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A compilation of Reports submitted to the OHCHR by

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The Extra-territorial violations of the United States of America

United Nations- Geneva- November 2010

Report Submitted by

The Iraqi Association Against War (IAAW)

and

The Indian Movement (TUPAJ AMARU)

"To initiate a war of aggression . . . is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole". *The Nuremberg Tribunal. 1945*

I. Background and prelude

Resolution 687, adopted by the Security Council (SC) on the 3rd of April 1991 stipulated the terms for a ceasefire following the First Gulf War. It says in § C.8: "*it decides that Iraq shall unconditionally accept the destruction, removal and rendering harmless under international supervision of (a) all chemical and biological weapons.... (i) the forming of a special commission which will carry out on site inspections. Under point no 10 " ... Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in § 8 and 9 ... Art 32 "... requires Iraq to inform the Security Council that it will not commit or support any act of international terrorism or allow any*

organisation..... to operate within its territory” Lastly, article 34 states that...” (The SC) decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.”

Later in April the Security Council (SC) created the United Nations Special Commission (UNSCOM) and appointed M. Richard Butler as its chairman. Butler repeatedly complained of the lack of cooperation and of obstruction by the Iraqi government.

In 1998, the US Congress passed the “Iraqi liberation act”¹ signed into law by President Clinton which called for a change of regime in Iraq, already designating the possible replacements of president Saddam Hussein, this in blatant violation of the UN Declaration 1514 (xv) that under no 10 stipulates that **“All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”**. To be noted that President Bush, at a later date, will refer repeatedly to that document.

On the 16th of December 1998, President Bill Clinton mandated operation “*desert fox*”, a major four day bombing campaign on Iraqi targets.

In July 2001, Scott Ritter², former inspector of the UNSCOM, accused M. Butler of deliberately orchestrating confrontations with the Iraqi government at the behest of the US to provide justification for their bombardments of suspected weapons sites and other military targets... Ritter further argues that aggressive inspections were no longer required after 1995 when UNSCOM verified that Iraq had basically disarmed.

¹ Iraq Liberation Act in Wikipedia encyclopaedia

² The film of Scott Ritter “ In shifting sand... the truth about UNSCOM and the disarming of Iraq” presented to journalists at the United Nations

On the 27th of January 2003, in a meeting at the Security Council, both Hans Blix and Mohammed Al Baradei acknowledge improved cooperation from the Iraqi government. Whilst Blix refers to some confusion over chemical and biological weapons, El Baradei states clearly that there is no evidence of nuclear weapons. Both pleaded for more time.

On the 5th of February 2003, during yet another meeting at the Security Council, Colin Powell accused Iraq, among a catalogue of accusations concerning nuclear, biological and chemical weapons *‘to harbour deadly terrorist networks headed by Osama Ben Laden ... offering chemical and biological training to two Al Qaeda associates...’*^{3,4} In fact, as pointed out by the Iraqi ambassador at the UN, the US were making their case for war. Opposed by France, Russia and China who wanted more time and a reinforcement of the inspection team.

On the 14th of February 2003⁵, Mohammed El Baradei and Hans Blix, both reported to the SC, where permanent members were represented at the level of ministers of foreign affairs, that good progress was made and cooperation by the Iraqi government much improved. Whilst Blix said that chemical and biological weapons were unaccounted for- possibly destroyed in 1995 without proper documentation-, El Baradei said that, so far, they had found no evidence of nuclear weapons. Both said they needed more time. The American Colin Powell made his case once more for military intervention whilst the Arab League, France, Russia, China and Germany wanted more time for a process which was now working. They all warned against the dire consequences of a war in that region and the humanitarian disaster it would be.

³ Briefing. Security Council meeting 4701 on the 5th of February 2003

⁴ In his article ‘Exhaustive review find no link’ Warren P. Strobel states that the review by a federally funded think tank, the Institute of Joint forces Command, of over 600 000 documents captured by the Americans following the invasion in 2003, failed to find any link between Saddam Hussein. Furthermore, in September 2006 the Senate Intelligence Committee concluded that ‘Saddam was distrustful of Al Qaeda and viewed Islamic extremist as a threat to his regime and refused all requests from Al Qaeda to provide material or operational support

⁵ Security Council 4707th meeting on the 14.2.03

On the 7th of March 2003 a high level meeting was held at the Security Council⁶. Both M. Blix and M. El Baradei reported good progress and M. El Baradei stated that no evidence had been found of nuclear weapons or plans to produce them. M. Blix said that even with full cooperation from the Iraqis, which has now been obtained, it was not possible to complete the inspection before many months in view of the mammoth task. More time was needed. He also underlined that the military capacity of Iraq had been severely weakened since 1991. Colin Powell however refuted all these arguments saying that Iraq was playing delaying tactics and that in a near future a new resolution would be required to carry out the next step (i.e., the use of force). France, Russia, China and other non permanent members stated that another resolution was uncalled for and that only more time was needed to bring the matter to a peaceful closure. Furthermore the humanitarian consequences on the civilian population, already in a dire strait, were too terrible to contemplate.

The issue of legality

- 1. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.**
- 2. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations⁷**

In a letter to Tony Blair, the Attorney general of the UK, Lord Goldsmith advised that there were three situations in which the use of force could be justified⁸

- a) Self defence (which may include collective self-defence)

⁶ Security Council 4714th meeting of the 7th of march 2003

⁷ UN Charter. Chapter I Art. 2

⁸ British Attorney general's advice to Blair. 7th of march 2003 in Global Policy

- b) Exceptionally, to avert an overwhelming humanitarian catastrophe and
- c) Authorisation by the Security Council under Chapter VII of the UN Charter

None of these conditions were met.

All the while, civil society was watching developments, petitioning MP and their various governments, holding candle vigils, an estimated 36 millions people took to the streets, the world all over, in unprecedented street demonstrations to protest against the war

All to no avail. On the 20th of March 2003, the US led coalition invaded Iraq, thus starting a protracted and destructive war, illegal and illegitimate, in its quest of wealth, a war of conquest in the best of colonial traditions, in spite of:

**The crimes hereinafter set out are punishable as crimes under;
international law:**

a. Crimes against peace:

i. Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

ii. Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i)⁹.

⁹ Principles of Nuremberg adopted by the UN international Law Commission in 1950. Principle VI

II. The invasion

Following information provided by the CIA, the Americans believed that the president of Iraq (Saddam Hussein) to be in residence at the Dora Farm, together with his government.

Consequently, the Americans bombed the Dora farm on the 19th of March in an attempt to get rid of him. 40 Tomahawk missiles were fired and four bunker buster bombs were dropped which missed their target and fell nearby killing one civilian and injuring 14 others, including 9 women and one child. Neither Saddam was there, nor any member of his government.

Art. 25 The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited¹⁰

On the 20th of March the invasion started in earnest, following the policy devised by Harlan K. Ullman of “Shock and awe” that is a product of the National Defence University of the US which aims to “impose *this overwhelming level of “Shock and Awe” against an adversary on a immediate or sufficient timely basis to paralyse its will to carry on...*” Although Ullman and Wade claim that the need to minimise civilian casualties, loss of life and collateral damage “is a political sensitivity” their doctrine of rapid dominance requires the capability to disrupt “*means of communication, transportation, food production, water supply and other aspects of infrastructure*” and “the appropriate balance of shock and awe must cause *The threat and fear of action that may shut down all or part of the adversary society or render his ability to fight useless short of complete physical destruction*”

¹⁰ ibidem

This policy at the outset violates international law

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated¹¹

Art. 22. The right of belligerents to adopt means of injuring the enemy is not unlimited.¹²

The Security Council

On the 26th of March 2003 the Secretary General Kofi Annan called on all parties to the conflict to show restraint, ... *it is essential that everything is done to protect the civilian population as well as the wounded and the prisoners of war*, and to scrupulously abide by **the Geneva Convention in particular by the IVth Convention on the protection of the civilian population.**¹³ On the 28th of March 2003, the Security Council adopted Resolution 1472, reminding all belligerents of their obligation under **the Geneva Conventions, in particular the IVth Convention and the Hague Regulations.**

¹¹ Additional Protocol of 1977. Protection of Civilian population art 51

¹² Law and customs of war on Land. Art. XXV.(Hague IV) 18th of October 1907

¹³ Security Council Meeting 4726 of the 26th of March 2003

Violation of the right to truth:

The first casualty of war is the truth! 775 journalists and photographers have been travelling with the invading forces. They could do so under the condition that they signed contracts with the military, accepting military censorship. Lt. Col. Rick Long of the US Marines declared:” *Frankly, our job is to win the war. Part of that is information warfare. So we are going to attempt to dominate the information environment.*”

Violations of International Humanitarian Law

There have been many allegations of graves breaches of the Geneva Convention by either party. These are impossible to ascertain in the absence of independent witnesses and in the confusion which is generally part and parcel of combat situations. An independent inquiry is necessary as well as a tribunal that forces the Americans to disclose documents that are at present classified.

It is however generally recognised that the progress from Basra to Baghdad met with fierce resistance and was in all likelihood, bloody.

It is known that Baghdad was pounded for days on end from the air or by tanks, targeting amongst other things, schools, mosques, market places, hotels (the attack on the Hotel Palestine that killed a journalist) and residential areas. The death toll among civilians was high. It also injured scores of people in particular because of the use of cluster bombs. On the 7th of April 2003, the ICRC reported that several hundred injured civilians had been admitted to hospitals which could barely cope with the shear numbers.

Amnesty International (AI) reports¹⁴ that **cluster bombs have been dropped** on the residential area of Al-Hilla on the 1st of April, killing scores of people and injuring many others. **General Brooks did not deny the use of**

¹⁴ Iraq : civilians under fire. April 2003

cluster bombs. AI further reports on a number of incidents involving civilians:

- On the 23rd of March 5 Syrian nationals were killed and another 10 injured when a missile hit the bus taking them back to Syria.
- A huge explosion caused by a missile on the market place in Baghdad at al Shula neighbourhood killed 62 people.
- On the 31st of March, the US army 3rd infantry killed 7 women and children when they opened fire on a four wheel drive vehicle driving towards a checkpoint
- On the 31st of March a US Apache helicopter fire on and destroyed a pick up in the region of al-Haidariya near al Hilla killing 15 people

The issue of civilian casualties remained unacknowledged. The Americans only kept count of their own casualties which tells its own story.

On the 8th of April, an ICRC convoy duly marked and notified was caught in a cross fire killing one ICRC delegate and 15 other people travelling in other cars. The ICRC was unable to reach the spot for 24 hours due to fighting. The ICRC also complained that it was not possible to evacuate the wounded to hospitals

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled¹⁵

¹⁵ 1st Geneva Convention of 1949. Art. 15

...

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection¹⁶.

The Iraqi Body Count made a brave attempt to keep track of the dead but the figures it provides are disputed for being grossly inaccurate (underreporting). It has nevertheless the merit of having drawn attention to the predicament of the civilian population.

After the announcement of the end of major combat operation on the **1st of May, 2003**, the United States continues its major military operation in most part of Iraq.

The basic infrastructure of the country has been destroyed by these operations since 2003. Several Iraqi cities have been severely damaged under the pretext of attacking “terrorists”, while the result is always massive killing of innocent civilians. Humanitarian aid and journalists were prevented from entering these cities. More than two thirds of the population has no access to clean drinkable water, or a functioning sewage system¹⁷.

In conclusion, until the beginning of 2010, the invasion and occupation of Iraq by the united States of America, and according to several reliable sources, left more than 1.500.000 Iraqi civilians dead, over 2.500.000 orphans, about 3.000.000 widows, and over 5.000.000 either internally displaced persons or refugees abroad. Hundreds of thousands of Iraqis have been subjected to abuse

¹⁶ IVth Geneva Convention of 1949. Art 59

¹⁷ - World Bank, January 2009, *ibid*,

and torture in prisons and detention centres, thousands have disappeared or have been victims to extrajudicial killing.¹⁸

According to the Humanitarian Action update of January 2009, UNICEF, found major gaps in essential social services. In several locations in Iraq visited by UNICEF, 70% of the population don't have reliable access to safe drinking water. It found also that more than 65% of them are without functional sanitation system¹⁹.

These are all results of the violations by the United States of America of the international law, International Humanitarian Law and Human Rights Law.

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¹⁸ - See in this regards the Lancet reports, ORB (Opinion Research Business) reports, UNHCR reports, ICRC.

¹⁹ - UNICEF Humanitarian Action update, Iraq, January 2009:
http://www.unicef.org/infobycountry/files/HAU_Iraq_19_Jan09.pdf

The Violations of the United States to its obligation under international law

BY

UNION OF ARAB JURISTS (UAJ)

ARAB LAWYERS NETWORK

Introduction

This report focuses on the violations of the United States of America of its obligations, under international law, especially the Hague and Geneva Conventions, as well as the Security Council resolutions related to the situation in Iraq. These violations have had a catastrophic impact on the whole population of the occupied country (Iraq) and as we are approaching the eighth year of occupation in 2010, these violations continue and their impacts still affect the daily life of the Iraqi people inside and outside Iraq. We demand that the Office of the High Commissioner of Human Rights, the Human Rights Council , clearly point out these violations when reviewing the compliance of the United States of America with its obligations under the UN Charter, the Universal Declaration, International Law, International Humanitarian Law and the Human Rights Law. We also think that the human rights situation in Iraq need to be examine by an independent commission of inquiry, in this regard we also reiterate the importance to appoint a Special

Rapporteur in order to look at all USA violations in Iraq since 2003 and report it to the Human Rights Council.

.....

** - This report is based on a study prepared by Ms. Elisabeth Nyffenegger on the American War Crimes in Iraq.*

The violations

As from the 9th of April 2003, Iraq sank into turmoil. In the absence of civil authorities there began robberies, kidnapping, murders and settling of old scores. Chaos ruled the neighbourhoods and many people sought weapons to defend themselves. Looting spread like wild fire. 17 ministries were pillaged, ransacked and torched with the exception of the ministry of oil which got heavily protected by US forces as from the 10th of April 2003, with tanks and all. Government records were destroyed.

Hospitals were looted at a time of massive influx of wounded. How many died as a result of direct assaults or indirectly because hospitals could not cope, will probably never be known. Just as the real cost in terms of damage, if not outright destruction, of property and means of subsistence will be hard to come by

(Art. 42. Territory is considered occupied when it is actually placed under the authority of the hostile army)¹.

(Art. 43. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to

¹- Convention IV. Customs of law and war on land. The Hague 18th of October 1907

restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country)².

As all occupier in colonial history, General Tommy Frank, the American commander of the coalition forces, in a lightening visit on the **16th** of April, 2003, declares in the so called *Freedom message to the Iraqi people* that “ *our stay in Iraq will be temporary, no longer than it takes to eliminate those threats posed by Saddam Hussein’s weapons of mass destruction and to establish stability and help Iraqis form a new government that respects the rule of law*”. With this in mind, he wrote that he had created the Coalition Provisional Authority (CPA) “ *to exercise powers of government temporarily and as necessary, especially to provide security, to allow the delivery of humanitarian assistance*”³

On the **1st of May**, President Bush announces the end of major combat operation.

On the **8th of May**, the US and the UK ambassadors to the United Nations sent a letter to the UN Security Council informing the UN of a *fait accompli*

On the **16th of May** Paul Bremer, who arrived Baghdad on the 12th of May to be head of the CPA, issued Regulation no 1, establishing the Coalition Provisional Authority in which the CPA gets sweeping powers, more precisely Paul Bremer, as defined in Regulation 1.

“2) The CPA is vested with all executive, legislative and judicial authority necessary to achieve its objectives, to be exercised under relevant U.N. Security Council Resolutions, including Resolution 1483 (2003), and the laws and usages of war. This authority shall be exercised by the CPA Administrator.”

² Convention IV. Customs of law and war on land. The Hague 18th of October 1907

³ Billions over Baghdad Donald L. Barlett and James B. Steele in Vanity Fair. October 2007

It is interesting to note the reference in Regulation 1, dated **16th of May**, to the Security Council Resolution 1483 which was only adopted on the **22nd of May 2003** in which one can read, amongst other things just as blatantly ignored, “*reaffirming the sovereignty of Iraq*”) while it is already fell under the US occupation.

And thus starts the arbitrary rule by decree.⁴

Ironically the various documents refer to the Geneva Conventions of 1949 and the Convention of The Hague of 1907. These bodies of law were ignored. The US systematically failed to fulfil its obligation towards the civilian population as the occupying power, as prescribed in the Hague Regulation and the IVth Geneva Convention. It also violated a number of other clauses, and it clearly violated the UN charter and the Security Council resolutions related to Iraq.

Paul Bremer’s first act of governance was to promulgate the particularly nefarious Order no1 on De-baathification, which precipitated hundreds of thousand of families into destitution and deprived the land of it much needed senior civil servants.

“1) On April 16, 2003 the Coalition Provisional Authority disestablished the Ba`ath Party of Iraq. This order implements the declaration by eliminating the party’s structures and removing its leadership from positions of authority and responsibility in Iraqi society...”

⁴ - Please see <http://www.casi.org.uk/info/cpa.html> and the Memoranda of Amnesty International of July 2003 and of December 2003.

2) Full members of the Ba`ath Party holding the ranks of 'Udw Qutriyya (Regional Command Member), 'Udw Far' (Branch Member), 'Udw Shu`bah (Section Member), and 'Udw Firqah (Group Member) (together, "Senior Party Members") are hereby removed from their positions and banned from future employment in the public sector. These Senior Party Members shall be evaluated for criminal conduct or threat to the security of the Coalition. Those suspected of criminal conduct shall be investigated and, if deemed a threat to security or a flight risk, detained or placed under house arrest.

3) Individuals holding positions in the top three layers of management in every national government ministry, affiliated corporations and other government institutions (e.g., universities and hospitals) shall be interviewed for possible affiliation with the Ba`ath Party, and subject to investigation for criminal conduct and risk to security. Any such persons determined to be full members of the Ba`ath Party shall be removed from their employment. This includes those holding the more junior ranks of "Udw" (members) and "Udw" Amil (Active member) as well as the senior party members⁵

It violated a number of articles of the IVth Geneva Convention

(The Occupying Power may not alter the status of public officials or judges in the occupied territories or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.)⁶

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health

⁵ <http://www.cpa-iraq.org/regulations/CPAORD5.pdf>

⁶ Art 54 of the IVth Geneva Convention of 1949

and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18⁷. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20⁸ and 21⁸ ..⁷

Furthermore the de-baathification scheme postulated that members of the party are necessarily criminals, even though the whole of the western legal system is based on “innocent until proven guilty”

(No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited)⁸.

On the 25th of May there followed Order no 5 concerning the establishment of the Iraqi Council on de-baathification

It starts of with “ *I hereby promulgate the following.*

Section 1

- 1. There will be established an entity to be known as the Iraqi De-baathification Council,” the Council” which will commence operation at a time to be fixed by the administrator*

⁷ Art. 56 IVth Geneva Convention of 1949

⁸ Art. 33 of the IVth Geneva Convention of 1949

2. *The Council will operate at the discretion of the Administrator and terminate operation at a time fixed by the Administrator or a subsequent Iraqi government so authorised by the Administrator or an Iraqi government*

Composition of the Council

- 1.) *The Council shall be composed entirely of Iraqi citizen who will be selected by and who shall serve at the discretion of the Administrator*
- 2.) *The numbers of members of the Council shall be determined by the Administrator but in any event shall not exceed twenty official members who may from time to time be supported by or supplemented in the performance of administration and investigation by technical personnel assigned by the Administrator*

Section 4 Obligation to provide information

All persons shall, on request by the Council, provide all information within their possession, control or knowledge concerning any matter regarding which the Council is authorised to obtain information.

The penalty for failing to comply with a request by the Council for information, will be imprisoned for up to one year or a fine of up to US\$ 1000, to be determined by an appropriate authority⁹

One notes the arbitrariness of the decree. There is no mention of any legal personnel in what looks rather like a (kangaroo) court. Besides the questionable legality of this Council is also in violation of Art. 70 of the IVth Geneva Convention:

⁹ <http://www.cpa-iraq.org/regulations/CPAORD5.pdf>

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.¹⁰

Moreover section 4 is in violation of Art. 31 of the IVth Geneva Convention:

(No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties)¹¹.

As of the beginning of this year 2010, thousands of Iraqi people lost their jobs according to decisions by the De-Bathification Commission. This “lack of procedural clarity, transparency or impartial oversight have turned it into a blunt weapon wielded by a small group of people to settle old scores and advance their own political fortunes in an election year. This group is feeding on and at the same time fanning popular fears concerning the former regime’s possible return, and hiding behind the broad support among the ruling parties for a process of de-Baathification designed to keep them in power. In an unstable Iraq that is anticipating a US troop withdrawal, the commission’s ruling has lit a brushfire that the fractious political elite may prove unable to put out”¹².

According to reliable Iraqi sources, as of March 2010, more the 250.000 member of the Ba’ath party has been assassinated, since 2003, by militias affiliated with the current authorities in Baghdad who benefit from the environment of impunity created by the occupation in clear violation to its responsibilities.

¹⁰ Art. 70 of the IVth Geneva Convention of 1949

¹¹ Art. 31 of the IVth Geneva Conventions of 1949

¹² - Joost Hiltermann, Playing with fire in Iraq, 28 Jan 2010, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-syria-lebanon/iraq/playing-with-fire-in-iraq.aspx>

On the **22rd of May 2003**, the Security Council adopts Resolution 1483 in which, amongst other things, it recognises the US and the UK as the occupying power and reminds them of their responsibility and obligations under applicable international law.

Art.5 ***“Calls upon all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague regulations of 1954”***¹³

On the 22nd of July 2003. Paul Bremer appoints a special Iraqi Governing Council that consists of those who were living outside Iraq and came to Iraq with the occupation forces. Not content with violating UN Resolution 1514 (XV)¹⁴

3. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development

But to boot, he appoints Ahmed Chalabi with so tarnished a reputation¹⁵, who was sentenced to 22 year of imprisonment in Jordan for theft, embezzlement, misuse of depositor’s funds....

More examples of the CPA violations

Dates. The dating of CPA orders is highly inconsistent and often inaccurate. The date listed on the CPA website appears to be when the order is placed

¹³ Security Council resolution 1483 of the 22nd of May 2003

¹⁴ 947th Plenary Meeting. 14th of December 1960

¹⁵ The truth about Ahmed Chalabi. Andrew Cockburn. In Counterpunch <http://www.counterpunch.org/chalabi05202004.html>

online. In addition orders are dated when they are signed, and the footer of the document may contain another date. It is rare for these dates to match. A few orders specify the date on which they come into effect. However, Paul Bremer mistakenly dated order 50 '1/11/2003' rather than '1/11/2004'. Regulation 1, establishing the CPA, is dated 16 May 2003, although it refers to UN Security Council resolution 1483, which was not passed until 22 May.

Language. CPA orders are released first in English and then in Arabic translation. The Arabic translation may be released some time after the English version (153 days later, in the case of Orders 3, 4 and 5). Amnesty International has raised concerns about this: "*Evidence from members of the legal profession indicate that they were not aware of legal changes introduced through the CPA in a timely way. This was the case also with the establishment of significant institutions, for example the Central Criminal Court*"¹⁶.

The drafting process. Theoretically, the division of control between the CPA and the Governing Council is vague. Regulation 6 requires that "the Governing Council and the CPA shall consult and coordinate all matters involving the temporary governance of Iraq". A few orders (for example Order 50) are the result of proposals made by the Governing Council. In at least one case (the contentious Governing Council resolution 137, which would have imposed as Islamic code of civil law) Paul Bremer has proved unwilling to approve a Governing Council resolution. In practise it appears that most orders are drafted by the CPA or by the United States government. Input may be invited from UN bodies such as OIOS and OLA, although time constraints hinder effective contributions from the UN.

The CPA and international law. It is frequently commented that the CPA is obliged under international law to avoid unnecessary changes to the legal structure of Iraq. This requirement is emphasised by the UN in Security Council

¹⁶ - Iraq: Memorandum on concerns related to legislation introduced by the Coalition Provisional Authority <http://www.amnesty.org/en/library/info/MDE14/176/2003>

Resolution 1483 (paragraph 5 "*Calls upon all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907*"). However, it should also be noted that the CPA has a moral and legal responsibility to promote the welfare of Iraqis. Paragraph 4 of UN Security Council Resolution 1483

Calls upon the Authority, consistent with the Charter of the United Nations and other relevant international law, 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 can freely determine their own political future;

The CPA appears to have breached international law in several ways. The fourth Geneva Convention (article 65) [requires](#) that "*The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.*" Both of these requirements have been broken by the CPA: most orders enter into force on the date of signature, before an Arabic version is available, and some (for example order 50) are retroactive.

Some Common Phrases

"This order shall enter into force on the date of signature". Since Arabic versions of CPA orders are sometimes not released until well after the signature of the English version, this breaches the fourth Geneva Convention (article 65), which requires that "*The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.*" Amnesty International criticizes this process.

"The principal body of the Iraqi interim administration". This description of the powers of the Governing Council is contained in Security Council Resolution 1511 and CPA Regulation 6, among other places. While it does underline that the GC has some power, it does not, as it may appear to, give it control of Iraq. Resolution 1483 does not see power being immediately handed over, but *"Affirms that the administration of Iraq will be progressively undertaken by the evolving structures of the Iraqi interim administration"*[para 5]. Resolutions passed by the Governing Council currently have no real legal force until they are agreed by the CPA Administrator.

"Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 (2003) and 1511 (2003)" Variations on this formula form the first paragraph of most CPA orders. It refers to a large [body](#) of international law, particularly the 1907 Hague Regulations and the 1949 Geneva Conventions. Relevant sections of Security Council resolutions include, in 1483:

USA violations of the basic Principles of the Independence of the Judiciary.

In another violation to the Geneva Convention the USA occupation authorities have changed most of the basic laws and created a new special tribunal. International humanitarian law applying to occupying powers prohibits the creation of new or special courts or tribunals and the political manipulation of an existing judiciary. The American occupation destroyed the Iraqi Judicial system by the vast interference of the CPA. Bellow just few examples:

CPA Order 15: Establishment of the Judicial Review Committee

This order suspends the Iraqi Organization of the Judiciary Act of 1979 (the Judiciary Act) "insofar as its provisions conflict with this Order," and

establishes an entity to be known as the Judicial Review Committee (the Committee). The Committee's mandate is to investigate and gather information on the suitability of judges and prosecutors to hold office. It also has the power "to remove judges and prosecutors from office, confirm their continued holding of office, appoint replacements for judges and prosecutors removed from office and resolve the claims of judges and prosecutors who assert that they were improperly removed from office."(4)

The Order does not specify which parts of the Judiciary Act are suspended. It is not clear what criteria the Committee uses in appointing, removing, and confirming appointments of judges and prosecutors to their office, and whether this will be in accordance with criteria in the Judiciary Act and the Public Prosecution Act, since nothing to the contrary has been stated in CPA Order 15, or any other CPA order.

The Judiciary Act requires persons appointed as judges to be graduates of the judicial academy, and encourages judges to acquire masters or doctorate degrees by granting them the right to obtain a sabbatical for two years for studies.

However, Article 36 of the Judiciary Act and Article 41 of the Public Prosecution Act require that persons appointed as judges or prosecutors should be Iraqi by birth and be married. These criteria discriminate against those who have acquired Iraqi nationality and constitute discrimination on the basis of social status, prohibited by Principle 10 of the Basic Principles on the Independence of the Judiciary (Basic Principles) which state:

"Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth, or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory."

CPA Order 35: Re-Establishment of the Council of Judges

This order re-establishes the "Council of Judges" (the Council), which existed previously in Iraq. The Council, according to the Order, "is charged with the supervision of judicial and prosecutorial systems of Iraq (Section 1)". The Order further states that "the Council shall perform its functions independently of the Ministry of Justice", which is a welcome step consistent with the principle of independence of the judiciary enshrined in international law.

Section 2 of the Order provides a list of office holders who shall be members of the Council. These include the Chief Justice of the Supreme Court as President of the Council, Deputy Chief Justice of the Supreme Court, and the Director General of the Office of Public Prosecution. The duties of the Council include investigating allegations of professional misconduct and incompetence involving members of the judiciary and public prosecutors, and taking disciplinary measures when appropriate; nominating capable persons to fill judicial vacancies or public prosecutor vacancies and recommending their appointment; promoting, advancing, upgrading and transferring judges and prosecutors; and finally assigning judges and prosecutors to hold specific posts (Section 3). The Council replaces the previous Council of Justice established under the Judicial Organization Law number 160 of 1979 "in so far as the Council of Justice exercised any authority over any judge or prosecutor (Section 6.2)".(5)

The relationship between the Council of Judges and the Judicial Review Committee (established by CPA Order 15 discussed above) is not clear. For example, the Council has the role of nominating people to office and recommending their appointment, while the Committee has the duty of appointing replacements for officials removed from office. The Council has the duty to investigate allegations of misconduct by judges and prosecutors and removing them from office, while the Committee is also empowered with removing officials from office, as well as resolving claims of improper removal from office. Neither of the orders makes clear if there is a connection between the two bodies, and if so, what it is and how it operates.

Amnesty International is also concerned that the role of the Council to nominate officials to fill vacancies, assign and reassign judges and prosecutors to hold specific posts, while at the same time acting on complaints against these same officials, could give rise to conflicts of interest.

Finally, Amnesty International is concerned that there are no clear grounds on which the Council can investigate allegations of professional misconduct of judges, and take disciplinary measures, including removal from office. The Basic Principles require that "[j]udges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties" (Principle 18), but this is not clearly specified by CPA Order 35.

Establishment of an Iraqi Special Tribunal

Order (48), of 10 Dec 2003, Devolves to the Governing Council authority to "establish an Iraqi Special Tribunal to try Iraqi nationals or residents of Iraq accused of genocide, crimes against humanity, war crimes or violations of certain Iraqi laws". In the event of any dispute between the CPA and the Governing Council or Tribunal, the decision of the CPA shall prevail. Although dated December 10, 2003, this order is still the basis of thousands of death penalty by the Iraqi criminal court.

In several official statements, the UN Special Rapporteur on the Independence of Judges and Lawyers, states his strong objections regarding the conduct of these courts. According to the Special Rapporteur, these trials have violated international standards on due process and violated human rights standards and principles, in particular the right to be tried by an independent and impartial tribunal and the right to adequate defense as stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights¹⁷. The Special Rapporteur on extrajudicial, summary or

¹⁷ - Reports and statements by The Special Rapporteur on extrajudicial, summary or arbitrary executions can be found in this link: <http://www2.ohchr.org/english/issues/executions/index.htm>

arbitrary executions has stated similar positions in this regard¹⁸. It is also worthy to mention here the position of the UN High Commissioner, toward this court in its legal opinion of 8 Feb. 2007 in which she described the violations that occurred in these trials¹⁹. Despite that, these trials are continuing today in prosecuting Iraqis without any respect to the minimum human rights standards.

Conclusion:

It is obvious that the United States which committed the highest crime against peace by invading and occupying Iraq has also violated its obligations under Geneva Conventions and other international instruments in the conduct of its authority in Iraq as the occupying power.

Therefore, we call upon the International Community to establish special investigation Committee to investigate all these violations as a first step toward establishing a special international court to prosecute all those responsible of the atrocities and violations committed in Iraq since 2003.

¹⁸ - Reports and statements by The Special Rapporteur on extrajudicial, summary or arbitrary executions can be found in this link: <http://www2.ohchr.org/english/issues/executions/index.htm>

¹⁹ - Opinion of the High Commissioner:
<http://www.unhchr.ch/huricane/hurricane.nsf/view01/0C7D1ECC70EA129CC125727D00525A58?opendocument>

Report Submitted by
Association of Victims of the American Occupation
(AVAO)
Association of International Humanitarian
Lawyers (AHL)

[The review of the United States of America](#)

*The violations of the United-State against Iraqi people especially with regard
access to drinkable water, sanitation system, and adequate food*

Summary:

This report is submitted to the Ninth Session of the Human Rights Council's Working Group on the Universal Periodic Review. The report is focusing on the violations of the United-State against Iraqi people especially with regard their basic rights to have access to drinkable water, sanitation system, adequate food and all the needed elements to have a decent standard of living. The report stresses the responsibility of the United-State as the occupying power in Iraq with regard the violations of its obligations under International law, International Humanitarian Law and Human rights law.

As regard water, the sanitation system and agriculture in Iraq, the United States (with its main ally the UK) are the main responsible body for all the destruction and damages to these sectors, due to the sever sanctions policy,

- This report is based on a longer version prepared by Ms. Elisabeth Nyffenegger on the American War Crimes in Iraq for the purpose of the UPR, the Ninth Session.

and continued bombardments during the past two decades, through the military operations in all parts of Iraq¹.

The Iraqi people are suffering because of these violations. In its **Operational Updated of March-April, 2010**, entitled "**Iraq: water formerly a blessing, increasingly a problem**", the International Committee of the Red Cross (ICRC) stated: **Millions of people in Iraq cannot get clean water or water in sufficient quantity**,...It added that “.. According to the United Nations, nearly half of Iraqis in rural areas are without safe drinking water. The Iraqi government estimates that 24% of Iraqis, or nearly one in four, do not have access to safe water....Reliable access to enough water of sufficient quality remains a major challenge for large parts of the population”².

.....

“...The United Nations recently estimated that around 83% of the sewage is being let into rivers and waterways.

.....

Water treatment and distribution facilities are also disrupted by persistent power shortages. Iraq is currently producing around 6,000 megawatts of electricity a day, while demand is estimated at 10,000 megawatts. Health, water and sewage facilities and other infrastructure in many parts of the country still rely on back-up generators to meet their needs for electric power”³.

¹ - For a comprehensive information on the impact of sanction and US-UK policy on the Iraqi civilians in general and the water and agriculture in Iraq see: [Hans. C. Von Sponeck](#) , **A Different Kind of War: The UN Sanctions Regime in Iraq**

<http://www.amazon.com/Different-Kind-War-Sanctions-Regime/dp/1845452224>

² - ICRC, (Operational Updated of March-April, 2010) "**Iraq: water formerly a blessing, increasingly a problem**

³ - ICRC, (Operational Updated of March-April, 2010)

Water, sanitation and electricity

Water gives life only insofar that it is clear of chemicals, such as salt , pesticides, fertilisers and such like ingredients, and of bacteriological and nuclear contamination. It is common knowledge that contaminated water brings deaths to humans and animals. Depending on the kind of contamination it brings deaths to plants and trees as well. It follows that water and sanitation are among the principal public health determinants

In a predominantly urban society, the times when one would go to draw water from an unpolluted well in one's own back yard are long gone. In urban dwellings, water requires an elaborate infrastructure of pipes, pumps, treatment plants which function thanks to electricity. The damage to anyone of these elements put the whole system in peril.

The means to acquire the indispensable water are fragile and make the urban population vulnerable. The system has also a cost and provides opportunities to make money, in some instances, big money!

It is remarkable that in spite of its vital importance, the acute water shortage endured by the Iraqis and the agriculture of Iraq, have received little media coverage even though that the issue of water is responsible for far more death than bombs.(See also: War and public health. American Public health association. Edited by Barry. S Levy and Victor W. Sidel)

This is possibly due to the fact that the major part of the destruction of the Iraqi infrastructure took place in the course of the First Gulf War of the early 1990, when it would seem **dams, dykes, water pumping stations; water treatment plants were deliberately targeted.** The UN imposed sanctions that followed gave it no chance to recover.

Obviously, after the heavy bombardments that hit Baghdad and other urban areas at the time of the invasion in 2003, things could only deteriorate further. Years after the invasion of 2003, the United States continues its military

operation in various part of Iraq and the destruction of the infrastructure continues.

This represents a violation of International Humanitarian Law (IHL)

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive⁴

Bellow are more details about the scope of the USA violations:

“...and the forces of the coalition group who wrecked on Iraq the most incredible devastation, targeting rather specifically the civilian infrastructure. I mean the schools, the hospitals, the water treatment plants, the electrical power production capacity, sewage systems, all of the facilities we take for granted and which are so essential to the well being of a people. This was done in the full knowledge and of course directed by George Bush, who at the time called for nothing less than the Stone Age, putting Iraq back into the Stone Age. It was done in knowledge that it was a complete breach of the Geneva Convention and Protocols, which specifically excludes the targeting of civilians and civilian needs. Nevertheless that was done...”

.....

⁴ Art.54 of the Additional Protocol to the Geneva Convention of 1949 (Protocol I) 8th of June 1977

“...together with water-born diseases due to the fact that the coalition forces destroyed the water treatment, water distribution plants, destroyed the electric power necessary to drive those systems of water distribution, which leads to diarrhoea, to some very basic water-born diseases, the combination of these two facts and mothers who have a very low level of nutrition themselves. Infants are dying at an appalling rate. Together with other children and those under five, thousands of Iraqi children under five are dying every month, and it's directly attributable to the sanctions regime that we established under the Security Council and we have sustained under the Security Council, knowing full well, as Madeleine Albright announced – I think a year or two ago on CBS, 60 Minutes...⁵

* * *

U.S. intentionally destroyed Iraq's water system

“... American planes strategically obliterated Iraq's water system. Then, with the war over and the water system in ruins, the United States imposed sanctions barring the importation of water purification equipment. The combined effect of this one-two punch was the slow death of thousands of Iraqis – something not unexpected by the U.S. military.

Reporting for the Progressive magazine, Thomas J. Nagy unearthed the Defense Intelligence Agency documents detailing all of this. In fact, Nagy's scoop showcases, yet again, the laziness of mainstream media: the now declassified documents are online, at an official government Web site, www.gulfink.osd.mil.

During the economic sanction “One commodity Iraq was banned from importing was chlorine, a chemical used for both chemical weapons and water sanitization. The Defense Department knew a shortage of chlorine

⁵ - Denis Halliday and Phyllis Bennis. Speech held at the university of Washington in Seattle on the 15th of February 1999

would kill – and has kept the ban in place for the past decade. "Unless the water is purified with chlorine, epidemics of such diseases as cholera, hepatitis, and typhoid could occur," the brief noted."⁶

Ten years on, the U.N. estimates 500,000 children have died as a result of the sanctions, and Hussein remains, for the moment anyway, in power.

When asked on national television in 1996, former Secretary of State Madeleine Albright stated that the large numbers of dying children in Iraq created "a very hard choice" for the United States but "we think the price is worth it."...⁷⁸

* * *

Most importantly, DIA argues the following: "unless water treatment supplies are exempted from the UN sanctions for humanitarian reasons, no adequate solution exists for Iraq's water purification dilemma, since no suitable alternatives, including looting supplies from Kuwait, sufficiently meets Iraqi needs.

Subsequent DIA reports document what is known about civilian casualties among the Iraqi population through the inclusion of water purifying chemicals and equipment in the UN sanction lists. They show that Iraq's water supplies are running at 5 percent capacity.

The administrations of Presidents Bush Sr., Clinton and George W.Bush have all vigorously enforced the inclusion of water treatment chemicals (like chlorine), water extraction technologies and basic water supply equipment on UN sanctions lists, often over the objections of other Security Council members wishes. UNICEF, the World Health Organisation and other concerned development

⁶ Thomas J. Nagy. The Progressive. September 2001

⁷ Water as a weapon of war. D. Breslin of Water Aid in Great Lake Environmental District.30th of December 2001

⁸ See also. US charged with war crimes. Destruction of civilian infrastructures. Information clearing house

institutions and human rights groups have all questioned the US stance, correctly arguing that the humanitarian consequences of the inclusion of these goods on UN sanctions lists has no military or security logic.

A huge range of equipment needed for water, sanitation and the oil industry, is **routinely blocked at the sanctions committee by the U.S. and Britain because of fears that they could be used for military purposes.** These are items as basic as water pumps... International humanitarian workers say the biggest problem in Iraq right now is not a lack of food or even medicine -- it is a lack of clean water, and that is because the infrastructure is not being repaired. And it can't be fully repaired without major imports of equipment. **UNICEF says the biggest single reason that children are still dying at an abnormally high rate here appears to be that many communities do not have access to clean water."**

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

(a) those which are not directed at a specific military objective;

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated⁹

Agriculture in the region is almost entirely based on irrigation... The strategic bombing of bridges, which often cross irrigation barrages, severely damaged these irrigation schemes, thus impairing agricultural productivity and food supplies.

⁹ Art. 51 Additional Protocol to the Geneva Convention of 1949 (Protocol I) 8th of June 1977

“... the risk of environmental contamination from the bombing of nuclear, chemical and biological weapons facilities is of major potential concern, particularly if drinking water or food supplies are affected. A lack of information precludes assessment of this risk, but the effects are likely to be localized. There is concern that radioactive material leaked into ground water and rivers, thus contaminating the food chains of the fertile inland wetland and mudflats at the head of the Gulf...”¹⁰

Reconstruction and rehabilitation

After the destruction of 2003, San Francisco-based Bechtel was one of a select handful of U.S. companies that received a quiet "request for proposals" from the Bush administration more than a month before the invasion of Iraq. Thus, without any competition, on April 17, 2003, Bechtel was awarded a \$680 million contract for work in Iraq. In September of that year, an additional \$350 million was added to the first contract, and then, on Jan. 6, 2004, it received a second contract -- bringing Bechtel's combined total to more than \$2.8 billion

...

In Bechtel's first contract, "Iraq Infrastructure I," the company was to "provide the successful design, rehabilitation, upgrading, reconstruction and construction in Iraq of one port, five airports, electric power systems, road networks and rail systems, municipal water and sanitation services, school and health facilities, select government building and irrigation systems, as well as institutional capacity building for operation and maintenance of roadmaps for future longer term needs and investments in support of Iraq Infrastructure Reconstruction Program."

It goes without saying that nothing from these projects was implemented...but the money was awarded!

¹⁰ War, environment and Health A bioethical resonance to reconcile.. Dipankar Saha, senior scientist. Agricultural research service Indian Council of Agricultural research. Barrackpore -700120 Kolkata India

What make the situation even worse is that Paul Bremer fired the upper echelons of Iraqi management, sidestepped skilled engineers and workers, hired Bechtel to build state-of-the-art facilities that are foreign to these workers and then handed the systems over as a fait accompli, whether or not they were even connected to the homes they were intended to serve.¹¹

It is obvious from a number of sources that the invasion of Iraq and the reconstruction of its destroyed infrastructure was the pretext of a general take over. It is of course true that all this swindle cost the American taxpayer a hefty penny to start with, but there is little doubt that the Iraqis will eventually foot the bill one way or the other.. Furthermore it is an opportunity for American companies to gain a foothold in a country which offers prospects of big profits It is looting in disguise, in spite of:

Art. 47. Pillage is formally forbidden¹².

Art. 55. The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.¹³

Art. 33

...

Pillage is prohibited.¹⁴

¹¹ Bechtel takes a hit for war profiteering. Antonia Juhasz World Alertnet. 4th of August 2006

¹² Art. 47 Annex to the Convention (IV) respecting the rules and laws of war. The Hague 18th of October 1907

¹³ Art 55 , ibidem

¹⁴ Art. 33 of the IVth Geneva Convention of 1949

The destruction of agriculture

a) War

*“US soldiers driving bulldozers, with jazz blaring from loudspeakers, have uprooted ancient groves of date palms as well as orange and lemon trees in central Iraq as part of a new policy of collective punishment of farmers who do not give information about guerrillas attacking US troops”.*¹⁵

ARTICLE 31¹

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties¹⁶

ARTICLE 33¹

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited¹⁷

¹⁵ US soldiers bulldoze farm crops. Patrick Cockburn in Duluhaya. In www.thetribamessenger.org. 12th of October 2003

¹⁶ IVth Geneva Convention of August 1949

¹⁷ Ibidem

ARTICLE 53¹⁸

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations¹⁸

Article 54

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive

4. These objects shall not be made the object of reprisals.¹⁹

* * *

b) Under occupation

On the 26th of April, Paul Bremer issued order no 81²⁰, which says, amongst other things that:

“B. Farmers shall be prohibited from re-using seeds of protected varieties or any variety mentioned in items 1 and 2 of paragraph (C) of Article 14 of this Chapter.”

¹⁸ Ibidem

¹⁹ Additional Protocol to the Geneva Convention of the 8th of June 1977

²⁰ Art. 66B of the CPA order no 81 on Patent, industrial design, undisclosed information, integrated circuit and plant variety law of the 26th of April 2004

Art. 43. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, **while respecting, unless absolutely prevented, the laws in force in the country**²¹

For generations, small farmers in Iraq operated in an essentially unregulated, informal seed supply system. Farm-saved seed and the free innovation with and exchange of planting materials among farming communities has long been the basis of agricultural practice. This is now history. The CPA has made it illegal for Iraqi farmers to re-use seeds harvested from new varieties registered under the law. Iraqis may continue to use and save from their traditional seed stocks or what's left of them after the years of war and drought, but that is the not the agenda for reconstruction embedded in the ruling. The purpose of the law is to facilitate the establishment of a new seed market in Iraq, where transnational corporations can sell their seeds – genetically modified or not, which farmers would have to purchase afresh every single cropping season.

While historically the Iraqi constitution prohibited private ownership of biological resources, the new US-imposed patent law introduces a system of monopoly rights over seeds. Inserted into Iraq's previous patent law is a whole new chapter on Plant Variety Protection (PVP) that provides for the "protection of new varieties of plants." PVP is an intellectual property right (IPR) or a kind of patent for plant varieties which gives an exclusive monopoly right on planting material to a plant breeder who claims to have discovered or developed a new variety. So the "protection" in PVP has nothing to do with conservation, but refers to safeguarding of the commercial interests of private breeders (usually large corporations) claiming to have created the new plants.

²¹ Convention(IV) on respecting the laws and customs of war. The Hague. 18th of October 1907

To qualify for PVP, plant varieties must comply with the standards of the UPOV [3] Convention, which requires them to be new, distinct, uniform and stable. Farmers' seeds cannot meet these criteria, making PVP-protected seeds the exclusive domain of corporations. The rights granted to plant breeders in this scheme include the exclusive right to produce, reproduce, sell, export, import and store the protected varieties. These rights extend to harvested material, including whole plants and parts of plants obtained from the use of a protected variety. This kind of PVP system is often the first step towards allowing the full-fledged patenting of life forms. Indeed, in this case the rest of the law does not rule out the patenting of plants or animals.

The term of the monopoly is 20 years for crop varieties and 25 for trees and vines. During this time the protected variety de facto becomes the property of the breeder, and nobody can plant or otherwise use this variety without compensating the breeder. This new law means that Iraqi farmers can neither freely legally plant nor save for re-planting seeds of any plant variety registered under the plant variety provisions of the new patent law. This deprives farmers of what they and many others worldwide claim as their inherent right to save and replant seeds.

CORPORATE CONTROL

The new law is presented as being necessary to ensure the supply of good quality seeds in Iraq and to facilitate Iraq's accession to the WTO . What it will actually do is facilitate the penetration of Iraqi agriculture by the likes of Monsanto, Syngenta, Bayer and Dow Chemical - the corporate giants that control seed trade across the globe. Eliminating competition from farmers is a prerequisite for these companies to open up operations in Iraq, which the new law has achieved. Taking over the first step in the food chain is their next move....²²

According to Focus on the Global South and GRAIN report: "Iraq has the potential to feed its people. But instead of developing this capacity, Washington is shaping the future of Iraq's food and

²² Iraq's new patent laws: a declaration of war against farmers. GRAINS. News Release. October 2004

farming to serve the interests of U.S. corporations." The aim of the U.S. is to undermine Iraq's food security, and remove all the contributions Iraqi farmers have made to development of agriculture and important crops like wheat, and barley. Iraq's agriculture will be re-engineered to produce high yields agricultural products for export, and force Iraq to depend on importing food, and on Western "aid...."²³

Because wars are invariably a pretext for economic expansion and opportunities for corporate greed, The US corporate agribusiness was not about to be left out of the picture. Bush's Secretary of Agriculture Ann Veneman appointed Daniel Amstutz, formerly an executive of the Cargill Corporation, to oversee the "rehabilitation" of agriculture in Iraq. Cargill has the reputation of being one the worst violators of the rights and independence of family farmers²⁴.

*"...Cargill is renowned for receiving huge subsidies from the US government to then dump vast amounts of grains in poorer countries where Cargill is trading. This process, in effect, undermines small farmers, helps to destroy the local food production systems and forces dependence of small farmers and local rural economies on corporate agribusiness..."*²⁵

*"...the war is rapidly destroying traditional farming practices in the area, instating a legal model that calls for a dependency on the seeds of large corporations like [Monsanto](#)"*²⁶

²³ Biopiracy and GMO: the fate of Iraqi agriculture. Ghali Hassan in Global Research. December 2005

²⁴ - Seeds of false hopes. The occupation of Iraq's farming economy. Celsas

²⁵ Corporate agribusinesses, the occupation of Iraq and the Dred Scott decision. Home grown axis of evil. Heather Gray.in Counterpunch 22 of July 2005

²⁶ - Seeds of false hopes. The occupation of Iraq's farming economy. Celsas

Art. 55. The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct

Art. 56. The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings²⁷

Conclusion:

The United States of America violated its obligations under International Law, International Humanitarian Law and Human Rights Law by launching a war of aggression against Iraq. Through this war and years of occupation it destroyed the health, water and sanitation systems, it also destroyed all the electricity plants in Iraq. It went further in its violations when it destroyed the agricultural system including the irrigation system...these violations have to be raised during the review of the United States, in order to remind it to take full responsibility for these violations. It is expected that all UN member states will raise questions and seek clarification concerning these violations. It is also expected that the United Nations' Human Rights Council takes all necessary steps to dispatch an independent investigation Commission to thoroughly investigate all the violations against the Iraqi people by the United States of America, and its allies, during the sanctions and the invasion in 2003 and throughout the years of its occupation of the country.

.....

²⁷ Convention (IV) on respecting the laws and customs of war. The Hague. 18th of October 1907

The Iraqi Commission for Human Rights

ICHR

Reviewing the United States of America

SUMMARY: As the Occupation of Iraq is approaching its eighth years (2010), the grave violations especially the mass murder of Iraqi civilians is not questioned, but normalised in Western conscience. The United States reached the stage where it is able to make its own figure of Iraqi deaths, with no remorse or sadness. It has also managed to find several pretexts to justify this mass killing. We often hear of events at UN level concerning terrorists groups, Al-Qaeda, the Militias but no accusations of the 134.000 American troops and 114,000 private contractors, as if they are there for a humanitarian mission not to KILL....KILL¹. The war was not the result of “wrong intelligence”; the war was an illegal act of aggression, and premeditated mass murder. ‘Democracy’ is used as a tool to manipulate the public and justify war crimes and crimes against humanity. By its acts of aggression against Iraq, the USA violated its obligation under the UN charter, during the war and occupation, the USA violated the 1907 Hague convention, the four Geneva conventions and its two protocols. These violations must be clearly reflected during this review.

While the military and most corporate media would like us to believe that from now on no US soldiers will set foot in Iraqi cities, US military patrols are

¹ - See, **KILL KILL Confessions of a Marine**, <http://www.nouvelobs.com/articles/p2138/a284490.html>, See also, US Soldiers Celebrating Killing Iraqi Civilians (April, 2010)

<http://vodpod.com/watch/1608107-us-soldiers-celebrating-killing-iraqi-civilians-apparently-aol-video>

ongoing and will continue. The SOFA is a sieve, and the number of US military personnel in Iraq is remaining largely intact for now. Added to the 134,000 US soldiers is the almost exact number of military contractors (132,610 and increasing), 36,061 of which, according to a recent Department of Defense report, are US citizens.

1. The conduct and motivation of the American occupation authorities were suspect right from the start, when they encouraged the organized theft of public properties; left weapon dumps unguarded; dissolved the Iraqi army and replaced it with militias whose agendas are incompatible with the collective interests of the Iraqi people; and when it introduced sectarian and racial quotas in political life, paving the way for serious sectarian and racial conflict that has been exploited by some political groups for their own exclusive ends. **Thus, the USA violates its responsibilities under international law as the occupying power toward Iraq and the Iraqi people.**

2. Since the invasion; “Iraqis have been living in fear, poverty, oppression and a lack of freedom ... The occupation troops have resorted to excessive force, indiscriminate killing and collective punishment of the population. They have besieged entire towns, storming into them, instilling fear and horror among residents and destroying their homes. The indiscriminate and savage aerial and ground bombardments – with chemical bombs, fire bombs (fuel-air bombs), napalm and other non-conventional weapons (WMD) – of population centres continued the destruction of the country and the killing innocent of Iraqis *en masse*. In addition, the U.S. and other governments are secretly sponsoring the killings of prominent Iraqi politicians, intellectuals, academics, religious leaders and trade union leaders, including leaders of the Oil Workers Union using U.S.-British trained [death squads and criminals](#). The aim is to incite civil strife and destroy the unity of Iraq to serve U.S. strategy.

3. The most reliable estimate of Iraqi deaths was reported in 2006 by the British medical journal *the Lancet* it said “In Iraq, as with other conflicts, civilians bear the consequences of warfare. ... We estimate that almost **655 000 people— 2.5% of the population in the study area—have died in Iraq**. Although such death rates might be common in times of war, the

combination of a long duration and tens of millions of people affected has made this **the deadliest international conflict of the 21st century**, and should be of grave concern to everyone.” **It also estimated that 85 per cent of all violent deaths are by “coalition forces” and that many of these are due to U.S. aerial bombardments. The majority of the victims were innocent women and children.** However, *the Lancet* study was deliberately ignored or dismissed by the U.S.-British corporate mass media. In fact the study is now censored by mainstream media because it shows a mass murder. The media and Western elite’s roles have always been to selectively describe crimes allegedly – never proven – committed by the regime of Saddam Hussein as “mass murder”, while dismissing crimes committed by Western powers. In 2008 the British group OBR updated the figure of the Lancet; it estimated that at least 1,300,000 Iraqis have died since 2003. The USA must be held accountable for all its action in Iraq that led to this catastrophic results.

4. In the period up to March 2007 more than 2000 leading professionals and intellectuals had already been killed and thousands more had fled the country. Many of these people would have been members of the Baath party and their murders are very likely to be part of the policy of de-Baathification, which, insofar as it exists, has not targeted CIA collaborators, but will undoubtedly have included those seen as potential opponents of the new state. In passing, it is worth noting that while thousands of former teachers have been sacked, thousands more are being recruited from outside Iraq, presumably because they are either cheaper to employ (denied by the Iraqi government) or because they are more malleable to the new educational regime, which works closely with the World Bank and provides lucrative contracts to the Washington-based Creative Associates Inc. **Iraq’s 30,000 new teachers have received just five days’ training and must teach religion and a history that portrays Iraq’s occupiers as saviours, rather than the former ‘anti-Western propaganda’ that might have served Iraqis better.** Other victims of the death squads may be communists, the commentator Juan Cole noting that the Communist Party is so alarmed by the course of events that it is considering going underground;

though he does not spell out the events that would force the party into hiding, they are not difficult to surmise.

5. Iraqis have been humiliated and stripped of their basic human rights; they have been subjected to brutal and ghastly forms of torture, as the case of the infamous Abu Ghraib prison and the British troops' abuse of detainees in Basra have shown". **The USA Administration committed war crimes and crime against humanity by its grave, wide spread and systematic use of torture against the Iraqi detainees.**

6. Surveys reveal that acute malnutrition among Iraqi children had almost doubled since before the war, jumping from 4 per cent to almost 8 per cent. The survey adds that; "Acute malnutrition sets in very fast and is strong indicator of the overall health of children". The general health of Iraqi children, the elderly and pregnant women in particular has declined because of continue deteriorating of the living conditions. Since the invasion until this year (2010), Iraq still lacks access to potable water, food, adequate electricity supply, hospital care, and a sharp decline in Iraqis purchasing power due to the 70 per cent unemployment. **These are clear violations by the United States of the basic and fundamental rights of the whole population of Iraq.**

7. From the beginning of the occupation of Iraq, one of the most pressing concerns for Iraqis-besides ending the occupation and a desperate need for security -has been **basic infrastructure**. The average home in Iraq today, over seven and a half years into the occupation, operates on less than six hours of electricity per day (**March 2010**). "A water shortage described as the most critical since the earliest days of Iraq's civilization is threatening to leave up to 2 million people in the south of the country without electricity and almost as many without drinking water," the **Guardian (8/26/09)** reported; waterborne diseases and dysentery are rampant. The ongoing lack of power and clean drinking water has even led Iraqis to take to the streets in Baghdad

(**AP**, 10/11/09), chanting, “No water, no electricity in the country of oil and the two rivers.”

8. Devastation wrought by the occupation, coupled with rampant **corruption** among the Western contractors awarded the contracts to rebuild Iraq’s demolished infrastructure, are to blame (International Herald Tribune, 7/6/09). Ali Ghalib Baban, Iraq’s minister of planning, said late last year (International Herald Tribune, 11/21/09) that the billions of dollars the U.S. has spent on so-called reconstruction contracts in Iraq has had no discernible impact. “Maybe they spent it,” he said, “but Iraq doesn’t feel it.”

9. For Iraqis who remain in the country, another critical story is cancer. The U.S. and British militaries used more than 1,700 tons of depleted uranium in Iraq in the 2003 invasion (**Jane’s Defence News**, 4/2/04)-on top of 320 tons used in the 1991 Gulf War (**Inter Press Service**, 3/25/03). Literally every local person I’ve ever spoken with in Iraq during my nine months of reporting there knows someone who either suffers from or has died of cancer. The real hazard for Iraqis these days is cancer. Cancer is spreading like wildfire in Iraq. Thousands of infants are being born with deformities. Doctors say they are struggling to cope with the rise of cancer and birth defects, especially in cities subjected to heavy American and British bombardment."

10. In Fallujah, which bore the brunt of two massive U.S. military operations in 2004, as many as 25 percent of newborn infants have serious physical abnormalities (**BBC, April, 2010**). Cancer rates in Babil, an area south of Baghdad, have risen from 500 cases in 2004 to more than 9,000 in 2009. Babies born to U.S. veterans of the 1991 war are showing birth defects very similar to those affecting Iraqi babies (**Sunday Herald**), and many U.S. soldiers are now referring to Gulf War Syndrome 2, alleging they have developed cancer because of exposure to depleted uranium in Iraq.

11. As regard **women rights**, the situation continues to be challenging for women within Iraq since the American occupation. With the new law has come the new lawlessness. In its recent report (12-03-2010)² from inside Iraq, IPS quoted several Iraqi women activists "The U.S. occupation has decided to let go of women's rights," Yanar Mohammed who campaigns for women's rights in Iraq says. "Political Islamic groups have taken southern Iraq, are fully in power there, and are using the financial support of Iran to recruit troops and allies. The financial and political support from Iran is why the Iraqis in the south accept this, not because the Iraqi people want Islamic law." Yanar Mohammed believes the constitution neither protects women nor ensures their basic rights. She blames the United States for abdicating its responsibility to help develop a pluralistic democracy in Iraq. Nora Hamaid, 30, a graduate from Baghdad University, has now given up the career she dreamt of. "I completed my studies before the invaders arrived because there was good security and I could freely go to university," Now, she says she cannot even move around freely, and worries for her children every day. The situation for Iraq's women reflects the overall situation: everyone is affected by lack of security and lack of infrastructure. Maha Sabria, professor of political science at Al-Nahrain University in Baghdad tells IPS that "The violation of women's rights was part of the violation of the rights of all Iraqis." But, she said, "Women bear a double burden under occupation because we have lost a lot of freedom because of it. There is 25 percent representation for women in parliament, but Sabria says "these women from party lists stand up to defend their party in the parliament, not for women's rights." For women in Iraq, the invasion is not over. "More men are now under the weight of detention, so now women bear the entire burden of the family and are obliged to provide full support to the families and children. At the same time women

² - Dahr Jamail and Abdu Rahman, How the US Occupation of Iraq Destroy and Undermine Women's Rights, by [IPS News](#) - 2010-03-12

<http://www.globalresearch.ca/index.php?context=va&aid=18134>

do not have freedom of movement because of the deteriorated security conditions and because of abductions of women and children by criminal gangs." Women, she says, are also now under pressure to marry young in family hope that a husband will bring security. Sabria tells IPS that the abduction of women "did not exist prior to the occupation. We find that women lost their right to learn and their right to a free and normal life, so Iraqi women are struggling with oppression and denial of all their rights, more than ever before." "The real ruler in Iraq now is the rule of old traditions and tribal, backward laws," Sabria says. "The biggest problem is that more women in Iraq are unaware of their rights because of the backwardness and ignorance prevailing in Iraqi society today." Many women have fled Iraq because their husband was arbitrarily arrested by occupation forces or government security personnel, says Sabria. The United States is still the main responsible for the eroding of women rights in Iraq.

12. **The legitimacy of the status quo in Iraq** is further questioned by the bitter and tragic inhumane fruits of the status quo. What elections as indicator of democracy could any objective observer perceive in a country where the U.S. military adventure has left around five million children orphans, one million child labourers, street vendors or beggars, and three million women widows. There are at least three millions of Iraqi refugees abroad; the U.N. has estimated that there were about 2 million Iraqi refugees in neighbouring Jordan and Syria, and some 2.6 million people displaced within Iraq, in addition to millions of unemployed Iraqis -- all constituting more than half of the 27 – million population. The state infrastructure is still not rehabilitated, the central government could not secure its own safety, let alone the safety of the population, in the capital Baghdad, let alone the rest of the country, without the presence of about 134 thousand mainly U.S. troops and around 114 thousand foreign mercenaries, dubbed as security contractors, and where the basic services like water and power are either totally broken down or partially operational, and basics like fuel are in short supply in a country floating on the largest oil reserves in the world, second only to Saudi Arabia.

13. In conclusion, and after all the grave violations which the United States has committed in Iraq, there were no weapons of mass destruction (WMD) found in Iraq, and Iraqis have never posed a threat to the American people. It wasn't because of faulty intelligence, as the Bush-media spin suggests. The war instigated with clear knowledge of the truth. The UN declared the war on Iraq an "illegal" act of aggression in violation of the UN Charter. The invasion of Iraq is rightly described by Nobel laureate, Harold Pinter, as: "An act of blatant state terrorism, demonstrating absolute contempt for the concept of international law".

14. It has been argued on legal grounds by attorney Michael Ratner, the former director of the Centre for Constitutional Rights, and past president of the National Lawyer's Guild that: "the [UN Charter](#) requires that international disputes be settled by peaceful means so that international peace, security and justice are not endangered; it also requires that force shall not be used in any manner that is inconsistent with the purposes of the UN and [Article 33](#) requires that parties to a dispute shall first of all seek a solution by negotiation, inquiry, mediation, conciliation, arbitration judicial settlement, resort to regional agencies, or other peaceful means". Force can not be used based on assumption and bogus intelligence. It follows, that there is an overwhelming *prima facie* evidence to indict all those responsible for invading and occupying Iraq with war crimes and crime against humanity.

15. **To conclude:** All United Nations' member states are under obligation to demand an independent investigation of all the above-mentioned grave, systematic and wide spread violations committed by the United States against Iraq as a nation and as a people. The United States must acknowledge its full responsibility in accordance with international laws of all these violations. Justice to Iraqi people must prevail to end their suffering under this brutal occupation.

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The Ninth Session of the Universal Periodic
Review

November 2010

UNITED STATES

Report of
The Organization for Justice and Democracy
in Iraq (OJDI),
the International Organization for the
Elimination of All Forms of Racial
Discrimination (EAFORD), and
Arab Lawyers Union (ALU),

Summary:

This report is submitted to the Office of the High Commissioner for Human Rights in the context of the universal periodic review on the United States. The report stresses the responsibility of the United States as the occupying power in Iraq to fulfil its obligations deriving from both Human rights law and Humanitarian Law, and to be held accountable for the violations of several provisions of Human rights law and Humanitarian Law regarding the right to life, the right to personal safety and liberty and the impunity that prevails in Iraq. The report addresses key issues such as abuse of detainees and

widespread systematic torture. It sheds light on the situation of impunity from punishment which leads to fundamental violations of the rights of victims. The report concludes with several recommendations to the High Commissioner and the Human Rights Council and other related bodies.

This report should be examined according to the following two fundamental issues:

1. The Invasion of Iraq in 2003

Under International Law, the use of military force by states against other states is permissible only in self-defence or when authorized by the United Nations Security Council. Therefore, waging a war of aggression constitutes a war crime under International Law, it is the supreme international crime. In the case of Iraq, none of the above conditions were fulfilled when in 2003, the United States launched a war of aggression against the territorial integrity of the Republic of Iraq, one of the founder states to the United Nations. Acting clearly in violation of the United Nations Charter, the United States did not only invade the territory of Iraq and destroy most of its vital infrastructure, but it also dissolved violently all the political and administrative apparatus creating a vacuum in which sectarian and state backed organizations will profit. It should be clearly stressed that the United States, by launching an illegal war against Iraq in 2003 and occupying the country, bears full responsibility for the humanitarian consequences that followed that invasion until now.

2. Duty and Responsibility of the United States as the Occupying Power in Iraq

The US forces, as the occupying power under International Law, have obligations to protect the Iraqi population, to maintain public order and safety¹,

¹ Article 43 of the Hague Regulation

and to provide food, medical care and facilitate relief assistance.² As occupying powers, the United States (and the United Kingdom) are bound by the rules of international law on belligerent occupation, which are set out in the 1907 Hague Regulations and the Fourth Geneva Convention of 1949. The International Humanitarian Law requires any occupying power to respect the provisions of the human rights treaties to which the country whose territory is occupied is a party, especially when, as in the case of Iraq, such treaties are formally incorporated in the occupied country's legal system. The Human Rights Committee and other bodies have also stressed the fact that the provisions of human rights law extend to any territory in which a state exercises jurisdiction, including territories occupied as a result of military action. Therefore, in administering Iraq, the USA must respect their own international human rights obligations in addition to those under international humanitarian law. We would like to stress the fact that the law on occupation still applies if new civilian authorities are set up by the occupying power, as long as the occupying forces are still present in that territory and exercise final control over the acts of the local authorities, as it is the case in Iraq from 2003 until now.

As occupying powers in Iraq, the United States has failed to provide to the Iraqi population the minimum standard of a decent life, water and electricity supply is still underdeveloped due to the corruption of the whole administration³ as it is the case for food, medical care and relief assistance. Moreover, as shown by recent events, it did not respect several obligations deriving from International Humanitarian Law and it has failed to hold accountable the perpetrators of war crimes.

- **The Right to Life**

Since the US invasion in 2003, the right to life has been subjected to gross violations in Iraq. Military operations, and what has been described as security plans carried out by US occupation forces with the participation of units of the

2 Article 55 of the fourth Geneva Convention

3 Iraq is the third most corrupted country in the world, according to Transparency International.

Iraqi authorities, have led to systematic, deliberate and wide violations against the right to life of the Iraqi people. The result was that thousands were killed as a direct consequence of those operations. Moreover, security companies, which operated with the knowledge and acceptance of the Iraqi authorities, were involved in the killing of dozens without being subjected to investigation or accountability. The United States occupying forces have continued to grant immunity for their troops and the security companies, using the term "collateral damage" as a pretext for their protection and consolidating their "impunity" whenever it has involved the death of Iraqi civilians.

Thus, the right to life of every Iraqi, wherever he or she is, has become subject to grave and massive violations. It came as no surprise when the United Nations Office of the Coordination of Humanitarian affairs in December 2007 described the situation as one of the most complex and violent in the world, characterized by grave violations of human rights and international humanitarian law. It added that "the right to life has become the main concern of the Iraqi civilians" as people were being killed by the Iraqi and occupying forces under the continuous excuse of "counter-terrorism." There is no doubt that terrorism is a gross violation of human rights, and there is no question regarding the direct responsibility of governments to combat and eradicate terrorism. But this responsibility does not justify in any way the violation of human rights under the pretext of combating terrorism. Unfortunately, the path taken by the war against terrorism has become an essential source of violation of dozens of rights, in a manner that undermines the human rights system as a whole.

Estimates vary on the number of Iraqis who lost their lives due to these operations and other acts of violence. The United States is criticized for, in addition to committing such crimes, its failure to record and document deaths. On the contrary, it has begun hunting for anyone who tries to talk about the death toll. It has prevented providing United Nations Assistance Mission for Iraq [UNAMI] statistics on the number of deaths on many occasions. In 2006, the British medical journal 'The Lancet' published a solid study that estimated the number of Iraqi deaths since the invasion in 2003 to be more than 650,000

people. In January 2008, Britain's Opinion Research Business (ORB), after conducting field surveys, announced that the number of Iraqis killed since the 2003 invasion is around 1,030,000 people.

Examples drawn from official reports (in 2007 as an average for the last four years) show the extent of disrespect for people's right to life:

- The International Red Cross announced in August 2007, that the Institute of Forensic Medicine in Baghdad had received more than 10 thousands of unidentified bodies during the period between August 2006 and August 2007.
- UN mission [UNAMI] in its reports documented the following: During the year 2007, there were 1990 civilians killed in January, 1646 killed in February, 1872 in March, 1501 in April, 1949 in May, 1227 in June, 1653 in July, 1773 in August, 844 in September, 758 in October, 2000 in November, and 481 in December. These statistics are from official reports, which often attempt to minimize losses.

Other documented examples of violations of the right to life, from 2007 only, are as follows:

- On 4th November 2007, US occupation forces killed "Sheikh Ahmed Ghidan al-Dulaimi" and his family, which consisted of six members. They demolished their house in Kubaisa city, west of Ramadi city, during a bombardment of Bawi area in Madaen District.
- On 23rd October 2007, a US helicopter launched a strike north of Baghdad that killed 16 people including 4 women and 8 children. The American occupation forces claimed that the raid was aimed at men planting roadside bombs.
- On 14th October 2007, US occupation forces committed a massacre in Lake Thar Thar region that claimed the lives of 34 Iraqi civilians, including six women and nine children.
- On 21st September 2007, US occupation forces shot dead a family of seven

people north of Hilla, including women and children for allegedly belonging to a militia in the Alexandria area. The US forces booby-trapped the house and blew it up later. Followed were clashes between US troops and gunmen in the city that resulted in the deaths of 12 civilians.

- In August 2007, US occupation forces shelled a house in the city of Samarra while hunting for gunmen, killing a number of civilians, including five children and two women.
- In the same month, during the so-called "Operation Phantom Strike," claiming the eradication of terrorism and draining its resources, US soldiers committed a new massacre in Diyala after they bombed the house of "Thaer Salem Dawood al-Majmaei", killing 34 people during their sleep.
- On July 23rd 2007, US Marines opened fire on a civilian car carrying a family of five people, including three children, in the area of Mahmudiyah, south of Baghdad, resulting in the death of all its passengers, especially after denying ambulances access, claiming the car was booby trapped.
- On March 12th 2006, five United States army soldiers of the 502nd Infantry Regiment committed the Mahmudiyah killing and rape of a 14 years old girl, together with her six year old sister and her mother and father. The US soldiers told the Iraqi forces that the crime had been committed by sunni insurgents.⁴
- In July 2007, US occupation forces committed a terrible massacre in the Khatoon district in Diyala, as part of "Operation Penetrating Arrow", where US helicopters bombarded more than 20 houses and bringing them down on the heads of their inhabitants. The US move was apparently in retaliation for the fleeing of some men in the area who feared arbitrary arrest campaigns. The US strikes killed more than 350 civilians, mostly women and children.
- During the Fallujah offensive in November 2004, The United States conducted a military operation with the total knowledge of the Iraqi authorities against the city of Fallujah. The US army used internationally banned weapons such as depleted uranium and white phosphorus and used indiscriminate violence against civilians.⁵ Almost 80% of the city was destroyed.

4 A Soldier's Shame, Time Magazine, July 9 2006

5 Peter Popham, *US forces used chemical weapons during assault on city of Fallujah*, The Independent 8 November 2005

- **Disappearance:**

The policy of ambiguity followed by US occupation forces and the growing phenomenon of secret US prisons of America, which even international organizations have failed to locate, add to that the large number of Iraq's secret prisons, which one member of the current Iraqi parliament estimated to have exceeded 420 secret prisons, have led to a large number of reported and unreported cases of forced disappearances. Indeed, fear damages the lives of thousands of Iraqi families inside and outside Iraq. For years they have been searching for sons and relatives that had disappeared after being arrested by the United States or the Iraqi authorities while at home or in the workplace or in the market. But the United States and the current authorities refuse to recognize the existence of these detainees. This type of violation is a prominent feature in the lives of Iraqis, particularly in the years 2005-2007, where security or military units, acting always with US knowledge or support, would often come and arrest all youth in a certain area and then later deny that they have them in their hold. There are no accurate figures for those who disappeared but civil society organizations in Iraq assert that they are in the thousands.

The United States does not provide any mechanism in order for Iraqis to obtain information about disappeared relatives, and Iraqi authorities do not allow families of those who had disappeared to properly search for them. They often provide vague answers and try to stick the blame on gangs or terrorist organizations, even though it was their apparatus which made the arrests. The authorities also do not carry out thorough investigations or inquiries.

Meanwhile, the report issued by the International Red Cross during year 2009, notes that the number of missing in Iraq has reached one million people, based on government sources and reports. The report pointed to the breakdown of efforts for the search for those missing and investigating their fate due to the deteriorating security situation. The report criticized the policy of secrecy

pursued by the occupation forces and that of the Iraqi government over the number of detainees and missing persons.

- **Ill-treatment and Abuse of Detainees:**

The situation of Iraqi detainees is so intolerable that it is difficult to even begin to describe. Arrests are made without warrants, detainees are not allowed access to counsel during interrogations, which are often conducted by the same units that made the arrests and could involve various forms of humiliation and torture. Only a few of them appear before a judge during the period of detention, which may last for years. The reported involvement of the security services in dozens of cases of murder as a result of torture continues. Despite the difficulty of determining actual figures, it can be argued that the torture-murder phenomenon is worsening day after day in the country. Hundreds of dead bodies are scattered around the country bearing signs of torture, but the difficulty lies in determining the responsibility of these deaths, which are committed by US occupation forces, Iraqi security forces, death squads and dozens of militias.

Camps and detention centres run by the United States and the Iraqi authorities have witnessed continuous deterioration in the conditions and ill-treatment of detainees. The situation is becoming even worse with the accumulation of large numbers of detainees beyond the capacity of these places as a result of large-scale arrests that accompanied the so-called security plans that have been implemented during the year. In addition to the lack of health care and the absence of a system of prison administration, there is a delay in presenting the detainees' cases and the detention of the majority of detainees is extended after the first review of their cases. This is also confirmed by UNAMI in their periodic reports, as well as the Iraqi Human Rights Minister, and a number of Iraqi MPs of the current parliament.

Increasing the number of judicial authorities and personnel did not have an effect in facilitating the completion of cases of thousands of detainees. Although there are now scores of investigative commissions, it did not contribute to resolving the problem because the Iraqi authorities continue to make arrests almost daily.

The number of Iraqi prisoners held by occupation and Iraqi forces remains unknown. Although both parties are announcing their own figures, evidence shows that these "official" figures do not represent in any way the real number of detainees. Observers familiar with prison conditions say that there are likely to be nearly two million Iraqis who were subjected to detention in one form or another over the past years, taking into account the security plans that continue to be implemented by occupation forces in cooperation with the Iraqi government under the pretext of controlling the violence gripping the country.

According to the press releases of the US military, only 10% of the detainees are actually accused of specific acts and practices, and are referred to Iraqi judicial investigators to examine the allegations. If there is evidence, then they would be referred to the courts for trial, and if convicted, would serve their sentences under the authority of the Iraqi government. However the remaining 90% are not being charged with anything and their cases are examined by the occupation forces themselves.

One of the issues that made matters worse, is that the American forces kept handing many of the detainees to Iraqi authorities. These detainees had spent several years in prisons run by the occupation forces, and they had been interrogated in the ugliest ways, yet the occupation forces could not charge most of them with anything. But now they will enter another cycle of suffering after becoming under Iraqi control: another cycle of inhuman treatment and torture.

Even those who were released by US forces after years spent in jails without any charge, are now being arrested by the Iraqi authorities. So once again they become subjected to torture. The families of these detainees have reported their complaints to humanitarian organizations and to the International Committee of the Red Cross, but despite their efforts nothing changed on the ground.

- **Torture in Iraqi Prisons**

The systematic and illegal abuse of detainees including torture and degrading treatment by US interrogators and guards at Abu Ghraib, which was revealed for the first time in April 2004 by the New Yorker Magazine was only the first example of a growing and widespread phenomenon. Many reports since then have established the US mistreatment of Iraqi prisoners. These reports, some produced by the Pentagon, have exposed the widespread abuse and torture of detainees and an alarming number of deaths under detention and interrogations, as well as the hiding of prisoners from International Committee of the Red Cross Inspectors. The United States did not hold seriously accountable mid or high-level military officers or civilian officials, even though these people had established policies and issued orders that led directly to the abuses. By doing so, the United States encouraged the use of those illegal means both by the US army and by the Iraqi forces.

UNAMI reports that forms of torture range from beatings with hoses, cables and sharp tools, to burning and pouring petrol on the bodies of detainees to forcing detainees to sit on sharp objects to using electric drills to sexual assault.

There is an escalation of systematic torture of detainees in prisons run by the authorities in the provinces of Erbil, Sulaymaniyah and Dehok. According to interviews conducted with citizens of these provinces, the detainees face terrible forms of abuse and torture. This was confirmed by UNAMI in its reports in 2007-2009, which support the claim that detainees were abused particularly during the investigation stages, while being prevented from access to legal advice during investigation and trial periods. In a report issued in July

2007, UNAMI said that about 48 of the 66 detainees have said in their testimonies that they had been tortured. One of the judges said that detainees who appeared before them show injuries of torture. The testimonies of former inmates we met match those of UNAMI in its March 2009 report, which states that torture was conducted by masked men, sometimes after blindfolding of the detainees being tortured.

- **Impunity:**

Impunity remains a dominant feature, as perpetrators of the above-mentioned crimes often received immunity in advance, by official US or Iraqi procedures that adopt and carryout a variety of methods. Such procedures include the decisions of US Administrator in Iraq Paul Bremer in 2003, which granted absolute immunity to American soldiers and security companies. These laws remained in force. The Iraqi government now bears the primary responsibility for such immunity because although it protested them it did nothing to change these laws. Practical evidence shows that the government did not take appropriate legal action to try all of those who were responsible for these crimes. As for the US accountability procedures, it is clear that they have been devised to absorb the public anger only, then either dropping charges or handing extremely light sentences that do not match the atrocity of the crime committed.

In late July 2007, the US Marine Corps dropped all charges directed against Captain "Randy Stone" due to failure to investigate impartially the death of 24 Iraqi civilians by US soldiers fire in one of the worst American massacres known as "the Haditha massacre". Charges were also dropped against "Justin Sharratt" who took part in murdering three Iraqi brothers after the explosion of a roadside bomb targeting US occupation forces on a road.

In April 2010, WikiLeaks issued a video which clearly shows the unprovoked slaying of a wounded Reuters employee and his rescuers. The US soldiers in the Apache Helicopter repeatedly opened the fire on civilians as well as on a van

coming to rescue them. However, as US Central Command spokesman said, there is no plans to reopen an investigation into the case.

Recommendations:

- The Human Rights Council should create an independent body to investigate alleged cases of human rights violations occurring in Iraq under US occupation.
- The Special Rapporteur on torture must be given the right to visit Iraq and United states mainly to examine and report on the torture and ill-treatment of Iraqi and other detainees since 2003.
- Ending the state of impunity by creating an international criminal court and bringing all those responsible to justice.

Report of

Conservation Centre of Environmental & Reserves

in Iraq - Fallujah - (CCERF)

United States' violations against the People of Iraq

Summary:

This report is submitted to the Office of the High Commissioner for Human Rights in the context of the universal periodic review on the United-State. The report stresses the responsibility of the United-State as occupying power in Iraq to fulfil its obligations deriving from both Human right law and Humanitarian Law, and is to be held accountable for these violations, in particular the Use of Weapons prohibited under international law, the absence of scrutiny for the basic rules of engagement, the consequences of such behaviours in the absence of an effective health care system and the responsibility of the occupying powers for the destruction and dismantlement of the Health, Electricity and Water supply infrastructure in the more general context of the rising and widespread corruption, which is the direct result of the invasion and occupation of the United-States to Iraq.

The use of unlawful Weapons

The United-States have used indiscriminate and especially injurious weapons in Iraq that are banned by international conventions or widely considered unacceptable. The US has extensively used a napalm-type incendiary bomb known as MK-77 that is considered inhumane by many human rights organizations as it burns victims to death. Further, the US made use of white

phosphorus against ground targets in densely populated areas, which causes grave injuries. During the 2003 invasion, the Coalition also used cluster bombs and depleted uranium, a radioactive substance which may have long-term harmful effects on the environment and on human health. The use of these weapons is strictly prohibited under international law, as they do not distinguish between combatants and non-combatants and cause indiscriminate harm and unnecessary suffering.

The armed forces of the United-States attacked civilians with different kinds of conventional, non-conventional, and banned weapons such as cluster bombs ammunitions, napalm bombs, white phosphorous weapons and depleted Uranium weapons. We focus here on the use of Depleted Uranium by American troops which has devastating long lasting effect on both the population of Iraq and its environment and as such constitute clearly a war crime under international law..

Exploration programs and site measurements by Iraqi and non-Iraqi researchers all proved the existence of Depleted Uranium related contamination over most Iraqi territories. Hundreds of tons of Depleted Uranium ammunition have been fired & exploded on Iraqi highly populated areas like Basrah, Baghdad, Nasriya, Dewania, Samawa, and other cities.

Depleted Uranium is a radioactive and chemically toxic heavy metal. If ingested, inhaled, or if it enters the human body through wounds or skin, it remains there for decades.

Iraq's Minister of Environment admitted in July 23, 2007 in Cairo that "at least 350 sites in Iraq are contaminated with Depleted Uranium". She added that the nation is facing a tremendous number of cancer cases and called for the international community to help Iraq cope with this problem.

A spokesman for the US military, Michael Kilpatrick, said it always took public health concerns "very seriously", but that "No studies to date have indicated environmental issues resulting in specific health issues."

One could fill many large volumes with the details of the environmental and human horrors the United States has brought to Fallujah and other parts of Iraq during seven years of using white phosphorous shells, depleted uranium, napalm, cluster bombs, neutron bombs, laser weapons, weapons using directed energy, weapons using high-powered microwave technology, and other inventions.

A few years after exposure to Depleted Uranium contamination, a multi fold increase of malignancies, congenital malformations, miscarriages, children leukaemia, and sterility cases have been registered in suburb areas of Basrah and other surrounding areas. Similar problems appeared in Falluja, where illegal weapons were also used intensively in the 2004 attack of occupation forces on the city.

The continuous and intentional use of radioactive weapons by the United-States in Iraq is a crime against humanity due to its undifferentiated harmful health effects on civilians in contaminated areas for tens of years after the military engagements. The existence of Depleted Uranium radioactive contamination in the surrounding environment is a continuous source of exposure to low level radiation. This exposure can be considered as a systematic attack on Iraqi civilians in an armed conflict, and as a crime against humanity to its undifferentiated harmful health impacts on civilians long times to come after the military operations according to Article 4 of the official regulations and Article 7 of the ICC.

- *Laboratory studies and scientific evidence prove the link and causal relationship between exposure to Depleted Uranium and the increased risk of inducing neurodegenerative diseases, immune and hormonal system damage, initiation or promotion of cancer, toxicity which causes mental retardation and congenital malformations, miscarriages, and sterility.*

- *The drastic increase of cancer incidences in Iraq since 1995 to date and the Depleted Uranium related diseases like congenital malformation, miscarriages, etc., are all attributed to the use of prohibited weapons including Depleted Uranium.*
- *Depleted Uranium contaminated areas all over the country are continuous source of radioactive pollution. Without cleaning and other measures, re suspension of these contaminants with each dust and sand storm can be considered as systematic attacks by the US army on civilians in an armed conflict.*

The use of lawful Weapons in indiscriminate way

The utilization of unlawful weapons is forbidden by international law primarily because it cannot make the proper distinction necessary to civilian protections on the battlefield. But it is important to stress the fact that the indiscriminate results of the utilization of a weapon is not due only to the composition of the weapon, thus a “classical” weapon can have the same devastating effect as the unlawful one, depending on the way it is being used by the soldiers on the ground. This is precisely the reason that gives to the rules of engagements all its importance, because those rules are dictating the behaviour of the soldiers toward their surroundings. As shown by recent events, the rules of engagement of the United-States armed forces are doubtful and their applications on the battlefield often constitute criminal offences or war crimes. We describe in the following the most recent example of unlawful conduct of US soldiers in Iraq, this is the most shocking footage to come out of Iraq. None of the members of the group were taking hostile action, contrary to the Pentagon’s initial cover story, and as stated by an expert in international law, there is a case to be made that a war crime may have been committed.

The devastating effect of the utilization of unlawful weapons coupled with the absence of scrutiny toward the basics rules of engagement and the absence of accountability led to a humanitarian disaster whose consequences will last for decades as the majority of the Iraqi

territory is known to be contaminated with chemical and/or radioactive substances which contaminate the water and the whole range of agricultural product.

- ***Example: July 12, 2007 Baghdad airstrike***

Calling it a case of "[collateral murder](#),"¹ the WikiLeaks Web site (**on 4 April 2010**) released harrowing, until-now secret video, of a U.S. Army Apache helicopter in Baghdad in 2007 repeatedly opening fire on a group of men that included a Reuters photographer and his driver -- and then on a van that stopped to rescue one of the wounded men.

None of the members of the group were taking hostile action, contrary to the Pentagon's initial cover story; they were milling about on a street corner. One man was evidently carrying a gun, though that was and is hardly an uncommon occurrence in Baghdad.

Reporters working for WikiLeaks determined that the driver of the van was a good Samaritan on his way to take his small children to a tutoring session. He was killed and his two children were badly injured.

In the video, which Reuters has [been asking to see](#) since 2007, crew members can be heard celebrating their kills.

"Oh yeah, look at those dead bastards," says one crewman after multiple rounds of 30mm cannon fire left nearly a dozen bodies littering the street.

A crewman begs for permission to open fire on the van and its occupants, even though it has done nothing but stop to help the wounded: "Come on, let us shoot!"

¹ - http://www.huffingtonpost.com/2010/04/05/wikileaks-exposes-video-o_n_525569.html

Two crewmen share a laugh when a Bradley fighting vehicle runs over one of the corpses.

And after soldiers on the ground find two small children shot and bleeding in the van, one crewman can be heard saying: "Well, it's their fault bringing their kids to a battle."

The shooting, which took place on July 12, 2007, was carried out by two United States Army helicopters in Al-Amin al-Thaniyah, in Baghdad. The helicopters carried out three air strikes, two incidents in which 30 mm caliber rounds were used – wounding two children and killing several civilians, including Reuters news staff Saeed Chmagh and Namir Noor Eldeen – and a third incident in which three AGM-114 Hellfire missiles were used to destroy a building. Recorded from the gun sight Target Acquisition and Designation System of one of the attacking helicopters, the video depicts the three incidents, including the uncensored radio chatter between the aircrews and units involved.

An anonymous US military official confirmed the authenticity of the footage.² The Pentagon maintains that no crime was committed and no investigation will be carried out.

In an article published in The Independent on **April 8, 2010**, human rights activist Joan Smith asserts that the engagements were as a game to the helicopter crew. She writes that that the co-pilot urged a dying, unarmed journalist to pick up a weapon as he tried to crawl to safety; and claims that the footage shows "...the Apache crew opening fire on civilians...". When the crew were informed that a child had been injured by their attack, one commented "Well, it's their fault for bringing kids into a battle".

2-Leaked U.S. video shows deaths of Reuters' Iraqi staffers. Reuters. 2010-04-05. <http://www.reuters.com/article/idUSTRE6344FW20100406> .

In other words, the attack targeted innocents civilian in indiscriminate ways using disproportionate means, as such, there is no doubt that it constitutes a war crime.

- *The arbitrary murder and killing of innocent civilian including journalists and children constitutes clearly a war crime.*
- *This event shows clearly that the basics rules of engagement on the battlefield in Iraq and in particular in Urban areas are not respected.*
- *By refusing to investigate the case, the United-States administration is trying to escape its responsibility and offers an exoneration for all its soldiers for such horrible crimes.*

The destruction of the Health Care System

The Fourth Geneva Convention of 1949 contains specific provisions pertaining to the delivery of healthcare services in occupied territories.

Article 55 states: *To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territories are inadequate.*

Article 56 states: *To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishment and services, public health and hygiene in the occupied territory with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties (...)*

As occupying powers, the United-States are in breach of Articles 55

and 56 of the Geneva Conventions. There has been a total failure to carry out even minimal humanitarian duties. Indeed the healthcare system in Iraq has massively deteriorated since the start of the war.

The Iraqi medical system was once an enviable one. Prior to the United-States invasion in 2003, Iraq had one of the foremost health care systems in the region with advanced resources, medical schools and broadly accessible care. Even in the 1990s, when much of Iraq was staggering under UN-imposed sanctions, people came from across the region to study medicine and receive treatment.

Since the war of aggression led by the United-States and the illegal occupation of the territory of Iraq in 2003, doctors and other medical personnel have fled Iraq in droves. Many have yet to return. In an effort to instil fear and foment chaos, many medical personnel were kidnapped, killed or forced to flee.

Figures from the end of 2008 suggest that 120 medical staff were killed that year in targeted murders. The Ministry of Health's estimate from the same time period indicates that out of as many as 30,000 doctors in Iraq before the war, up to half fled during the invasion, while only about 800 of them have come back.

Several reports paint a catastrophic picture of Iraq's health care under US Occupation and responsibility. "It's in the level of some African countries", Jon Pedersen, deputy managing director of the Norway-based Institute Fafo told The Associated Press. The state of the Iraqi Medicine is worrisome, with the lack of mentors in hospitals and the wrong diagnoses made by inexperienced doctors, the students or hospital workers operate on self-teaching method, studying textbook and searching the net for information.

Less than a third of the population nationwide has access to clean drinking water, and just 19 percent have a functioning sewage system. Both the water and sewage systems were damaged heavily by US bombardments in the 1991

Persian Gulf War and the 2003 invasion. After toppling the Iraqi government, US forces did nothing to stop looters from stripping water treatment and pumping stations of essential equipment. “Reconstruction” here, as elsewhere, has proven catastrophically inadequate.

The United-States occupation is the main sources of the deteriorating conditions in Iraq:

Unreliable supplies of electricity have made it hard to boil water for safe drinking. The destruction of Iraq's infrastructure, including the sewage and water systems has exacerbated the problem and led to increase in outbreaks of virulent diseases such as hepatitis. More than 20% of urban residents and 60% of rural Iraqis don't have access to clean water, as a result of the destruction of Iraq's infrastructure.

The US is unable to provide all Iraqis with acceptable and equal health care. Health care in the US is worse than any of the developing countries, with appalling statistics. The US is one of the few countries in the world that do not provide universal health care for children and pregnant women. Infant mortality, low birth weight, and child deaths under five are ranked among the highest in the US as compared to Western industrial nations and Japan.

The best and lasting solution to the humanitarian catastrophe in Iraq is for the US to stop the violence against the Iraqi people, withdraw its forces from Iraq, and restoration of Iraq's sovereignty. Iraq's sovereignty should be restored to ensure the peaceful rehabilitation of Iraq's infrastructure and health care system.

- *The health situation for the general population is poor, with a shortage of basic services: 80% of people lack effective sanitation, 70% lack access to regular clean water, and only 60% have access to the public food distribution system.*

- *Diarrhoea and acute respiratory infections, worsened by increased levels of malnutrition, account for about two thirds of deaths among children under five. The chronic child malnutrition rate is estimated at 21%, according*

to the findings of the 2006 UNICEF Multiple Indicators Cluster Survey (MICS3).

- *Access to health care in central Iraq and in Baghdad is heavily restricted by security threats, putting the injured at risk, as well as those who need treatment for chronic ailments, or services for pregnant women, children and the elderly.*
- *Health centres are suffering from reduced staff and unreliable supplies despite the efforts of the national and international partners. The daily violence coupled with difficult living and working conditions are pushing hundreds of qualified and experienced health staff to leave the country.*

The rising corruption

Soon after capturing Baghdad, US commanders and political leaders announced a massive reconstruction program to restore Iraq and bring the country to a new level of prosperity. President Bush even compared the effort to the Marshall Plan in Europe after the Second World War. Washington spent billions of dollars of Iraqi oil revenue – and billions in US aid grants – to finance thousands of projects. But fraud, corruption, and theft wrecked these programs and money was increasingly diverted into shadowy "security" operations. Malfeasance began in the earliest days under the US-run Coalition Provisional Authority. It has continued ever since, while US officials and advisors have looked the other way. Corruption has revealed the greed of the occupiers and the deeply flawed governing system they put in place. Few wrongdoers have been held accountable, corruption appears to grow constantly, and Iraqi citizens suffer the consequences.

On May 22, 2003, just three months after the invasion, the UN Security Council established the Development Fund for Iraq (DFI), to manage Iraq's future oil revenue, as well as remaining monies in the UN's Oil-for-Food account. The Fund was handed over to the US-dominated Coalition Provisional Authority

(CPA), but the Council required that it be "managed in a transparent manner" so as "to meet the humanitarian needs of the Iraqi people." The Council also set up the International Advisory and Monitoring Board (IAMB) to oversee the Fund and make it accountable.

At the beginning, the CPA completely controlled the Fund. In just thirteen months, CPA officials disbursed or obligated \$19.6 billion – more than 90% of all DFI resources then available. Auditors later found that of major contracts awarded with DFI monies in 2003, 74% went to US firms, 11% went to UK firms, and just 2% went to Iraqi firms. No less than 60% went to US construction firm Halliburton, under abusive no-bid contracts. Financial records were sloppy or non-existent. The CPA lasted from April '03 until June '04, and during that time at least \$10 billion in cash remains unaccounted for, and billions more were siphoned off through bloated and fraudulent contracts to GOP and Bush family favoured companies.

When the CPA was finally dissolved on June 28, 2004, management of the Development Fund for Iraq passed to the Iraqi Interim Government and its successors. DFI spending then grew still more murky. The Iraqi Ministry of Finance did not establish any accounting unit for the DFI until February 2005 and by the end of 2006 there was still no separate account to allow proper oversight of DFI monies. At every phase, US advisor's had great and even decisive influence within the Ministry of Finance as well as the spending ministries. US assistance programs claimed to address "capacity building," "audit controls," "good governance," "vetting and reforming personnel roles" and the like. Yet corruption and financial malfeasance in Iraq steadily worsened.

Iraq is considered to be one of the most oil rich regions in the world, but the occupations and its administration have deprived the people of Iraq of the benefit of this resource. The International Advisory and Monitoring Board discovered the Iraqi oil exports were un-metered, so there was no way to know how much oil was going through. Official reports state that Iraq exported at least another \$10 billion worth of oil in that first year of the U.S. occupation.

Christian Aid has estimated that up to \$4 billion more was exported, with few records of payment to the fund.

Until this year (2010) no real construction to the basic infrastructure of the country was conducted, a matter that left most of the 27 million Iraqi without drinkable water, sanitation, health services and adequate food.

The United States bears the full responsibility of the economic and social consequences of the widespread corruption in the country. The United States have put the whole Iraqi economic and social infrastructure under threat from the first days of the occupation by issuing irrational laws that have only caused the impunity for the pillage of the Iraqi assets. Now Iraq is one of the most corrupted countries in the world.

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Report Submitted by
Association of Human Rights Defenders in Iraq
(AHRDI)

Prisoners of War and Other Detainees in Iraq
The violations of the United States to its obligations

The tragic situation of the prisoners of war (POWs) and detainees in Iraq, who continue to face cruel and inhuman treatment at detentions threatening their lives, is of great concern to all human rights defenders. The United States is the main responsible body of this tragedy. The United States violates all the fundamental principles of Geneva Conventions and its obligations under general International Law.

Reports on the ongoing widespread ill-treatment and torture of detainees in Iraq are persisting. The United Nations Assistance Mission in Iraq (UNAMI) has documented such abuse, particularly in pre-trial detention, and cited mistreatment of detainees observed during visits to such facilities.¹ In several occasions UNAMI clearly expresses its concern regarding the “**grave human rights violations that are less widely reported...**” and the “**ongoing widespread ill-treatment and torture of detainees**”². UNAMI repeatedly stated that it remains gravely concerned at continuing reports of the **widespread and routine torture or ill-treatment of detainees,**

¹ - United Mission Assistance Mission for Iraq (UNAMI), human rights reports for 2006, 2007 and 2008, 2009

² - UNAMI, human rights report on Iraq, Dec. 2008.

http://www.uniraq.org/documents/UNAMI_Human_Rights_Report_January_June_2008_EN.pdf

particularly those being held in pre-trial detention facilities, including police stations

Thousands of detainees have been deprived of their liberty for months or even years, often under harsh physical conditions, without access to defence counsel, or without being formally charged with a crime or produced before a judge.

So far, no real actions against these systematic violations were taken by the United States. Impunity is another factor that encourages this behaviour.

It seems that the practices of the United States encouraged the Iraqi authority to resort to torture in getting confessions from detainees.

The US State Department also confirms the **widespread of torture and ill-treatment and the extrajudicial killing**. In its reports on human rights (2008 and 2009), the State Department gave details of all kinds of human rights violations by the current authorities in Iraq. The report says: “... there were documented instances of torture and other abuses by government agents and similar abuses by illegal armed groups.” It adds “...numerous and serious reports of torture, abuses, and killings were levelled at MOI's regional intelligence office”.³

Amnesty International expresses similar concern over this situation. In its statement on 5 January 2009, Amnesty confirms that “Political and security suspects are routinely tortured or ill-treated in prisons and detention facilities

³ - See, Iraq's section in US state Department human rights report: (<http://www.state.gov/g/drl/rls/hrrpt/2007/100596.htm>)

controlled by the Iraqi authorities".⁴ It has also stated in its statement on 28 November 2008 that it received persistent reports of gross human rights violations – including torture – taking place in Iraqi prisons and detention centres.⁵

Human Rights Watch Middle East and North Africa Director Sarah Leah Whitson, said that "Since the United States made itself synonymous with abuse of detainees in Iraq during the Abu Ghraib scandal, the least it can do now is assure that a security agreement does not pave the way for further abuse." She called on the US government to ensure that detainees are not in danger of being tortured by establishing a mechanism that would provide each detainee with a genuine opportunity to contest a transfer to Iraqi custody, and by verifying the conditions of Iraqi detention facilities to which they could be transferred, through inspections that are made public.⁶

Despite all these reports, there is no real discussion in the Human Rights Council on this situation and violations. It is worthy to ask; what is the threshold of the violations on which the Council must interfere in order to protect the victims according to its mandate as stipulated in the General

⁴ - Amnesty International, Detainees held by USA at risk if transferred to Iraqi custody <http://www.amnesty.org/en/appeals-for-action/detainees-held-usa-risk-if-transferred-iraqi-custody>

⁵ - Amnesty International, *Security agreement puts 16,000 Iraqi detainees at risk of torture*, 28 November 2008, said that "The Status of Forces Agreement does not provide any safeguards whatsoever for prisoners transferred to Iraqi custody," said Malcolm Smart, Director of Amnesty International's Middle East and North Africa Programme, he added that: "These prisoners will potentially be moving from the frying pan into the fire. We receive persistent reports of gross human rights violations – including torture – taking place in Iraqi prisons and detention centres. The US must ensure that no one is transferred to Iraq custody if they would face a real risk of torture or other human rights violations." <http://www.amnesty.org/en/news-and-updates/news/security-agreement-puts-16000-iraqi-detainees-risk-torture-20081128>

⁶ - HRW, [US: Iraq Security Deal Should Shield Detainees](#), press release on 29 October, 2008, <http://www.hrw.org/en/news/2008/10/29/us-iraq-security-deal-should-shield-detainees>

Assembly resolution A/RES/60/251, on 3 April 2006 which clearly stated in article 3 that the Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It should also promote the effective coordination and the mainstreaming of human rights within the United Nations system).

With regard to the (Detention under Multinational Force Authority) UNAMI said that, it remained concerned about the internment of suspects in MNF-I custody for prolonged periods without judicial review of their cases, and administrative review procedures that do not fulfil the requirement to grant detainees due process in accordance with internationally recognized norms.

In its response to UNAMI's inquiry, **the US Government states that due process "is a human rights concept generally associated with criminal arrests and trials" and does not apply to security detentions under MNF-I authority in Iraq, based in part on its own interpretation of the nature of the conflict.**

In December 2007, UNAMI received confirmation that the US Government continues to consider the conflict in Iraq as an international armed conflict, with procedures currently in force consistent with provisions of the Fourth Geneva Convention. UNAMI believes that alongside common article 3 to the four Geneva Conventions and customary international law, human rights law also applies. As such, persons held in MNF-I custody are entitled to be informed of the reasons for their arrest, to be brought promptly before a judge if held on a criminal charge, and to challenge the lawfulness of their detention.⁷

⁷ - UNAMI continue its explanations by saying that (These rights are consistent with the US Government's obligations under the International Covenant on Civil and Political Rights (ICCPR). The US Embassy challenged the extra-territorial application of the ICCPR, stating in its letter of 2 October 2007 that UNAMI "asserts that international human rights law applies to international armed conflict. The United States has long taken the position that the ICCPR does not apply extraterritorially" UNAMI does not share the view expressed by the US that the international human rights law including the ICCPR lacks extraterritorial reach under all circumstances. Extraterritorial interpretation was confirmed by the

Several Iraqi NGOs, especially, the Iraqi National Committee for the Defense of Iraqi Prisoners, and human rights activists as well as members of the detainees' families, believe that the **United States is under obligation either to release all these POWs and detainees, or to bring them to a fair and independent trial.** They express their concern about the intention of the US to continue handing over those POWs and other detainees to the sectarian authorities in Iraq, which means the brutal treatment or the extrajudicial killing of them.

This is a fact the US itself knows. It is also proven by experience of the last five years, during which Iraqis who have been arrested by the so-called Iraqi authorities are often handed over to the death squads in the defense or Interior Ministry, the result of that was the death of hundreds or thousands of Iraqis.

Moreover the US report on human rights says: "Unauthorized government agents involvement in extrajudicial killings throughout the country was widely reported. Some police units acted as (**death squads**) and, while there were resulting transfers and trainings, there were no criminal

Human Rights Committee's General comment n° 31 of 2004 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, in which "States Parties are required by article 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory **and to all persons subject to their jurisdiction**". This means that a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party. This is also reflected in the Human Rights Committee's General Comment 15 of 1986 stating that "the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party". At the highest political level of the United Nations, the General Assembly, in its Resolution A/RES/45/170 of December 1990 on the situation of human rights in occupied Kuwait, confirmed the application of Iraq's obligations under the Covenant in territory occupied by it in Kuwait (adopted by vote of 144 -1, with the United States in favour). Also, the International Court of Justice in its Advisory opinion on the legal consequences of the construction of a wall in the Occupied Palestinian Territory of July 2004, considered that the Covenant is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory.

prosecutions by year's end". The report shows that significant human rights problems were reported including "a pervasive climate of violence; misappropriation of official authority by sectarian, criminal and extremist groups; arbitrary deprivation of life; disappearances; torture and other cruel, inhuman, or degrading treatment or punishment; impunity; poor conditions in pretrial detention and prison facilities; denial of fair public trials..."⁸

In a press release on 27 April 2008, Joe Stork, Middle East Deputy Director at Human Rights Watch said "The Security Council should insist that the United States abide by international law for persons detained." He added that "The Bush administration pushed the Security Council to declare that the US-led occupation of Iraq had ended in June 2004, and the end of occupation means that international human rights standards apply – judicial review, access to legal counsel and family members, and a fair trial." Stork confirms that "Human Rights Watch has serious concerns about the widespread torture of detainees by the Iraqi authorities. Where there is a fear of torture, the US should retain physical custody over individuals formally transferred to the Iraqi justice system for prosecution".⁹

As far as detention facilities are concerned under the control of the Ministry of Interior (MOI) and Ministry of Defence (MOD), **the USA State Department Report** clearly says that it "did not meet international standards. There was continued overcrowding. Many lacked adequate food, exercise facilities, medical care, and family visitation..... Medical care in MOI and MOD detention facilities was not consistently provided, and rape, torture, and abuse, sometimes leading to death, reportedly occurred in some facilities."¹⁰

⁸ - US State Department Human Rights' Report, *ibid*,

⁹ -Human Rights Watch, [UN: Tell US to End Illegal Detention Practices in Iraq](http://www.hrw.org/en/news/2008/04/27/un-tell-us-end-illegal-detention-practices-iraq), <http://www.hrw.org/en/news/2008/04/27/un-tell-us-end-illegal-detention-practices-iraq>

¹⁰ - US State Department Human Rights' Report, *ibid*,

Section (d) of the report says “MOI security force effectiveness, particularly the National Police, was seriously compromised by militias, sectarianism, and political party influences. Rampant corruption, organized criminality, and serious human rights abuses were embedded in a culture of impunity.” In addition, it clearly says: “There were continuing reports of torture and abuse and an alleged extrajudicial killing...”¹¹

In its 2009 Human Rights Report published on 11 March 2010, the USA State Department stated the followings¹²:

“....In practice many detainees have been held for months or years without access to defense counsel or without being formally charged or brought before a judge. Police and army personnel frequently arrested and detained suspects without judicial approval....”

.....

In 2009 *“...there were more allegations of MOI and MOD abuses than in the previous year. There were continuing reports of torture and abuse throughout the country in many MOI police stations and MOD facilities; the incidents generally occurred during the interrogation phases...”*

.....

*“....Investigative judges rarely pursued security force officials for suspected crimes because the **law permits the minister responsible for the***

¹¹ - In section (e- **Denial of Fair Public Trial**) of the report the US state Department says: “One of the significant challenges facing the criminal trial courts, however, was insufficient access to defense attorneys. Defense attorneys were theoretically provided, but detainees rarely had access to them before the initial judicial hearing, often for security reasons. Many detainees met their lawyers for the first time during the initial hearing.” It added that **“There were reports that criminal cases at the trial level or on appeal to the Court of Cassation were decided by corruption or intimidation”**.

¹² - USA STATE DEPARTMENT, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136069.htm), March 11, 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136069.htm>

suspect to block an arrest warrant by withholding agreement.

Permission was rarely given during the year to prosecute higher-level officials. ...”

“...On June 11, three members of the COR alleged that 11 detainees had been subject to abuse and torture by MOI officials, including 11 at an MOI facility in the Rusafa district and 10 at Diwaniyah prison.”

“.....During the year local and international human rights organizations, the MOHR, and the human rights directorates of the MOI and MOD **continued to report allegations of torture and abuse in several MOI and MOD detention facilities**, as well as in KRG security forces' detention facilities. A MOHR prisons report **for 2009 indicated that there were 326 documented cases of torture and ill-treatment** at MOI facilities, 152 cases at MOD facilities, 14 cases at Ministry of Labor and Social Affairs (MOLSA) facilities, one case at MOJ facilities, and **12 in Peshmerga facilities** in the Kurdistan region during that year....”.

It is really shocking that despite its full awareness of these violations, the US authorities in Iraq are continuously handing over Iraqi POWs and detainees to those abusive authorities. The reality of what has been described by the report is not the full picture of the criminal acts of these authorities; there are a lot of hidden crimes.

If the US authorities see that this handing over comes within a judicial process, because the detainees are under trial by the Iraqi high Tribunal, it is essential to remind these authorities of what they, themselves, are saying regarding this process. In section (e- Denial of Fair Public Trial)¹³ of the above mentioned US State Department Report it is stated that: **“One of the significant**

¹³ - US state Department human rights report: <http://www.state.gov/g/drl/rls/hrrpt/2007/100596.htm>

challenges facing the criminal trial courts, however, was insufficient access to defence attorneys. Defense attorneys were theoretically provided, but detainees rarely had access to them before the initial judicial hearing, often for security reasons. Many detainees met their lawyers for the first time during the initial hearing.”

It added that **“There were reports that criminal cases at the trial level or on appeal to the Court of Cassation were decided by corruption or intimidation”**.

Moreover, the Special Rapporteur of the United Nations on the Independence of Judges and Lawyers, Mr. Leandro Despouy, has repeatedly questioned the legitimacy and credibility of the current Iraqi judiciary system and tribunals, so did the High Commissioner for Human Rights and the Working Group on Arbitrary Detention, in several occasions.¹⁴

Therefore, there is no legal basis to hand over those POWs and detainees to such questionable authorities especially within this atmosphere of hatred and revenge.

Iraq is still under the occupation (or at least under the control of the US), so the U.S. forces bear full responsibility for the consequences of handing over the Iraqi prisoners and detainees to these authorities. The ICRC, UN, and all international bodies, bear legal and moral responsibilities to protect those POWs and detainees. The Security Council should do its part to ensure what is necessary to bring justice to Iraq detainees.¹⁵

¹⁴ - In this regard we should also mention what the United Nations Special Rapporteur on the independence of judges and lawyers, Mr. Leandro Despouy, has said in front of the Human Rights Council on the 2nd of June 2008, when he was introducing his report. He clearly said that he reiterates what he is saying from the first day of establishing the Iraqi Criminal Courts and then later when its name has been changed to the Iraqi High Tribunal.- The Special Rapporteur clearly described that one of its shortcomings is **(the lack of observance of a legal framework that conforms to international human rights principles and standards, in particular the right to be tried by an independent and impartial tribunal which upholds the right to a defence)**.

¹⁵ - In its [Letter to the Security Council on MNF Detention Practices in Iraq](#), dated, April 24, 2008, Human Rights Watch urge the Council to “address serious concerns regarding MNF detention practices, particularly respect for the rights of persons deprived of their liberty under international human rights

We call upon the International Community especially states participating at the review of the United States at the Ninth Session of the Human Rights Council to raise their voices against these violations to the Geneva Conventions and to the basic principles of human rights and humanitarian laws.

The Human Rights Council and all concerned bodies must act quickly to prevent these persisting violations against Iraqi POWs and detainees.

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law. As the **MNF** has invoked Security Council resolutions as the basis for its detention practices, we believe the Security Council must scrutinize those practices and do its utmost to assure that they conform to internationally recognized norms”. It added that “Further, and in light of past abuses from which the MNF seeks to distance itself, the MNF should make its detention facilities accessible to independent Iraqi and international human rights observers. Such access, in order to be credible, would require unhindered and confidential contact with detainees. The Security Council should also press for the implementation of UNAMI’s own recommendations to grant such access to UNAMI and independent monitors who make their findings public”.

**Monitoring Net of Human Rights in Iraq
(MHRI)**

The Association of Iraqi POWs

Report To

**The Ninth Session of the Working Group on the
Universal Periodic Review**

**The effects of the use of Mercenaries in Iraq by the United States on
the enjoyment of human rights**

“Credible oversight and accountability of private security companies working on the behalf of the United States and other governments remain essential to avoid these alleged violations to be unpunished in future,”¹

This report is focusing on the use of mercenaries in Iraq by the United States of America; this use is violating human rights of the Iraqi people and impeding the exercise of their right to self determination. Those mercenaries are working in all parts of Iraq, committing atrocities against the innocent Iraqi people, including torturing, killing, destruction of properties. Thus, we believe that it is an obligation of every state to raise this issue in the course of the universal periodic review of the United States.

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¹ - **The UN Working Group on Mercenaries:** UN experts say that the Nissour Square killings in Iraq should not remain unpunished, Geneva 7 January 2010.
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9705&LangID=E>

Private military and private security companies (PMSCs), Operating behind a veil of state and corporate secrecy, dozens of private security firms with intimate connections to the American political establishment are playing a crucial role in the US occupation of Iraq. It is clear that the United States by contracting these companies is attempting to avoid direct legal responsibilities.

The wholesale contracting of military work to these companies is one of the most outrageous forms of war profiteering taking place under the auspices of the US administration. Modern-day mercenaries are amassing vast fortunes assisting the US ruling elite to establish a puppet regime in Iraq, repress the Iraqi people and plunder the country's resources.

As stated in its report, (*the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of people to self determination*) noted that the provision of military and security services by transnational companies in conflict or post-conflict situations raises important issues regarding transparency, control of the means of violence and accountability. It poses political, legal and human rights questions to the international community....”²

At one point in 2007 there were almost 200,000 private "contractors" deployed in Iraq by US Government, we believe that the number now (in 2010) is nearly 150.000. This means that U.S. military forces in Iraq are now outsized by a coalition of billing corporations whose actions go largely unmonitored and whose crimes are virtually unpunished.

Often, they circulate without identification and drive in unidentified sport utility vehicles (**SUVs**) **with tinted glasses and no plates, behaving similarly to the infamous death squads.**

² - Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of people to self determination (*A/HRC/7/7 of 9 January 2008*), HUMAN RIGHTS COUNCIL, Seventh session

Thousands of Iraqi people lost their lives as a result of being attack by members of private companies.

The UN Working Group has also received information of cases where PMSC employees have used forbidden arms or used experimental ammunition prohibited by international law.³

Among those who were torturing Iraqi prisoners at Abu Ghraib prison were contractors employed as interrogators and translators. One is accused of raping a young man. He has not been charged however. The mercenaries in Iraq have complete immunity from Iraqi law under an edict issued by the US Coalition Provisional Authority (CPA) on 27 June 2004.

The Working Group also stated that it “has been informed that major PMSCs based in the United States and operating in Afghanistan and Iraq include Blackwater, DynCorp, MPRI, Ronco, Triple Canopy and Vinell Corporation. Among the main British-based PMSCs are Aegis Defence Services, which obtained a contract from the United States Government to coordinate the other security companies operating in Iraq; ArmorGroup, Control Risks Group, Enrinys, Global Risk Group, Ronin Concepts and Saladin. There would also be companies from South Africa, Israel, the Balkans, the European Union, Canada, Eastern Europe and Switzerland which would operate in zones of armed conflict or troubled areas”.

Within the United States, there have been voices pointing out the danger of relying on these companies.

³ The information on the use of forbidden ammunitions was provided to the Working Group by a former military who had been employed as “security guard” in Iraq by a PMSC. There are reports of use of armour piercing-limited penetration (APLPs) ammunitions, which are blended metal bullets which go through steel and anti-bulletproof vests and that instead of passing through a human body they shatter creating untreatable wounds. Ibid, Scahill, p. 78. In March 2007, the United States military barred the Crescent Security Company from bases in Iraq after it was found with weapons prohibited for private security companies. See: Steve Fainaru, “Cutting costs, Bending Rules, And a Trail to Broken Lives”, *The Washington Post*, 29 July 2007.

".... it's extraordinarily dangerous when a nation begins to outsource its monopoly on the use of force and the use of violence in support of its foreign policy or national security objectives," says veteran U.S. Diplomat Joe Wilson, who served as the last U.S. ambassador to Iraq before the 1991 Gulf War.

...

".....During the 1991 Gulf War, the ratio of troops to private contractors was about 60 to 1. Today, it is the contractors who outnumber US forces in Iraq. In 2007, there were more than 630 war contracting companies working in Iraq for the United States. Composed of some 180,000 individual personnel drawn from more than 100 countries, the army of contractors surpasses the official US military presence of 160,000 troops. Says Ambassador Wilson.."⁴

.....

The implications are devastating. Joseph Wilson says, "In the absence of international consensus, the administration relied on a coalition of what I call the co-opted, the corrupted and the coerced: those who benefited financially from their involvement, those who benefited politically from their involvement and those few who determined that their relationship with the United States was more important than their relationship with anybody else. And that's a real problem because there is no underlying international legitimacy that sustains us throughout this action that we've taken."⁵

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⁴ - Jeremy Scahill, the Independent: (The Mercenary Revolution: Flush with Profits from the Iraq War, Military Contractors See a World of Business Opportunities). August 10, 2007, <www.independent.org/?p=1230>

⁵ - Ibid, Jeremy Scahill, the Independent: (The Mercenary Revolution..)

That raises the crucial question: what exactly are they doing in Iraq in the name of the U.S. and U.K. governments? The US Rep. Jan Schakowsky (D-Ill.), a leading member of the House Select Committee on Intelligence, which is responsible for reviewing sensitive national security issues, explained the difficulty of monitoring private military companies on the US payroll: "If I want to see a contract, I have to go up to a secret room and look at it, can't take any notes, can't take any notes out with me, you know — essentially, I don't have access to those contracts and even if I did, I couldn't tell anybody about it." ⁶

In one incident, on 16 September 2007, in al-Nusur Square in the neighbourhood of al-Mansour in Baghdad, security contractors protecting a United States State Department convoy, which was allegedly attacked, opened fire on civilians killing at least 11 persons, with alleged use of security company helicopters firing into the streets, resulting in civilian casualties and injuries.⁷

Despite these incidents and the tens of thousands of contractors passing through Iraq, Not a single armed contractor has been prosecuted for a crime against an Iraqi. In some cases, where contractors were alleged to have been involved in crimes or deadly incidents, their companies whisked them out of Iraq to safety.⁸

On 31 December 2009, the U.S. Federal District Court for the District of Columbia dismissed an indictment against five security guards of Blackwater, the private firm charged with voluntary manslaughter and firearms violations.

⁶ - ibid. Jeremy Scahill, *The Independent*: (The Mercenary Revolution..)

⁷ See Joshua Partlow, "State Depart. Convoy Attacked in Baghdad, Sparking a Shooting", *Washington Post*, 17 September 2007; "The real story of Baghdad's Bloody Sunday", *The Independent*, 21 September 2007.

⁸ - Only two individuals have been ever indicted for crimes there. One was charged with stabbing a fellow contractor, while the other pled guilty to possessing child-pornography images on his computer at Abu Ghraib prison. **Mercenaries in Iraq immune to law**
<http://www.youtube.com/watch?v=7ZEwWPJSuIw>

In its statement on 7 January 2010, the United Nations Working Group on the use of mercenaries calls on the United States and the Iraqi Governments to cooperate to ensure that the Nissour Square incident is fully remedied and, in relation to the crimes that may have been committed, those responsible fully held accountable as appropriate...

“We respect the independence of the United States judiciary and the requirements for due process, but are very concerned that the recent decision to dismiss the case against Blackwater guards may lead to a situation where no one would be accountable for grave human rights violations” said Ms. Shaista Shameem, who currently heads the Working Group.⁹

Until now the Working Group is still waiting to visit Iraq.

Hans von Sponeck, a 32-year veteran U.N. diplomat, who served as head of the U.N. Iraq mission before the U.S. invasion, says: “Iraq has demonstrated a new U.S. model for waging war; one which poses a creeping threat to global order.... the United Nations, including the U.N. Secretary General, should react to this and instead of reacting, they are mute, they are silent.”¹⁰

“In the case of Iraq, the U.S. and U.K. governments could give the public perception of a withdrawal of forces and just privatize the occupation..”.

"It raises questions about democracies, about states, about who influences policy around the globe, about relationships among some countries. Maybe it's their goal to render state coalitions like NATO irrelevant in the future, that they'll be the ones and open to the highest bidder. Who really does determine war and peace around the world?"¹¹

⁹ - The Working Group on **Mercenaries: UN experts say that the Nissour Square killings in Iraq should not remain unpunished.**

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9705&LangID=E>

¹⁰ - As quoted by - Jeremy Scahill, the Independent: (The Mercenary Revolution..) Ibid.

¹¹ - Jeremy Scahill, the Independent: (The Mercenary Revolution..) Ibid.

The UN Working Group on Mercenaries clearly stated in its report that “...the proliferation of PMSCs in the world is a direct consequence of the outsourcing and privatization by member States of many military and security functions. **A large number of these companies are the supply side for contracts granted by the Department of Defense or the State Department of the United States of America in connection with low-intensity armed conflicts or post-conflict situations such as in Afghanistan, Colombia and Iraq.** Former military personnel and ex-policemen are recruited as “security guards”, but once in low-intensity armed conflicts or post-conflict situations, they become in fact private soldiers militarily armed. Provisions in national legislations granting immunity to PMSC personnel can easily become de facto impunity, with these private soldiers being only accountable to the company employing them. Some Governments appear to consider these individuals as neither civilians nor combatants, though heavily armed; these individuals are the new modalities of mercenarism. They might also be easily associated with the unclear concept of “irregular combatants”. They often encounter contractual irregularities, poor working conditions, failures in obtaining basic needs and problems to obtain financial compensation for injuries received”.¹²

Blackwater works as a humanitarian agency!

According to the Working Group:

“The distinction between humanitarian non-profitable organizations and corporations working for pecuniary gain is also being blurred by PMSCs. In conflict or post-conflict areas, such as Afghanistan and Iraq, where PMSCs sometimes provide security details and protection work to humanitarian NGOs, it has become difficult for the population as well as government officials to distinguish one from another...

Humanitarian and aid-type assistance risk becoming associated with an intervening force and PMSCs which may be perceived as

¹² - Ibid, Report of the Working Group on the use of mercenaries ..(A/HRC/7/7 of 9 January 2008)

biased. PMSCs do not hesitate to utilize the aims of humanitarian non-profit organizations to advertise their activities. One of such companies recurrently puts an ad in the *Journal of International Peace Operations (IPOA)*¹³ in relation with its activities in Afghanistan, Somalia, Congo, Bosnia and Herzegovina, the Sudan and Iraq displaying a picture of an individual feeding a malnourished baby with the following message :

“Through selfless commitment and compassion for all people, Blackwater works to make a difference in the world and provides hope to those who still live in desperate times”.

...Although the industry has developed worldwide, highly professional companies from the United States of America and the United Kingdom would be responsible for more than 70 per cent of the services in the world market...

...One of the major PMSCs providing military and security services in armed conflicts or post-conflict zones is Blackwater, Behind the humanitarian façade, one of the main objectives of the corporation, as indicated by its founder, Erik Prince, would be to obtain for his own private military force a substantial piece of the current United Nations peacekeeping US\$ 6-10 billion budget...

.....

The Working Group has received information about deceptive recruitment and exploitation of nationals from developing countries to work for these PMSC in situations of violence and armed conflict such as Iraq. The Working Group is increasingly concerned at the effects of such exploitation and the resulting challenges in terms of compensation and jurisdictional uncertainties.

In order to maximize profit PMSC and their affiliates have stimulated the demand of former military personnel and ex-

¹³ Publication of the International Peace Operations Association and the Peace Operations Institute, vol. 2, No. 4, January/February 2007, Washington.

policemen of developing countries by advertising attractive salaries for jobs in zones of armed conflict such as Iraq.¹⁴

In the situation of Iraq our organization along with other NGOs witness a lot of examples where members of private companies behave against the basic principle of human rights and totally ignored the obligations set out in the international humanitarian law in time of armed conflicts.

The Working Group also notes reports of erratic behaviour of some PMSCs employees in Iraq with mottos such as: “what happens here today, stays with us today”. It has also been alleged that “private security guards” would also detain Iraqis without authorization.¹⁵

“...the privatization of the use of force without accountability and oversight leads inexorably to impunity. Outsourcing, contracting and hiring PMSCs may be attempts to evade direct legal responsibilities, and in some cases, as for the United States of America, an element of its foreign policy. The Working Group considers that security is a universal human right for all and considers that States relinquish their responsibilities when security becomes a privilege only available to those who can afford it....”

Conclusion:

We would like to emphasise the responsibility of the United States of America of continuous human rights violations in Iraq in general and by these companies and lack of accountability. When involved in crimes or human rights violations, these private security guards have often not been sanctioned or brought before a court of justice, as exemplified by the involvement of contractors in the torture scandal in Abu Ghraib and shootings against civilians in Iraq.¹⁶

¹⁴ A/61/341, paras. 69 and 71 and A/HRC/4/42, para. 35.

¹⁵ - Ibid, Report of the Working Group on the use of mercenaries ..(A/HRC/7/7 of 9 January 2008)

¹⁶ - WG (A/61/341, para. 69. See also David Phinney, “From mercenaries to peacemakers?”, 29 November 2005, www.corpwatch.org; Steve Fainaru, “For Hired Guns”, *Washington Post*, 15 April 2007; J. Scahill, “A very private war”, *The Guardian*, 1 August 2007; R. Norton-Taylor, “Afghanistan Close to Anarchy: Warns a General”, *The Guardian*, 21 July 2006).

“.....The international community should be concerned about the impacts of the activities of PMSCs affecting matters of peace and the enjoyment of human rights in low-intensity armed conflicts and post-conflict situations, since the conduct of PMSCs is rather governed by profit interests than by compliance with international norms.....the current situation in Iraq is creating an economy based on privatized war and reconstruction efforts. It is the primary responsibility of States under international and domestic law for public security, law and order, and the Working Group emphasizes that States cannot abandon their international responsibilities to non-State actors by outsourcing certain tasks...”¹⁷

Impunity must be ended

The immunity granted by the United States to its Army and these companies in Iraq is a major factor that encourages them to continue their atrocities and violations against the whole population in Iraq. This situation must be ended.

It also should be emphasise that the way of recruiting those mercenaries may leads to States having its citizens involved in armed conflicts for which the Government has never been consulted, but the behaviour of the companies or the nationals employed by them may nonetheless damage the international image of the States concerned.

As pointed out by the Human Rights Committee, States have the responsibility to take appropriate measures or exercise due diligence to prevent, punish, investigate and redress the harm caused by acts of PMSCs or their staff that impair human rights.¹⁸

States which contract PMSCs to export their activities abroad have to respect their international legal obligations, which cannot be eluded by outsourcing some of its functions;

¹⁷ - Ibid, Report of the Working Group on the use of mercenaries..(A/HRC/7/7 of 9 January 2008)

¹⁸ General comment No. 31 (2004) on the nature of the general legal obligations imposed on States parties to the Covenant, para. 8.

States should also bear in mind that the United Nations General Assembly has repeatedly drawn the attention of Member States to the fact that "notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples".¹⁹

We recommend that all United Nations' member states exert its utmost efforts to establish an independent investigation commission to investigate all, war crimes and crimes against humanity, and all other violations against Iraq as a nation and its citizen, as a first step toward fully held accountable all those responsible of theses violations and fully compensate the nations and the Iraqi people.

¹⁹ - The UN Working Group on the use of mercenaries, statement in Santiago, Chile, on 14 July 2007: www.ohchr.org/english/issues/mercenaries/index.htm.

NORD-SUDXX1

The destruction of Iraqi Cultural Heritage by the United States

a violation by the United States to its obligations under international law¹

Report to

The Ninth session of the Universal Periodic Review

The Reviewing of the United States

Summary:

Cultural heritage is especially vulnerable in contexts of armed conflict. This is demonstrated through ground experiences in Iraq. This report strongly recommends that the issue should thus be elevated to the status of a humanitarian concern.

It is a well-known fact that one of the greatest losses due to the United States invasion and occupation is Iraq's heritage. Unsurprisingly, when the war began, none of the Coalition members had a plan for the cultural treasures. The result was the destruction of thousands of archaeological sites. Precious ivories were trampled underfoot on the museum floor. Whole libraries were set on fire.

* - This report is based on a paper prepared by Lydia Evdoxiadi Verniory (PhD), LEV Consulting International, Cultural Heritage Consultant, under the title (Through the eyes of Iraq: Cultural Heritage in Armed Conflict).

The United States and its allies have left Iraq's archaeological treasures without protection, exposing them to looters and art thieves, in a flagrant violation of their responsibilities under international law. The Iraqi Museum, one of the world's richest in artifacts, and the very rich Iraqi National Library, were looted as well as 14 other provincial museums and several libraries. The occupation forces have used archaeological sites as military bases as is the case of the city of Babylon, and have destroyed historic cities during military operations.

The failure of the United States to protect Iraqi cultural heritage is a flagrant violation to its obligation under international law, international humanitarian law and Human Rights law. This violation must be taken in account in the review of the United States at the Ninth Session of the Universal Periodic Review of the Human Rights Council in November 2010.

The origins of cultural heritage protection laws

It is important to commit to memory that *the origins* of cultural heritage protection laws are linked to early humanitarian law efforts and recommendations of institutions like the Red Cross and the UN. Within the scope of this report, we cannot delve deeper into the historical, theoretical or technical aspects of this claim, but we recommend the pioneer work and collation of reports and current issues by Barbara Hoffman¹.

What is meant by “cultural heritage”? ²

UNESCO Answers:

The term “cultural heritage” encompasses several main categories of heritage:

Cultural heritage:

Tangible cultural heritage:

- Movable cultural heritage (paintings, sculptures, coins, manuscripts, etc.)
-
- Immovable cultural heritage (monuments, archaeological sites, and so on).
- Underwater cultural heritage (shipwrecks, underwater ruins and cities and so on)

Intangible cultural heritage (oral traditions, performing arts, rituals, and so on)

¹ - Hoffman, Barbara (ed.) 2006 : Art and Cultural Heritage : Law, Policy, and practice. Cambridge, Cambridge University Press

² - http://portal.unesco.org/culture/en/ev.php-URL_ID=34050&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html

- Natural heritage (natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formations, and so on).

Heritage in the event of armed conflict

Heritage in the event of armed conflict has acquired a special status. It is a major preoccupation as a result of the massive destruction of mainly European, or European-owned cultural heritage in [World War II](#). From these losses, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was born³. It is the first legal instrument in the form of an international treaty, of a worldwide vocation, focusing exclusively on the protection of [cultural heritage](#) in the event of [armed conflict](#). The preamble of the 1954 Hague Convention affirms that heritage is worth defending, especially in situations of conflict, by:

Recognizing that cultural property has *suffered* grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of destruction;

Being convinced that damage to cultural property belonging *to any people whatsoever* means damage *to the cultural heritage of all mankind*, since each people makes its contribution to the culture of the world;

The wording in the preamble sets a very personal tone to the status of cultural property, noting that it *suffers*. This suffering refers to the material aspects of

³ http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html

culture for its own sake and for the sake of mankind. But why is the materiality of heritage such an intimate concern? Because cultural heritage is a tool. This tool is what people use, have used and will use to express themselves at any given point in time, even in repetition or regressively, to define themselves intra-socially and inter-socially.

Culture has many functions, one of which is the forging of social relations and the creation of a sense of unity for identity purposes. This is why we refer to the *Right to Culture*, which is strongly linked to the *Right to Self-Determination, Identity and Origins*. The material aspect and potential of cultural heritage also links it to the *Right to Development*.

A review of the list of the positioning of the state parties with regard to the Hague Convention and Protocols 1&2⁴, highlights the quickness of its signing and ratification of states that can boast significant cultural heritage (diachronically, intra and cross-culturally) due to their awareness and acknowledgment of their privilege of being rooted in deep-seated civilisations, even if such may, and as in most cases, differ from the current political and social identity of the states. Such states are usually referred to as ‘source countries’ and have strong cultural agendas integrated in their internal and external educational and economic development.

Awareness for international cultural heritage even in developed countries is to a very a large extent conditioned by raising awareness through education on national heritage which begins in the local level. This already exists within the United States, as demonstrated in the example of the measures taken by U.S non-governmental institutions, foundations, bodies, scholars and religious institutions, in the run-up to the invasion of March 2003. Unfortunately, it did not receive the adequate institutional and official support on the Federal and external policy levels.

⁴ <http://erc.unesco.org/cp/convention.asp?KO=13637&language=E>
<http://erc.unesco.org/cp/convention.asp?KO=15391&language=E>
<http://erc.unesco.org/cp/convention.asp?KO=15207&language=E>

The occupation of Iraq and the subsequent destruction and looting of Iraq's Cultural Heritage and its world-wide media attention. It is regrettable that the United States of America which boasts world-leading experts and research facilities on Iraq's heritage could not for the least prevent such irreparable damages.

Other states, like the United States of America, which is no. 123 on the list with its recent Ratification of the 1954 Hague Convention on the 13th of March 2009, have different values and priorities with regard to cultural heritage on the international level.

After this ratification, significant improvements are eagerly awaited by the international from the United States of America, for the future management of concerns and eminent threats to cultural heritage in the events of future armed conflict. It is regrettable to see that so much effort and such means were employed to protect Iraqi Cultural Heritage, prior to the invasion of Iraq but with little avail. Today, the occupation continues, and the damages against the Iraqi Cultural Heritage are there to remind occupying forces, once more of the atrocities of war and the collective punishment and losses it establishes, both ethically and materially, for the present and future generations.

We would like to bring to memory some critical parts of the process that was set up for the protection of Iraqi Cultural Heritage prior to the invasion and during the occupation. According to the Global policy forum report, entitled: 'War and Occupation in Iraq', with regard to Chapter 25, *Destruction of Cultural Heritage*, the following points are committed to memory for further reference, implementation and prevention in likewise situations and encouragement for reparations and accountability towards Iraqi Cultural Heritage and the institutions which support it:

⁵ <http://www.globalpolicy.org/component/content/article/168/37146.html>

- (1) Adequate warnings and opinions were provided to the United States of America as war approached.

The most important points to be reiterated are:

- a. In the run-up to the invasion of March 2003, professional associations and individual scholars contacted authorities in Washington and London, warning of the dangers to Iraq's cultural heritage.
- b. McGuire Gibson of the University of Chicago twice returned to the Pentagon to discuss precautions the Coalition should take. He and his colleagues sent several e-mail reminders to military commanders in the weeks before the war began.
- c. As the conflict neared, the Archaeological Institute of America, the International Council of Museums, the International Committee of the Blue Shield and other professional organizations issued public warnings and gave further specific information about cultural treasures to be protected.
- d. Conflicting advice was also offered to the war-planners by a group of self-interested dealers and wealthy collectors. The American Council for Cultural Property, founded in late 2002 with a focus on Middle Eastern art and antiquities, saw the war as offering opportunities for Iraq's heritage to reach international buyers. Ashton Hawkins, the group's president, welcomed the "legitimate dispersal of cultural material through the market," arguing that this was "the best way to preserve it."
- e. Council members met with officials in the State Department and the Pentagon prior to the war and again in April 2003. The Council enjoyed strong connections to the Bush administration, and one of its leaders was a member

of the President's Cultural Property Advisory Committee. The new lobby argued that Iraq's laws should be changed to allow more excavation digging and more exporting of valuable art objects. The group even offered post-war technical assistance to Iraq's government and museums.

As a result, the troops that captured Baghdad and other Iraqi cities in early April 2003 did not act to protect cultural sites

Furthermore:

1. Attacks on the heritage sites began soon after 9 April 2003, as part of widespread looting and destruction of government buildings and other targets encouraged by the American troops.
2. The chief US investigator later speculated that the thieves had advance “orders” from international dealers. Among the evidence: they cut off the heads of heavy stone statues with special saws and stole only the most valuable works.
3. As early news of cultural destruction spread, international cultural bodies and scholarly groups renewed their pleas to Coalition military and civilian leaders
4. On April 11, at the height of the looting, US Defence Secretary Donald Rumsfeld dismissed reports of cultural devastation from Baghdad as misplaced and exaggerated. Damage continued for days.
5. Three members of the White House Cultural Property Advisory Committee resigned almost immediately to protest the US government's responsibility. “The tragedy was not prevented, due to our nation's inaction,” Martin Sullivan, the committee's chairman, wrote in his letter of resignation.

The series of neglect through inactions and actions towards the Cultural Heritage of Iraq, though proportionately larger for the United States of America, are to be ascribed to other members of the coalition forces as

well. Among the damages most directly associated with war actions, the use of ammunition and landscape alterations to accommodate military bases, the following must be recalled:

1. Coalition bombardment destroyed **65 Mosques** in the attack on **Falluja** in November 2004.
2. By some odd co-incidence, the US military built bases on the sites of ancient **Babylon** and **Ur**. These two cities are references for Mesopotamian Culture. Construction crews used heavy earth-moving equipment as they built a helicopter landing pad, installed fuel tanks and concrete walls, and dug a dozen deep trenches. They brought in tons of gravel to make parking lots for military vehicles, next to a Greek theatre built for Alexander of Macedon. International scholars and Iraqi leaders pled with US commanders, but the camp was not vacated until January 15, 2005.
3. By some odd co-incidence, Polish troops camped at **Babylon** (known as Camp Alpha) from September 2003 to January 2005. In recognition, the Polish government later 'apologized'.

As reported by Diane Tucker “The use of Babylon as a military base was a grave encroachment on the ancient site. Several areas were levelled to serve as parking lots. Heavy vehicles destroyed relics buried near the surface. Troops filled sandbags with soil full of archaeological fragments. (Something as simple as a broken plate can hold the key to how ancient cultures traded) The remains of [Ishtar Gate](#), the most

beautiful of the eight gates that ringed Babylon's perimeter, was among the structures most abused”⁶.

"The damage to Babylon is so great," said Maryam Mussa, an official from the Iraqi state board of heritage and antiquities, **"it will be difficult to repair it, and nothing can make up for it."**⁷

Conclusion

It would be redundant to comment on the abovementioned report as the magnitude of the losses and the process that led to them can be felt and understood even by non-experts. We have been following the reports on Iraq **for 8 years now and they all bleed while over 1 million Iraqis have bled to death. It is time that the international community rises to its duties to address the preponderant culture of non-accountability.**

More than **8,000 years of civilizations** have been toyed with and to the loss of the heritage, knowledge and future incomes that these can produce for the Iraqi people. European and North American collectors possess the knowledge which continues to fill their cabinets with the treasures of Iraq, marking a Crusade for supremacy on native peoples through the illicit acquisition of what their very cultures have failed to produce due to lack of education. This robbing of the cradle of civilization continues in impunity, while the physical, cultural and human landscape of Iraq is under constant rape. Yet what the coalition forces have largely underestimated is that deeply rooted civilizations, such as Iraq and its Heritage, are **deep** and **rooted**.

⁶ - Diane Tucker: **Brutal Destruction Of Iraq's Archaeological Sites Continues (Photogallery)**, <http://www.uruknet.info/?p=58169>

⁷ - Diane Tucker (*ibid*).

We think that it is the duty of the United Nations to thoroughly investigate all the violations resulted from the invasion and occupation of Iraq by the United States and its allies, as a first step toward prosecute all those responsible of these violations.

As regard the Iraqi Heritage, it is the responsibility of every civilized nation to help restoring all Iraqi objects and to protect its archaeological sites in coordination with the UNESCO.

This report cannot support images due to form compliance guidelines.

For further references on images on the losses suffered with regard to Iraqi Cultural Heritage, please consult the following sites:

Looted sites

http://www.savingantiquities.org/feature_iraq.php

Destruction

<http://www.uruknet.info/?p=58169>

Illicit trade

<http://www.abc.net.au/news/stories/2007/11/29/2105564.htm>

HUMAN RIGHTS VIOLATIONS OF THE AMERICAN TROOPS IN FALLUJAH

Report of

**Studies Centre of Human Rights & Democracy in
Fallujah**

**to the Ninth session of the Universal Periodic
Review**

The United Nations Human Rights Council

As we are approaching the mid of 2010, the violations by the United State of America of (1) the UN Charter; (2) the Universal Declaration of Human Rights; (3) human rights instruments (4) Its voluntary pledges and commitments (especially with regard Iraq); and, (5) applicable international humanitarian law, continues in every corner of Iraq. This report is taking one city (Fallujah) as example of the USA violations of the basic and inherent rights of the Iraqi people. In April 2004, the American forces launched its first major offensive against the innocent people of Fallujah, destroying their homes and leaving more than 1000 civilians dead. In November of the same year (2004) a second major offensive was initiated by the American forces in which 70 per cent of the city buildings were completely destroyed, thousands of civilians were killed, almost half million became refugees.

It is almost impossible to list all the crimes that the American forces have committed in Fallujah during these two major offensives, but in brief, these includes: the deliberate destruction of the whole city, killing civilians and wounded persons, torture of the civilian populations, the prevention of the distribution of food and medicine. All can be easily categories as: war crimes,

crimes against humanity and grave violations of international humanitarian law.

There has been nothing like the attack on Fallujah since the Nazi invasion and occupation of much of the European continent—the shelling and bombing of Warsaw in September 1939, the terror bombing of Rotterdam in May 1940. All the talk about precision bombing in Iraq is dust thrown into the public’s eyes. The purpose of the devastation in Fallujah is to terrorize the Iraqi people and the entire population of the Middle East. Large numbers of people have been killed in the assault on the city.

As from 2006, the catastrophic impacts of the above mentioned military operations became well known through a number of reports especially related to the health situation of the population¹.

In order to give the Human Rights Council a clear image of what is happening, we present this report:

1- On the **pretext of searching for “terrorists”** the American forces launched their first major offensive against Fallujah in April 2004. Although the local council in the city denounced terrorists and confirmed that the people of the city are against any terrorist act, the American forces implemented its plan to destroy the city and punish its inhabitants for their

¹ - For details of the impact of the USA violations as of March and April 2010: Jon Simpson of the BBC on birth defects in Fallujah, Iraq 07 March 2010

<http://www.youtube.com/watch?v=XExbH673R3A>, <http://www.rememberfallujah.org/>

<http://www.youtube.com/watch?v=PFqyK8kB1Vk>

<http://www.youtube.com/watch?v=CYNdw1ReVhw&feature=related>

BBC Discovers Fallujah’s American Genetic Warfare

<http://therearenoglasses.wordpress.com/2010/03/04/bbc-discovers-fallujahs-american-genetic-warfare/>

refusal of the occupation. The U.S army heavily bombarded the city by all military means. More than 1000 hundreds civilian died during that offensive. The main football stadium in the city was turned into a burial place for those victims. Schools became home for those who lost their houses. Until now (April 2010) hundreds of civilians are still missing.

2-On the 7th of November, 2004, the U.S forces accompanied by so called Iraqi National Guards, launched an other destructive military campaign against the city. This campaign started by attacking the main hospital in the city (Fallujah General Hospital) which belongs to the Ministry of Health. It took **control of the hospital by military means**, capturing the doctors, tying their hands behind their back, knocking them down to the ground in addition of beating them with theirs shoes. At the same time they ransacked and pillaged and robbed the hospital equipment and destroyed the unmovable apparatus. They have arrested all the patients, preventing sick people of receiving medical care, while the city was under attack. It was the only hospital available in the city. A few days later, the besieged medical staff opened an alternative hospital but the U.S. jets bombed it, killing every person who was in that humble hospital including all sick and wounded persons, doctors and nurses, leaving the city without any functioning medical unit. Several examples were given by the Iraq Red Crescent Society (IRCS) on this situation. In one case, a pregnant woman and her child died in a refugee camp west of the city after the mother unexpectedly aborted and no doctors were on hand. In another case, a young boy died from a snakebite that would normally have been easily treatable. A nine-year-old child severely injured died hours later of blood loss. His father, Mohammed Abboud buried him in the garden because it was too dangerous to go out².

² - For more details: In Fallujah, U.S. Declares War on Hospitals, Ambulances,

<http://newstandardnews.net/content/index.cfm/items/1208>, Associated Press, U.S. FORCES

STORM WESTERN FALLUJAH, <http://www.foxnews.com/story/0,2933,137843,00.html>, ABC

3- It is well known that the **American forces prevented aid's agencies from entering the city** and the nearby towns and villages, were hundreds of thousands of Fallujans refugees, were struggling to survive without water, food, medicine and electricity. This has created, according to the Iraqi Red Crescent Society (IRCS) a humanitarian disaster in which innocent people were dying because humanitarian help couldn't reach them. The (IRCS) asked the permission of the Americans forces to go into the city with teams of doctors and relief experts but they weren't allowed. The International Committee for the Red Cross was also trying to enter the city and the refugee camps with humanitarian relief. Thousands of elderly, women and children were left without food or water for days. The American forces didn't grant the ICRC passage neither to the city nor to the refugee camps. A *Christian Science Monitor* reporter observes: "Some districts reeked from the sickening odor of rotting flesh, a stench too powerful to be swept away by a brisk breeze coming in from the sandy plain surrounding the city 40 miles west of Baghdad. We will perhaps never know how many civilians have been slaughtered by US forces. The head of mission of a European humanitarian agency with staff in Falluja told BBC News Online that, according to his staff, two of their ambulances had been shot at. By who? The probability is by US snipers," he said. Asked whether these were warning or attacking shots, he said: "One was shot two or three times - a sniper does not shoot an ambulance three times by mistake." British aid worker Jo Wilding said an ambulance she was in, with flashing lights, siren blaring and "ambulance" written on it in English, was hit as it drove to collect a woman in premature labour. Ms Wilding is sure the shots came from American troops³.

News:US, Iraqi troops storm Fallujah hospital,

<http://www.abc.net.au/news/newsitems/200411/s1236886.htm>

³ - The BBC <http://news.bbc.co.uk/2/hi/middle_east/3653223.stm>

4- U.S. forces detained and **arrested an estimated three thousand civilians** (especially men and youth) who remained in the city with their families. They put them in very humiliating cages, In flagrant violation of the principles of human rights, some of them were forced to work cleaning up the city in order to erase evidence of the American crimes. U.S. shifted a large number of them to Abu Gharib and Basra (Boukah) prisons while many of them died due to the ill treatment in these two notorious prisons⁴. Till now, (April,2010) there are hundreds of missing persons from Fallujah, but, out of fear of arrest and intimidation by the American forces, the families still hesitate to register the names of missing relatives with the official committee for registration. That is why the registered number of missing is below the real one. The American forces continued to **arrest civilians arbitrarily** in Fallujah and in the whole Anbar province describing them to the Medias as “terrorist” while they took them from their cities and houses: Who is the terrorist?

5- Many witnesses confirmed **the mass killings of unarmed civilians** inside their houses and in mosques. Also many were shot to death after being handcuffed. Others were blown up inside their own homes. The civilians who stayed in the city during the American offensive have gone through numerous tragic stories and inhuman treatment at the hand of the occupation forces and the so-called Iraqi National Guards. The deliberate killing of the civilians was the daily practice of the American forces. Many children had to watch their parents being shot to death in front of them, or men who had to watch their children and their wives being killed. As example, Hamid Abdulrazzak Sultan, a citizen from Fallujah, witnessed the killing of his pregnant wife along with

⁴ - “Torture, inhuman treatment, and willful killing are grave breaches of the Geneva Conventions, treaties ratified by the United States. Grave breaches of Geneva are considered war crimes under our federal War Crimes Act of 1996. American nationals who commit war crimes abroad can receive life in prison, or even the death penalty if the victim dies. Under the doctrine of command responsibility, a commander can be held liable if he knew or should have known his inferiors were committing war crimes and he failed to prevent or stop them. ... Bush’s aggressive war against the people of Iraq promises to kill many more American soldiers and untold numbers of Iraqis. Nuremberg prosecutor Justice [Robert] Jackson labeled the crime of aggression ‘the greatest menace of our times.’ More than 50 years later, his words still ring true.”

his 4 sons during an American attack on their home. Four members of the Fawzi Hussein Salman al-Aisawi family were butchered to death by the American forces in front of their daughter, Huda, in a raid to their home. Almost every family who stayed in Fallujah has to bury a victim in its garden.

6- Some of the citizen stressed that **they were fleeing with their families; US soldiers shot at many of them.** In fact some journalist reported that the orders were given to shoot any moving thing during rampage through the city. Furthermore, some of these crime were believed to be organized by the US soldier themselves when they ask people to leave their houses and come to one mosque, and then, they shoot them. As example: Eyad Naji Latif and eight members of his family — one of them a six-month-old child — gathered their belongings and walked in single file, as instructed by the American soldiers, to the mosque. When they reached the main road outside the mosque they heard a shout, but they could not understand what was being shouted. Eyad said, it could have been “now” in English. Then the firing began. US soldiers appeared on the roofs of surrounding houses and opened fire. Eyad’s father was shot in the heart and his mother in the chest. They died instantly. Two of Eyad’s brothers were also hit, one in the chest and one in the neck. Two of the women were hit, one in the hand and one in the leg. Then the snipers killed the wife of one of Eyad’s brothers. When she fell her five year old son ran to her and stood over her body. They shot him dead too. The testimony of Ayad was documented by our organization.

7- Eyewitnesses affiliated with our organization confirming other human rights violations by the American troops when **U.S. tanks crushed the dead bodies and any live** wounded persons. Some witnesses also said that the tanks had crushed injured people by rolling over them without any mercy or sympathy. Just as members of medical teams and organizations who were allowed to enter the city confirmed they did not find any injured person despite the intensive bombing of the city. The question is where had the injured people gone? The answer: of course is that they had been killed or

crushed by the tank's chain or burnt to death. The footage of American soldier shooting at injures lying in the mosque confirm that answer⁵.

8- There is no doubt that the **U.S. forces were widely using cluster bombs** on the residential areas in Fallujah. More than 25 cluster bombs were dropped on the city daily. Moreover, **there are clear evidences that U.S. forces used chemical weapons in Fallujah.** Eyewitnesses confirm that in both Al-Golan and Al-Shuhada' residential quarters, the U.S. forces used such weapons. In al-Askary residential quarter bodies were found burnt to ash and their bones charred and blackened. U.S soldiers were seen in area wearing protective masks against the contamination by chemical weapons. In addition, volunteers who buried the bodies noticed some of the dead people died while they were lying on their beds without being shot or stabbed or burned. Most of the bodies found were for civilians who were just going about their normal business in their homes. It is clear that the U.S soldiers sentenced them to death inside their houses. Among the dead was a man with two children and two young girls were found shot in the head. In another place, a body of an old man was found sitting on a chair holding his walking stick⁶.

9. The scenes **of human bodies eaten by dogs** on the streets of Fallujah became well- known through the media. It is a clear evidence of another crime committed by the U.S forces that had carelessly left the bodies lying on streets and in the open houses without the dignity of burial. "A week of ground combat by Marines and some Iraqi troops, supported by tanks and attack

⁵ -U.S. probes shooting at Fallujah mosque, *Video shows Marine killing wounded Iraqi*, <http://www.msnbc.msn.com/id/6496898/>) *Fallujah Mosque Bombed by US: Rocket and 500-Pound, Laser-Guided Bomb U.S. Hits Mosque Compound; 40 Said Killed*, <http://www.mindfully.org/Reform/2004/Fallujah-Mosque-Bombed7apr04.htm>

⁶ - To have a clear idea see this video <http://video.google.com/videoplay?docid=8905191678365185391#> and Simpson of the BBC on birth defects in Fallujah, Iraq 07 March 2010 <http://www.youtube.com/watch?v=XExbH673R3A>, <http://www.rememberfallujah.org/>

helicopters, added to the destruction in a city where the homes and businesses for about 300,000 people are packed into an area a little less than 2 miles wide and a little more than 2 miles long. ... Cats and dogs scamper along streets littered with bricks, broken glass, toppled light poles, downed power lines, twisted traffic barriers and spent cartridges. Walls are full of bullet holes. Marines have blown holes in walls and knocked down doors to search homes and shops. Dead Iraqis still lay out in the open. For all intents and purposes, the US military declared any male in Fallujah and any family unlucky enough to be caught in the hail of deadly fire legitimate targets for death”⁷. This is yet another example of the grave violation to all human rights laws and values. This dreadful sight provokes any one who has a human conscience, but didn't touch Bush and Blair.

10- The Continuation of devastating residential houses in the city.

Eyewitnesses asserted that, after the battle, numbers of returnees from al-Andalus residential area found their houses intact, but when they left the city and returned back three days later; they found that these houses were recently destroyed, without apparent reason. Witnesses also affirmed that the U.S. forces were making a film in Fallujah showing the performing of their forces in al-Fallujah battle, and how they advanced into the city. For the sake of this Hollywood film, they raids and bombard several areas already under the control of their forces, destroying empty houses just to show how (brave) and (humane) their solders were. In this connection they set ablaze 20 houses in a single night, in the al- Shurta area.

11- The citizens of Fallujah are still subjected to different kinds of humiliations when entering or leaving the city. In their daily life, they have to endure constant harassments and threats by the American occupation forces, which consider them as terrorists simply because they refuse the occupation. Moreover and in a dangerous precedent of discrimination against

⁷ - <http://www.wsws.org/articles/2004/nov2004/fall-n17.shtml>

the civilians' population of Fallujah, the American occupation authority issued special ID cards for them, preventing visitors from other cities to enter it. This step isolates the city of Fallujah from its surroundings and the rest of the country, thus transforming it into a huge prison.

12- As a measure of **collective punishment**, the American occupation forces and the National guards -although it destroyed 60 schools in the city- they are using schools inside the city as compounds, depriving students from pursuing their education without offering substitutes.

13 – Until this year (2010), there is deliberate delay by the American occupation authority and the Iraqi authorities and in **reconstructing the city** of Fallujah, even in restoring the basic services. The announcement of reconstruction is a pack of lies. According to the initial official estimation, more than twenty thousand houses have been demolished, nine thousand shops, sixty five mosque, sixty school, the very valuable heritage library and most of the government offices. The American forces destroyed one of the two bridges into the city, both train station, the two electricity station, and three water treatment plants. It also blew up the whole sanitation system and the communication network. All the cities and villages around Fallujah suffer from the same attitude of the American forces.

14–Until now (2010) no-one has been permitted to examine the **environmental pollution** that affected Fallujah due to the usage of prohibited and dangerous weapons, except for analyzing the recently established processed water. Some cases of congenital malformation of some newborns babies in the city have appeared. As an example is the case of the child Mina Jabbar Mahmood Aljumaili, born three months ago, and another child in the same Al'andulus neighbourhood.

CONCLUSION AND RECOMMENDATIONS:

- As regard Fallujah, the former High Commissioner of Human Rights, Ms. Louise Arbour, had called for an investigation of abuses, including

the disproportionate use of force and the targeting of civilians. Arbour suggested that all violations of international humanitarian and human rights laws should be investigated, including “the deliberate targeting of civilians, indiscriminate and disproportionate attacks, the killing of injured persons and the use of human shields.” It is unfortunate that so far no investigation has been carried out in the city.

- In this regard we also suggest that the Human Rights Council and the High Commissioner of Human Rights dispatch an independent international investigating committee, to investigate **ALL** the atrocities and human rights violations committed in Iraq by the United States of America since its invasion and occupation in 2003, in order to bring all those responsible to justice, to fully compensate the Country and all victims, to look for all missing persons, and to fully withdraw the occupation forces.
- In the meantime, we demand the Human Rights Council to nominate a special Rapporteur to monitor the Human Rights situation in Iraq.

The Association of Iraqi Jurists

~~US Violations of Occupation Law in Iraq*~~

Report to the Ninth Session of the Human Rights Council

The Universal Periodic Review

November 2010

Summary:

The successive US Administrations are committing war crimes and other serious violations of international law in Iraq as a matter of routine policy. Beyond the now-infamous examples of torture, rape, and murder at Abu Ghraib prison, the United States has ignored international law governing military occupation and violated the full range of Iraqis' national and human rights—economic, social, civil and political rights.

The systematic nature of these violations provides compelling evidence of a policy that is rotten at its core and requires fundamental change.¹

¹ - See for example, WikiLeaks, 5th April 2010 <http://www.collateralmurder.com/> , and Deformed Iraqi babies caused by USA use of depleted uranium: http://www.aztlan.net/du_deformed_iraqi_babies.htm , The Abu Ghraib Prison Photos <http://www.antiwar.com/news/?articleid=2444> , Time Report Shows Torture Is Widespread in Iraq Friday, Apr. 17, 2009, <http://www.time.com/time/world/article/0,8599,1892038,00.html>,

The occupation of Iraq is not leading to greater respect for rights and democracy, as promised by the Bush Administration, but rather entrenching a climate of lawlessness and feeding an increasing spiral of violent conflict that will not end until the occupation ends and underlying issues of justice are addressed.

The question is: how long will it take, and how many lives will be lost, before Iraqis are able to exercise genuine self-determination and control their own destiny?

TEN CATEGORIES OF US VIOLATIONS:

As documented by the Center for Economic and Social Rights, there are at least ten categories of U.S. violations.²

1. Failure to Allow Self-Determination. The “full sovereignty” that the USA Administration claims will be restored to Iraq on June 30, 2004 is so far without legal effect. Genuine self-determination requires the free exercise of political choice, full control over internal and external security, and authority over social and economic policy. Until this happens, Iraq is, and will remain, an occupied country, and the U.S. will remain subject to the laws of occupation.

2. Failure to Provide Public Order and Safety. The US violated international law and caused untold damage to the people and heritage of Iraq by allowing the wholesale looting of Iraq’s public, religious, cultural, and civilian institutions and properties. The U.S. also created a climate of unbridled lawlessness by dismissing the entire army,

² - The Center for Economic and Social Rights (CESR), Beyond Torture, U.S. Violations of Occupation Law in Iraq,

security, and law enforcement personnel without a back-up plan to maintain public safety—predictably resulting in a sharp increase in violent crime, especially directed against women.

- 3. Unlawful Attacks.** U.S. forces have routinely conducted indiscriminate attacks in populated areas of Iraq, causing widespread and unnecessary civilian casualties. Ambulances, medical staff and facilities have been targeted by snipers and regular forces in violation of the Geneva Conventions. To date there has been no official effort to seek accountability for these war crimes.
- 4. Unlawful Detention and Torture.** It is regular policy for U.S. forces to indiscriminately arrest and detain Iraqi civilians without charge or due process. Up to 90% of Iraqis detained under the occupation are reported to be innocent bystanders swept up in illegal mass arrests. The much-publicized torture, rape, and murder of detainees is a systemic practice in U.S. prisons throughout Iraq, the result of decisions made at the highest levels of the Bush Administration.
- 5. Collective Punishment.** Taking a cue from Israeli tactics in the Occupied Palestinian Territories that have been widely condemned as war crimes, the U.S. has imposed collective punishment on Iraqi civilians. These tactics include demolishing civilian homes, ordering curfews in populated areas, preventing free movement through checkpoints and road closures, sealing off entire towns and villages, and using indiscriminate, overwhelming force in crowded urban areas.
- 6. Failure to Ensure Vital Services.** The U.S. is legally required to meet the needs of Iraq's population by maintaining electricity, water, sanitation, and other services vital to people's life, health, and well-being. Yet despite the Bush Administration's funnelling billions of taxpayer dollars to major corporate contributors in secret deals to

“reconstruct” Iraq, these essential services remain in disrepair, often in worse condition than before the occupation.

7. Failure to Protect the Rights to Health and Life. The U.S. is violating Iraqis’ rights to life and health by failing to ensure access to healthcare and to prevent the spread of contagious disease. The health infrastructure is in disrepair, unsanitary conditions are widespread even in hospitals, drugs and medical supplies are in short supply, clean water and sanitation are largely unavailable, and medical staff report disease outbreaks and increased mortality throughout the country.

8. Failure to Protect the Rights to Food and Education. The U.S. is required to ensure that the population has physical and financial access to food and education. Yet 60% of the population depends on a monthly food ration and 11 million Iraqis are classified as food insecure. The education system is in shambles, with two-thirds of school-age children in Baghdad skipping school because of dilapidated conditions, lack of teachers, and well-founded fears of crime.

9. Failure to Protect the Right to Work. In violation of the right to work, the U.S. summarily dismissed more than half a million workers, civil servants, teachers, and other professionals—without any evidence of wrongdoing or opportunity to defend themselves. Moreover, American corporations in Iraq generally rely on foreign rather than Iraqi contractors, exacerbating the unemployment crisis, and slowing the reconstruction process. More than 60% of Iraqis are unemployed.

10. Fundamentally Changing the Economy. As an Occupying Power, the U.S. is prohibited from imposing major legal, political, or economic changes in Iraq. However, the Coalition Provisional Authority has issued a number of executive orders that aim to privatize Iraq’s economy for the benefit of American corporations, with little

consideration for the welfare and rights of the Iraqi people. These changes violate international law and have no binding legal effect.

Conclusion and recommendations:

This report is grounded in the assumption that the U.S. is not above the law, but rather should be bound and limited by law. Yet the entire thrust of U.S. policy in Iraq stands in contradiction to the post-World War II legal order and particularly the legal framework governing occupation. The primary conclusion to be drawn is that the occupation itself is the root cause of systematic rights violations. They will not end until the occupation ends and Iraqis are allowed to exercise genuine self-determination. Full justice will not be done until all war criminals—U.S. as well as Iraqi—are put in the dock and held to account, and the U.S. pays reparations for the illegal devastation inflicted on Iraqi society.

These international law-based demands can be expressed as follows:

- Stop the violations
- End the occupation
- Establish accountability
- Pay reparations

* **The Association of Iraqi Jurists** *is a non-governmental organization represents the Iraqi Jurists in the diasporas.*