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Iraq Civilians under fire

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Amnesty International (AI) is deeply concerned about the mounting toll of civilian casualties in Iraq and the reported use of cluster bombs by US forces in heavily populated areas. Despite repeated assurances from US and UK authorities that they would do everything possible to protect the Iraqi people, since 20 March hundreds of civilians have reportedly been killed. Some have been victims of cluster bombs; some have died in attacks in disputed circumstances. AI urges all the warring parties to make the safety of Iraqi civilians a top priority.

In particular, AI calls for:

- an immediate moratorium on the use of cluster bombs by US/UK forces and on other inherently indiscriminate weapons;
- an immediate end to unlawful tactics by Iraqi forces that endanger civilians;
- prompt and impartial investigations into civilian deaths, and the use of the International Humanitarian Fact-Finding Commission to investigate incidents of alleged serious violations of international humanitarian law.

Cluster bombs and other indiscriminate weapons

The scenes at al-Hilla's hospital on 1 April showed that something terrible had happened. The bodies of the men, women and children – both dead and alive – brought to the hospital were punctured with shards of shrapnel from cluster bombs. Videotape of the victims was judged by *Reuters* and *Associated Press* editors as being too awful to show on television. *Independent* newspaper journalists reported that the pictures showed babies cut in half and children with their limbs blown off. Two lorry-loads of bodies, including women in flowered dresses, were seen outside the hospital.

Injured survivors told reporters how the explosives fell "like grapes" from the sky, and how bomblets bounced through the windows and doors of their homes before exploding. A doctor at al-Hilla's hospital said that almost all the patients were victims of cluster bombs.

Many of the cluster bombs reportedly dropped from the air by US forces on a civilian area of al-Hilla were of the type BLU97 A. Each canister contains 202 small bomblets

International humanitarian law

International humanitarian law is a body of rules and principles that seek to mitigate the effects of war. It prohibits attacks which do not attempt to distinguish between military targets and civilians or civilian objects (indiscriminate attacks). It also prohibits attacks which, although aimed at a legitimate military target, have a disproportionate impact on civilians or civilian objects. Any credible allegation concerning unlawful killings of civilians must be fully investigated and those found responsible for any violations held to account.

International humanitarian law requires both defenders and attackers to take measures necessary to protect civilians. Protocol I relating to the Protection of Victims of International Armed Conflicts prohibits the use of tactics such as using “human shields” to prevent an attack on military targets. Article 51(7) states: “The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”

However, the Protocol also makes it clear that even if one side is shielding itself behind civilians, such a violation of international law “shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians.” These obligations include taking necessary precautions to distinguish between civilians and military objectives.

Article 50(3) of Protocol I states: “The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.”

According to the Statute of the International Criminal Court, “war crimes” include:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations.

the size of a soft drink can. These cluster bombs scatter and spray over a large area about the size of two football fields. At least 5 per cent of the bomblets do not explode on impact, turning them into *de facto* anti-personnel mines as they continue to pose a threat to people, including civilians, who come into contact with them.

Landmine Action, a UK-based non-governmental organization, has stated that pictures from al-Hilla show unexploded BLU97 A cluster submunition, and that this is the same air-dropped weapon that caused severe humanitarian problems in Afghanistan and Kosovo.

When questioned about the attack on al-Hilla, General Brooks, speaking for the US Central Command, did not deny the use of cluster bombs. He said: “[I]n our approach to targeting and using things like cluster munitions, we always give consideration to what types of activities are likely to occur there next... I don't have any specifics about that particular attack and the explosions that would link it to cluster munitions at all.”

The devastating consequences of using cluster bombs in civilian areas are utterly predictable. If, as accounts suggest, US forces dropped cluster bombs in residential areas of al-Hilla, even if they were directed at military targets, such an action could constitute a disproportionate attack. This would be a grave breach of international humanitarian law. An independent and thorough investigation must be held and those found responsible for any violations of the laws of war should be brought to justice. The US and UK authorities should order the immediate halt to further use of cluster bombs.

The rules of war prohibit the use of inherently indiscriminate weapons. These are weapons which are incapable of being used in a manner that complies with the obligation to distinguish between civilians and combatants.

AI has repeatedly called on all parties to this war not to use anti-personnel landmines, cluster bombs, depleted uranium weapons, and nuclear, chemical or biological weapons.

Since 20 March both US and UK forces have used several types of cluster bomblets or submunitions. These are delivered by artillery, rocket and aerial bombing. US authorities have also stated that the US “retains the right to use landmines”. Iraqi troops have reportedly laid anti-personnel mines, and a large store of landmines was found in a mosque in Kadir Karam in northern Iraq, according to Human Rights Watch.

US and UK military authorities have acknowledged that they have used cluster bombs in other attacks in Iraq since 20 March, although it is unclear if these were in civilian areas or if there were civilian casualties. However, the unexploded bomblets left behind on the ground by cluster shells, rockets and aerial bombs invariably pose a continuing threat to civilians, especially children.

Several reports indicate that there may have been civilian casualties as a result of the use of cluster bombs. For example, on 5 April two clusters bombs reportedly dropped by US forces on the al-Baladiyat quarter in the southwest of Baghdad left eight people wounded, residents told *AFP*. Small bomblets were scattered over a courtyard

between several brick buildings. Most of the 50,000 residents of the quarter are Palestinian families who fled to Iraq in 1948.

Civilian killings

The US and UK governments have repeatedly stated that they have “no quarrel with the Iraqi people”. However, the reality is that prolonged and intense bombardment in or near residential areas has destroyed homes and livelihoods, and has maimed and killed civilians, including children. “Fatal errors” have cost lives. Hospitals around the country say they are overwhelmed by the number of injured people arriving at their doors, and can no longer cope. The International Committee of the Red Cross said on 7 April that several hundred wounded Iraqis had been admitted to Baghdad hospitals after US troops reached the city and fighting erupted.

Detailed information about the killing and wounding of Iraqi civilians is hard to verify. However, there have been a number of incidents in which US and UK forces may have breached international humanitarian law.

The following incidents demand investigation. They are by no means a comprehensive list of all the civilian casualties reported, but serve to highlight the extent of the suffering and the urgent need to establish the truth and ensure that such tragedies are not repeated.

6 April: Ali Ismaeel Abbas, 12, was asleep when a missile obliterated his home and most of his family, leaving him orphaned, badly burned and without arms, according to a *Reuters* report. The boy’s father, pregnant mother, brother, aunt, three cousins and three other relatives were killed in night-time missile strikes on their house in Diala Bridge district east of Baghdad.

31 March: A US Apache helicopter reportedly fired on and destroyed a pickup truck in the region of al-Haidariya near al-Hilla. The sole survivor, Razeq al-Kadhem al-Khafaji, told an *AFP* journalist how 15 members of his family were killed in the attack. He said the family was fleeing fierce fighting in al-Nasiriya, further south, when their truck was blown up. Sitting among the 15 coffins at the local hospital, he said he had lost his wife, six children, his father, his mother, his three brothers and their wives. The circumstances of the attack have not been clarified to AI’s knowledge.

31 March: Soldiers with the US Army’s 3rd Infantry Division killed seven women and children when they opened fire on an unidentified four-wheel drive vehicle as it approached a US checkpoint near al-Najaf. According to a Pentagon spokesman, initial reports indicated that “the soldiers responded in accordance with the rules of engagement to protect themselves”. However, this does not appear to be consistent with the version reported in the *Washington Post*, which indicated that the officer in command at the scene believed at the time that no warning shots were fired. It asserts that the officer roared at the platoon leader, "You just [expletive] killed a family

because you didn't fire a warning shot soon enough!" The US authorities said they were investigating the incident.

28 March: A shattering explosion reportedly killed at least 62 people in a market in Baghdad's poor al-Shu'la neighbourhood. A distraught mother, Sumaya' Abed, said that three of her sons had been killed by pieces of shrapnel that cut through their chests and heads. The youngest was just 11 years old. Both the US and UK governments publicly suggested that the explosion was "probably" caused by an ageing Iraqi anti-aircraft missile. However, according to the *Independent* newspaper, the remains of a serial number of a missile were found at the scene, identifying it as one manufactured in Texas, the USA, by Raytheon, the world's biggest producer of "smart armaments", and sold to the US Navy. The missile is believed to have been either a HARM (High Speed Anti-Radiation Missile) device, or a Paveway laser-guided bomb. Although the US authorities acknowledged that one of their jets fired at least one missile in the area that day, an official US source claimed that the shrapnel could have been planted at the scene by Iraqi officials. AI believes that in such disputed circumstances independent investigation is vital.

23 March: Five Syrian nationals were killed and a further 10 were hurt when a US missile hit a bus in Rutba, western Iraq, as it was returning to Syria. A US military spokesman admitted that a US missile had hit the bus and said that the real target was a bridge. It is unclear why the bridge was attacked and why it could not have been attacked at a time when there was less likely to be civilian traffic.

Beleaguered cities

Large parts of the southern city of Basra were without running water and electricity for nearly two weeks after the war began. The city's power plants – which provided the energy needed to pump clean water throughout the city – were reported to have been struck early on in the US/UK attack. By 31 March, half the 1.2 million people in the beleaguered city lacked water. People reported that they were reduced to drinking "garden water" normally used for irrigation, which is not safe to wash in, let alone drink. Humanitarian agencies warned that the population of Basra, especially the young and the weak suffering the effects of years of economic sanctions, could be at risk of potentially fatal disease from drinking contaminated water. The ICRC successfully restored running water to some of the population on 2 April and continued to supply water trucks.

Other areas have been deprived of safe water in the past two weeks, including Al-Zubayr and Safwan, according to the ICRC. The ICRC also reported that major water-treatment plants in Ramadi and Felluja (west of Baghdad) and al-Hilla, Iskandariya and Mamoudiyah (south of Baghdad) are now only operating at 40 to 50 per cent of their normal capacity, owing to repeated power cuts.

Heavy shelling of the centre of Basra has also contributed to the destruction of the basic infrastructure and to paralyzing fear. Residents have reported that houses have collapsed after shells landed in or near residential areas; in some areas the houses are

so old that they collapse because of the vibration and shock of the explosions. “If we stay inside, we’re afraid the house will collapse; if we go out we may be hit,” 42-year-old Kasim told a *Guardian* journalist.

All parties to the conflict in Iraq have a responsibility to ensure that the humanitarian needs of the civilian population are fully met. AI is concerned that the fighting has prevented access for virtually all international non-governmental organizations to civilian populations in Iraq to assess their humanitarian needs. In particular, AI supports the ICRC and its concern about the situations in al-Najaf, al-Nasiriya, Kerbala and other regions where there has been heaving fighting for days and international humanitarian organizations have been unable to visit.

AI calls on all parties to the conflict to facilitate access and the operations of humanitarian organizations, without delay.

Civilians at risk from Iraqi military tactics

In late March, Iraqi troops fired on families trying to escape the beleaguered city of Basra, according to journalist Gethin Chamberlain. The report said that “men, women and children ran for their lives as they fled machine-gun and mortar fire from Iraqi positions in Basra”.

Iraqi civilians have also been placed at greater risk of being killed or injured by US and UK forces as a result of tactics used by the Iraqi military that violate international humanitarian law.

AI is concerned about reports that Iraq has been locating military forces and weaponry in close proximity to civilians in order to shield them from attack. In the months before the war started, AI received reports that Iraqi military authorities were placing anti-aircraft guns and other artillery in civilian areas, and military forces were taking over houses in residential districts. Recent reports indicate that Iraqi forces have used buildings such as schools and mosques to store military equipment.

Such deliberate placement of military objects in civilian areas, in order to obtain a military advantage, constitutes a breach of international humanitarian law. It is also a breach to dress combatants in civilian clothes in order to launch surprise attacks – a tactic reportedly used by Iraqi military forces in recent days and publicly endorsed by senior Iraqi officials. Blurring the distinction between combatants and civilians undermines the very foundations of international humanitarian law. AI has publicly condemned such “perfidious” attacks because they put civilians at even greater risk at times of conflict.

AI calls on the Iraqi authorities to abide by international humanitarian law. In particular, it calls on Iraqi forces not to shell civilians and to refrain from using “human shields” or “perfidious” tactics.

Recommendations

Throughout the crisis AI has sought to focus attention on the rights of the Iraqi people. Since 20 March, when it published a 10-point appeal to the parties in conflict, AI has sought assurances from all parties to the conflict that they will do their utmost to comply with their obligations under international human rights and humanitarian law. AI reiterates its appeal to the parties, in particular for:

- an immediate moratorium on the use of cluster bombs by US/UK forces and on other weapons that are inherently indiscriminate or otherwise prohibited under international humanitarian law;
- an immediate end to tactics by Iraqi forces that violate international humanitarian law and endanger civilians;
- all parties involved to declare their readiness to avail themselves of the services of the International Humanitarian Fact-Finding Commission regarding incidents of alleged serious violations of international humanitarian law.