Sadr intifada.

Ahmad, a seventeen-year-old shepherd, told Human Rights Watch that in the late spring or early summer of 1999, he saw on several occasions people in military uniforms bringing prisoners by trucks to al-Toba, an area one mile from Shaibah West Airfield (currently a British military base). Ahmad said he was hiding on a nearby hill, three to four hundred meters away from the trucks. From that vantage point, he said he could see that these prisoners were literally thrown out, in groups of ten to fifteen, from the trucks into holes previously dug in the ground the day before. This is what he saw next: The people in military attire shot all of the prisoners and used bulldozers to cover up the holes. Ahmad claimed that he could tell that some of them were buried alive.<sup>25</sup> When Human Rights Watch researchers visited the site in mid-May 2003, bones and what seemed like a human skull were visible on the surface of the site, which was also strewn with items of clothing. Parts of the site was covered with abandoned ammunition, including artillery shells, which deterred unauthorized excavation at the site.

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<sup>24</sup> Human Rights Watch interview with Abdulla, May 9, 2003, Basra, Tanuma neighborhood.

<sup>25</sup> Human Rights Watch interview with Ahmad, May 14, 2003, Basra, al-Toba, al-Anfal Company.



Al-Toba, outside of Basra. This is a site where witnesses claim they saw mass executions and burials take place in the spring of 1999. Human Rights Watch investigators visited the site in May 2003 and found evidence of what appeared to be human bones and clothing.  
(c) 2003 Human Rights Watch



Al-Toba, outside of Basra. This is a site where witnesses claim they saw mass executions and burials take place in the spring of 1999. Human Rights Watch investigators visited the site in May 2003 and found evidence of what appeared to be human bones and clothing.  
(c) 2003 Human Rights Watch

Sattar, a twenty-seven-year old cattle herder, told Human Rights Watch how he witnessed the execution of a group of prisoners at another site near the old al-Nasiriyya road southwest of Basra:

One day in the spring of 1999, I saw a bulldozer digging three big trenches in a remote deserted area southwest of Basra where I used to take my herd. I didn't pay that much attention even if it looked weird. The next morning at about 9 a.m., while at the same place again with my herd, four buses and six Ba`th Party-like cars arrived on the site. I was hidden 350 to four hundred meters from the vehicles. I saw men in military attire exiting from the cars and then blindfolded prisoners, hands tied in back, stepping one by one out of the buses. Each bus had the capacity to transport around forty to fifty passengers.

I can't say if the buses were full because curtains shaded the windows. According to my estimate, but without any certainty, between eighty and one hundred persons might have been in the buses. The prisoners were led in a line to the trenches where they were placed one by one. At that point, I was unable to see them anymore. I can't say if the prisoners were made to kneel or sit in the trenches. Seconds later, the men in uniform began shooting randomly at the prisoners with AK-47s and BKC machine guns. The shooting lasted several minutes. Then, a truck covered up the trenches with sand and dirt. When it was all over, the men in uniform left the place quickly. The entire operation lasted 45 minutes.<sup>26</sup>

When Human Rights Watch researchers visited the site, they found it also strewn with unused ammunition and unexploded ordnance, much of it showing signs of rust.

Sattar told Human Rights Watch that a few weeks after he witnessed the executions at the site, he saw military trucks return to the area and dump ammunition on top of the newly covered graves. Military cars then routinely toured the area, apparently to deter or detect any attempts at exhumations.

The strongest evidence in support of the Execution List's authenticity, and the accuracy of accounts regarding mass execution and burial of the victims of the 1999 massacre,

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<sup>26</sup> Human Rights Watch interview with Sattar, April 25, 2003, Basra, al-Zubair.

was literally unearthed with the exhumation of remains from al-Birgisia, an area thirty miles south of Basra.<sup>27</sup> On May 11, 2003, `Ali Hassan, a twenty-year-old shepherd, told Marc Santora of *The New York Times* that he saw men brought by Ba`th Party trucks to an open clearing at al-Birgisia, where a backhoe dug a long trench, and the men, blindfolded, were lined up in front of the ditch and shot.<sup>28</sup>

Thirty-four bodies exhumed from this site on May 7, 2003, were taken initially to a soccer stadium in Basra, and then to al-Jumhuriyya mosque, in a poor Basra neighborhood. When Human Rights Watch researchers first visited the mosque on May 13, 2003, some of the remains were clearly incomplete.



Human remains brought to the mosque were usually incomplete.  
(c) 2003 Human Rights Watch

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<sup>27</sup> Contemporary statements from the Iraqi Communist Party identified al-Birgisia as the location of a mass execution and burials. See, "Iraqi Opposition Says Mass Grave Found in Desert," *Associated Press*, September, 27, 1999, citing a press release by the Iraqi Communist Party.

<sup>28</sup> Marc Santora, "Mass Grave is Unearthed Near Basra," *The New York Times*, May 11, 2003.



Twenty-nine of 34 sets of remains were identified by family members. All 29 names of those identified appear on the execution list. This coffin is labeled "Unidentified." (c) 2003 Human Rights Watch

Relatives claimed to have identified twenty-nine bodies. A handful of families were fortunate enough to find a driver's license or a school identity card that could provide a name to a bundle of bones and clothes. Most families cited much weaker evidence for their identifications, relying on clothing, jewelry, even a favorite brand of cigarettes.



Grief-stricken family members mourn the death of their loved one after digging up remains at a massacre site. Some families relied on simple items such as watches, shoes and even cigarette packets to identify the remains they had recovered. (c) 2003 Human Rights Watch

Forensic scientists refer to this type of identification as “presumptive identification.” Because the type of personal items used for presumptive identification can be exchanged or misplaced, this process of identification has less credence than “positive identification” methods using unique biological characteristics such as DNA, dental records, or fingerprints. The risk of false identification can be reduced by some rudimentary precautions—for instance, asking family members to note what they remember their missing loved ones were wearing before they viewed the remains. In the chaotic conditions prevailing at this exhumation in Basra, no such measures were taken.

Despite the circumstances surrounding this exhumation, all the names of the twenty-nine bodies presumptively identified from the al-Birgisia gravesite appeared on the Execution List. While this appears to corroborate the authenticity of the Execution List, the methodology used by families to identify remains also raised the possibility that some

families misidentified remains because the names on the list had convinced them that they would find their missing relatives there.

Ibrahim believed he had identified the bodies of his two brothers, Zia and Majid, on May 10:

Four days ago we identified their bodies when people brought them to the soccer stadium. They are here now, at the mosque. We identified them by their clothes. Zia was wearing a checked T-shirt, Majid, a blue blouse. Other people had personal items on them that we could easily identify like rings, gold teeth, and the like. They were all laid in the mass grave, on top of each other. It looked like they had been blindfolded and their hands tied up before they were killed: we found ropes and pieces of cloth on the eyes on many of the bodies. All of them, including Zia and Majid, had gunshot wounds in their heads.

People just began digging up the bodies and they told other people what they had found. One of the bodies had an identity card in the clothes. The name was found in one of the execution lists.<sup>29</sup>

A separate interview with another brother of Zia and Majid, `Issa, forty-one years old, confirmed this account.<sup>30</sup> Zia and Majid's names appear in the Execution List, which refers to March 25, 1999, as the date of their execution.

Nasir, whose three sons had been arrested in 1999, believed he found the bodies of two of them: Ali, twenty-six years old, and Hassan, twenty-four years old. Their names are included on the Execution List, with the date of execution noted as May 8, 1999.<sup>31</sup> The third son, Muhammad, twenty-five years old, remains missing. His name does not appear on the pages of the Execution List in Human Rights Watch's possession.

On May 14, 2003, all the remains, including five unidentified bodies, were taken to al-Najaf for burial. The bodies, reburied without proper forensic examination, thus took

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<sup>29</sup> Human Rights Watch interview with Ibrahim, May 14, 2003, Basra, al-Jumhuriyya mosque.

<sup>30</sup> Human Rights Watch interview with `Issa, May 10, 2003, Basra, Tanuma neighborhood. Zia and Majid are pseudonyms; their real names are among those on the Execution List reproduced in the Appendix to this report.

<sup>31</sup> Ali and Hassan are pseudonyms; their real names are among those on the Execution List reproduced in the Appendix to this report.

with them to the grave any information they could have provided about their identities and the manner of their death.

### ***Arbitrary Detention and Abuse of Family Members of Suspects***

In addition to the execution of scores of young men, many family members of those suspected of involvement in the al-Sadr intifada were imprisoned for months without any judicial procedure. The arrest of one family member was, as a rule, followed by arrests of some or all other members of the family. Ibrahim, whose two brothers Majid, twenty-one years old, and Zia, twenty-years old, were arrested and apparently executed in 1999, told Human Rights Watch: “The rest of the family, including my brother Ahmad [age forty-seven], Ahmad’s wife, their two children, aged two and four years old, [and] my sister [age twenty-seven], were arrested on March 23.”<sup>32</sup>

All of the detainees interviewed by Human Rights Watch said that they were transported first to the Ba`th Party headquarters in Basra and after that to a building or prison of the General Security Directorate. Ba`th Party members carried out preliminary screening of the people detained.

Detainees told Human Rights Watch that they were kept in cramped conditions and, in at least one case, subjected to severe torture. One detainee, Hussain, recounted:

They took me to the General Security Directorate compound and put me in a very tiny cell with twenty or twenty-five people. We could barely stand. We were kept there until midnight then they started, what they called, investigation. They picked us out in groups of two or three for interrogation. They asked questions about the uprising and about our possible connections with Iran. Then they tortured us trying to get confessions. They poured hot water on us, used electric shocks on the body and genitals, or poked us with red-hot rods. We spent six months in that cell, and the following four months in a bigger one. During the first month they tortured us almost every day, then less frequently but on a regular basis, once or twice a week.<sup>33</sup>

Some of those who had not confessed in Basra were transferred to the General Security Directorate in Baghdad. As Hussain explained: “I spent ten more months there. Instead

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<sup>32</sup> Human Rights Watch interview, May 10, 2003, Basra, Tanuma neighborhood.

<sup>33</sup> Human Rights Watch interview with Hussain May 9, 2003, Basra, Tanuma neighborhood.



of physical torture, they used psychological torture. For instance, I spent a week in a dark, small low ceiling room, lower than one meter. We could not leave the room at all, even to go to the restroom.”<sup>34</sup> Human Rights Watch observed several cells matching Hussain’s description in the General Security Directorate main prison in Basra as well as in Abu Ghraib prison in Baghdad.



Human Rights Watch investigator inside a former isolation cell at the General Security Directorate in Basra.  
(c) 2003 Human Rights Watch

Many family members who initially escaped or avoided detention were later rounded up as well. Jawad Kadhim `Ali described his arrest:

Twenty-five days later [after Mustafa’s arrest on March 19, 1999], they came to my house, took my family, my wife, and my twin sons [born in 1982]. My two daughters escaped to our neighbors. I was at work at the time, people told me that there was trouble. I came home at 2 p.m., I saw that everything is empty in the house, the doors are pulled out, the wires are pulled out, the furniture is all moved out. The neighbors said,

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<sup>34</sup> *Ibid.*

“Your family was arrested.” They said they didn’t know who arrested them, maybe the Ba`th Party.<sup>35</sup>

So I told my relatives I will go after my family, but they prevented me. They said, “Maybe they will hurt you.” I said this is my family, if I can’t help them I must share their fate. I went to the Ba`th Party headquarters, but they said my family was in the Security Directorate. I went there, and they said we have to arrest you. I said, “I’m ready,” but I begged them to put me with my young sons, the twins.<sup>36</sup>

Nasir avoided arrest for nearly two months before he, too, was imprisoned:

I was arrested on June 17 at the al-Ashshar market . Two security police in uniform arrested me. They asked me for my ID. I refused, but they said we’ve come to arrest you because your sons are in prison. So they knew very well who I was.

They kept me in the Security Directorate in Basra for eight days, in the *jinaya* [felony] wing. Later I was transferred to the *al-islah* [correctional] prison. My family was also there. They had been in *al-tasfirat* [transfer prison] for one month, then transferred to *al-islah*. We were all there in that prison for three months. The women were in a separate room. We learned that they were safe, but my sons were not in that prison.<sup>37</sup>

The conditions in the prisons where members of the families were kept were difficult. Ibrahim told the story of his brother Ahmad’s family:

The family spent seven months [in detention], first in *al-tasfirat* prison. In May, they were transferred to a correctional facility opposite al-Jumhuri hospital. The women in *al-tasfirat* prison were kept in one big cell together with their children. Approximately seventy female prisoners were put in a cell, ten by twelve meters. Several women gave birth in the prison. They were taken to hospital for two hours, and then returned to

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<sup>35</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

<sup>36</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

<sup>37</sup> Human Rights Watch interview with Nasir, May 7, 2003.

the cell with the newborn babies. Only one toilet was inside the cell, and the women lined up to use it.<sup>38</sup>

Jawad Kadhim `Ali also provided a description of conditions in prison:

I was taken to the Ma`qal, the *al-tasfirat* prison, in front of the railway station in the center of Basra. I stayed there for one month and three days. Then they took all of us to the main prison in front of al-Jumhuri hospital. At this time they set free my eldest son Basim. But because there was no one at home, they sent him to his family in jail. Basim was held by the Amn [General Security Directorate] of Shatt al-`Arab.

In the Ma`qal prison, we were seventy to eighty people in a cell four meters by six meters. There was one toilet also open in the cell. We could not receive any letters, no radio, no visitors, no food from outside. They gave us each one, two or three loaves the size of a hand, and soup—I call it soup, but it was carrot water.

There were another three rooms in the prison, about the same size with the same number of people in them. All the others in the cells were related to the al-Sadr operations. There were nearly one thousand people in jail. The women and children were also in a cell at Ma`qal prison.<sup>39</sup>

Children and even pregnant women were not spared the harsh prison conditions. Nasir's granddaughter—the child of his youngest son—was born while in prison. “She was born in jail because her mother was also in prison with the rest of us. They gave her one day to go to the hospital to give birth, and then they returned her to jail with her new daughter.”<sup>40</sup>

### ***Collective Punishment: House Demolitions and Displacement***

The Iraqi government routinely demolished the houses of those they suspected of involvement in the uprising. Every detainee interviewed by Human Rights Watch described this form of collective punishment. In Basra, Human Rights Watch visited

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<sup>38</sup> Human Rights Watch interview with Ibrahim, May 10, 2003, Basra, Tanuma neighborhood.

<sup>39</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

<sup>40</sup> Human Rights Watch interview with Nasir, May 7, 2003, Basra.

four sites of houses destroyed in 1999 as punishment for the occupants' alleged involvement in the uprising—one in al-Shamshumiyya neighborhood, two in Ma`qal, and one in al-Tanuma. All these dwellings were razed almost immediately after the arrest of the families living in them. Sayyid Haidar al-Hassan, a leading cleric at the al-Jumhuriyya mosque and a community leader, told Human Rights Watch that after the first week following the uprising alone, fifty-one families were arrested and their homes demolished.<sup>41</sup>

As was the case with other suspects, the government destroyed Nasir's family's house as collective punishment for their suspected involvement in the uprising against the government. Nasir described what happened:

On April 12 they came to our house around noon. They arrested the whole family. I escaped that day. The next day, they came back and razed the house. They tore it to the ground. I just stayed away. I went to the al-Ashshar district [and] stayed with my friends and people who knew me. I moved around all the time. I tried to get information about my family from neighbors and family. Through them I heard that my family was in *al-tasfirat* prison.<sup>42</sup>

Neighbors and the Basra Association of Political Prisoners provided Human Rights Watch with information about the fate of some of those families whose houses were destroyed, as grouped by neighborhood:

*Al-Shamshumiyya:*

- `Ali Makki, about thirty years old, a cleric, executed in 1999. His brother lost his eye as a result of torture. The rest of his family moved to another neighborhood of old Basra after being released.
- Maitham Kamil, twenty-two years old, student at the Engineering College at Basra University, executed in 1999 after one month of torture. Eight members of his family left Basra.
- Wisam Kadhim `Ali, twenty-two years old, student at the Agricultural College at Basra University, executed on May 8, 1999, by officers of the General Security Directorate. Both of his parents, all six brothers and sisters, and a grandmother spent one and a half years in prison.

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<sup>41</sup> Human Rights Watch interview with Haidar al-Hassan, May 13, 2003, Basra, al-Jumhuriyya mosque.

<sup>42</sup> Human Rights Watch interview with Nasir, May 10, 2003, Basra, Tanuma neighborhood.

- Firas Mahdi Hashim, twenty-three years old, student at the Industrial Preparatory School of Basra, executed on April 19, 1999. Thirteen members of his family spent one and a half years in prison.

*Ma`qal:*

- Muhammad `Ali Hamid al-Musawi, fifty-seven years old, and his three sons, Usama, twenty-seven years old, Firas, twenty-five years old, and Azahr, twenty-two years old, all executed in 1999. His wife was arrested in 1999. Her two brothers, Ahmad Isma`il, twenty-five years old, and Mu`ayyad Isma`il, twenty-seven years old, were also executed after spending one year and two months in prison.
- Murtada `Abdulla al-`Adani, twenty-eight years old, a worker, was executed on May 8, 1999. Eighteen members of his family, including his wife and two children, were arrested. They moved to al-Kufa after their release. His mother spent one year and two months in prison.

*Al-Tanuma:*

- Mustafa, son of Jawad Kadhim `Ali, was killed on May 8, 1999, and the family home was razed. The family first moved in with a relative, and then rented a house nearby.

Another form of collective punishment was barring detainees' family members from most types of official employment. Jawad Kadhim `Ali's condition was typical:

While in prison, I had lost my job as a teacher. I was rehired as a clerk at the education ministry, but I was prevented from teaching. My salary was 3,000 dinars [a month]—it was nothing. It couldn't pay for anything. So I applied for jobs as a carpenter. I built furniture with my hands. It is a proud job, and I taught Basim [my son] to be a carpenter also. I taught him that we were proud. We could work with our hands. We didn't have to beg. I also worked as a taxi driver. But I couldn't hold another job. It was prohibited.<sup>43</sup>

Nasir, who had worked as a physical education teacher, was also left unemployed.

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<sup>43</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

I was a physical education teacher before. I was a famous football player then. Don't look at me now. Every one in Basra knew me. I even played for the national team, against England, against Iran, against Russia, in the 1970s. When we were released from prison I couldn't work. They didn't let me work. We were very poor. So some people who knew people in the government told them, "What can this man do? Let him have a job." So I was given the job of giving out coupons for the Oil for Food program. I just had a small stall. It was the size of one person. I sold the coupons and other things. And that's how I made money to pay for my family and my sons' families. Now I hope to work again, maybe teach, but I am old.<sup>44</sup>

## V. The Need for Accountability and Justice

After his son's funeral, Jawad Kadhim `Ali described the struggle between the desire for basic revenge and waiting for a justice system:

Even I have a gun, like everyone else now. But I have locked it away, and I don't tell my family that I have it. If they find out that I have this gun, they will take it and use it to kill the Ba`th Party members that used to live here, because we know they were responsible for Mustafa's death. My son [Basim] will kill them, but then what? He will be arrested too? That is not the way. We are waiting for the British to arrest these people. Why don't they arrest them? Everyone knows who they are. But I am afraid that if they are not arrested, if they are still here, or, God forbid, in power again, then we cannot stop the families from attacking them. Even I could not control myself. I have lived my life and I have buried my son ... I want justice.<sup>45</sup>

A transparent and fair judicial process can help lay the foundation of respect for the rule of law in Iraq. A survey of the residents of three major cities in southern Iraq conducted two months after the fall of Saddam Hussein, indicated that the overwhelming majority—98 percent—sought justice and accountability. However, nearly half of this group wanted to apply the principle of "an eye for an eye." Fifteen percent, for instance,

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<sup>44</sup> Human Rights Watch interview, Nasir, May 10, 2003, Basra, Tanuma neighborhood.

<sup>45</sup> Human Rights Watch interview, May 8, 2003, Basra, Tanuma neighborhood.

listed execution, torture, hanging, and revenge killing as appropriate modes of justice.<sup>46</sup> Such notions of revenge violate international human rights law and pose serious challenges to developing a fair and credible process for accountability for human rights abuses in Iraq.

## **Recommendations**

### ***To the Iraqi Transitional Government***

- Ensure that there are full and fair investigations into the former government's 1999 campaign against Shi'a Muslims in the Basra area, which included summary executions, disappearances, arbitrary detentions, and torture, in connection with the uprising following the assassination of Grand Ayatollah Muhammad Sadiq al-Sadr (the "al-Sadr intifada"), including:
  - The role of `Ali Hassan al-Majid, then Commander of the Southern Sector;
  - The role of Mahdi al-Dulaimi, an army officer who reportedly headed the General Security Directorate in Basra at the time; and
  - The roles of the Basra and Umm al-Ma`arik Ba`th Party leadership and members.
- Ensure that those most responsible for the atrocities are prosecuted before a fair, effective, and politically independent tribunal. The best method for assuring such trials would be for Iraq and the United Nations to establish a mixed national/international tribunal that would apply internationally accepted fair trial standards, and benefit from international expertise in the investigation and prosecution of genocide, war crimes, and crimes against humanity. At the very least, the following reforms to the Iraqi Special Tribunal should be made:
  - The Iraqi Transitional Government should revise the tribunal's statute, and the rules of procedure and evidence must ensure that basic fair trial protections are guaranteed; a mechanism must be created to ensure that these protections are implemented in practice;
  - The Iraqi Transitional Government should abolish the death penalty, an inherently cruel and inhumane punishment;
  - The Iraqi Transitional Government should exercise the option provided in the Iraqi Special Tribunal statute for the appointment of non-Iraqi judges who have experience trying cases of genocide, war crimes, and/or

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<sup>46</sup> Physicians for Human Rights, "Southern Iraq: Reports of Human Rights Abuses and Views on Justice, Reconstruction and Government," September 18, 2003, pp.6-7.

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