

War and Occupation in Iraq

Executive Summary

1 – Introduction

On March 20, 2003, the United States, the United Kingdom and a Coalition of allies invaded Iraq and overthrew the government of Saddam Hussein. They claimed to bring peace, prosperity and democracy. But ever since, violence, civil strife and economic hardship have wracked the land. Though US President George W. Bush delivered his “mission accomplished” speech on May 2, 2003, the conflict has continued for more than four years. Thousands of innocent people are now dead and wounded, millions are displaced, several of Iraq’s cities lie in ruins, and enormous resources have been squandered.

This report considers many aspects of the conflict, with special emphasis on the US Coalition’s responsibilities under international law. It also considers political and economic issues in Iraq and argues for urgent change, including a speedy withdrawal of Coalition forces.

The report does not examine in detail the insurgency, or the criminal gangs and militias which are so often in the news. These forces, which have diverse motivations, often engage in violent tactics and some are responsible for large numbers of deaths and injuries among innocent Iraqi civilians. The increasing bloodshed and sectarian division among Iraqis is abhorrent. But whatever responsibility Iraqis themselves bear for the present impasse within the country, the primary responsibility lies with the United States and its Coalition, whose military occupation gave rise to these groups and whose policies have failed to protect the Iraqi people or to bring peace, prosperity and democracy, as earlier claimed.

From our perspective, the responsibility of the US Coalition is especially grave because the UN Security Council gave it a mandate. As such, it should comply with the highest standards of international legality. Though the Council had refused to authorize the war, just a few months later it mandated the Coalition as a “multinational force” (MNF). Council members at the time hoped that the UN would assume a “vital role” in Iraq, leading the way back to peace and international legality. But this did not happen. The United States allowed the UN only marginal involvement, both on the ground and in New York. On August 19, 2003, a truck bomb destroyed UN headquarters in Baghdad and the organization drastically reduced its presence in the country. Since then, the UN has had almost no oversight role and the Security Council has rarely had a substantive discussion about the matter.

Each week, there are further disturbing reports from Iraq and further evidence of international law violations and massive human suffering. Iraqi public opinion overwhelmingly favors a near-term withdrawal and the public in the United States has

signaled its disapproval of the occupation in the Congressional mid-term elections. Public officials and military commanders in Washington and London increasingly express misgivings, too. But understanding of the conflict remains incomplete and clouded by official dogma and multiple misconceptions. This report hopes to bring new information and analysis to the public debate, to help bring an end to the suffering and violence.

2 – Destruction of Cultural Heritage

The United States and its allies ignored the warnings of organizations and scholars concerning the protection of Iraq's cultural heritage, including museums, libraries, archaeological sites and other precious repositories. Arsonists badly burned the National Library and looters pillaged the National Museum. Looters also damaged or destroyed many historic buildings and artifacts. The US constructed a military base on the site of ancient Babylon. Coalition forces destroyed or badly damaged many historic urban areas and buildings, while thieves have ruined thousands of incomparable, unprotected archeological sites.

3 – Indiscriminate and Especially Injurious Weapons

US Coalition forces have used indiscriminate and especially injurious weapons that are banned by international convention or widely considered unacceptable and inhuman. The US used a napalm-type incendiary weapon as well as white phosphorous munitions, the latter against ground targets in densely populated areas. During the 2003 invasion, the US Coalition also made use of depleted uranium munitions and cluster bombs. Both violate prohibitions against weapons that cause unnecessary suffering and indiscriminate harm.

4 – Detention and Prisons

The US Coalition and its Iraqi government partners have held a large number of Iraqi citizens in "security detention" without charge or trial, in direct violation of international law. No Iraqi is safe from arbitrary arrest and the number of prisoners has risen greatly since 2003. More than thirty thousand detainees lack fundamental rights and they are kept in deplorable physical conditions, many for long periods. US commanders have turned over thousands of detainees to Iraqi authorities whose prisons seriously violate human rights standards.

5 – Prisoner Abuse and Torture

United States forces have criminally abused and tortured large numbers of Iraqi prisoners. Hundreds of Iraqis have suffered from this inhuman treatment and some have died as a direct result. Torture has taken place in many sites across Iraq, including central prisons like Abu Ghraib, secret interrogation centers and dozens of local facilities. Torture increasingly takes place in Iraqi prisons, apparently with US awareness and complicity.

6 – Attacks on Cities

US Coalition forces have attacked and destroyed a number of important Iraqi cities, on grounds that they were “insurgent strongholds.” The attacks have resulted in the massive displacement of people, large civilian casualties, and colossal destruction of the urban physical infrastructure. In addition to Falluja, there have been assaults on a dozen other cities including al-Qaim, Tal Afar, Samarra, Haditha, and Ramadi. The attacks include intensive air and ground bombardment and cutting-off electricity, water, food and medicines. The attacks have left hundreds of thousands of people homeless and in displacement camps.

7 – Killing Civilians, Murder and Atrocities

US military commanders have established permissive “rules of engagement,” allowing troops to use “deadly force” against virtually any perceived threat. As a consequence, the US and its allies regularly kill Iraqi civilians at checkpoints and during military operations, on the basis of the merest suspicion. US Coalition forces also kill many Iraqi non-combatants during military operations and air strikes. In this environment of permissive violence, some soldiers have committed pre-meditated murder, and several shocking atrocities, such as the Haditha massacre, have come to light.

8 – Displacement and Mortality

Displaced & Refugees As of April 2007, an estimated 1.9 million Iraqis were displaced within the country and over 2.2 million were refugees abroad. The Iraqi government estimates that 50,000 people are leaving their homes each month. The scale of the problem and the difficulty of reaching the displaced put the crisis practically beyond the capacity of the international relief system. **Mortality** A very large number of Iraqis have died under the occupation and the rate of mortality has risen sharply. In addition to combat deaths, Coalition forces have killed many Iraqi civilians. Iraqis have also died because of the disintegration of the health care system, as well as violence by militias, gangs, and death squads. A 2006 study estimates more than a half million “excess” deaths since 2003.

9 – Corruption, Fraud and Gross Malfeasance

Under the control or influence of US authorities, public funds in Iraq have been drained by massive corruption and stolen oil, leaving the country unable to provide basic services and incapable of rebuilding. Billions of dollars have disappeared. To avoid accountability, the US and UK undercut the UN-mandated International Advisory and Monitoring Board. Iraq has suffered from stolen cash, padded contracts, cronyism, bribes and kickbacks, waste and incompetence, as well as shoddy and inadequate contract performance. Major contractors, mostly politically-connected US firms, have made billions in profits.

10 – Long-Term Bases & the New Embassy Compound

The United States has been building several very large, expensive and long-lasting military bases in Iraq as well as an enormous new embassy complex in Baghdad. These construction projects are very controversial. Iraqis overwhelmingly oppose the bases, as numerous opinion polls have shown, and the US Congress has also rejected spending of funds on “permanent” bases in Iraq. The bases and the exceptionally large embassy are widely seen as symbols that the US plans to wield enormous military and political influence in Iraq for many years to come.

11 – Other Issues

Cost of the War and Occupation - Iraq has sustained huge costs – including vast physical destruction, loss of life, injury, and trauma as well as lost economic production and lost oil revenue. The United States has spent approximately \$400 billion in direct government appropriations for the conflict as of December 2006. US federal budget costs have doubled from about \$4 billion per month in 2003 to more than \$8 billion per month in late 2006. Total US costs, including estimates of future spending, interest on the national debt, veterans’ medical costs and other factors, have already passed \$2 trillion.

Iraqi Public Opinion and the Occupation - Opinion polls in Iraq show that the occupation has become increasingly and decisively unpopular. Even polls commissioned by the US and UK governments demonstrate clearly that a large majority of Iraqis are critical and favor a speedy withdrawal. By a large margin, Iraqis now feel that the occupation increases insecurity and sectarian violence. More than ever, Iraqis overwhelmingly want the occupation to end.

12 – Conclusion & Recommendations

The United States has established broad legal immunity in Iraq for its military forces, for private security personnel, for foreign military and civilian contractors, and even for the oil companies doing business with Iraq. No matter what crimes the Coalition commits, Iraqis now or in the future face legal barriers if they seek accountability. US Presidential Executive Order 13303, Order 17 of the Coalition Provisional Authority, and other official dicta, shield foreign military personnel from arrest, detention, prosecution or punishment. While the US and its allies have applied limited legal reckoning in a few flagrant cases that became known to the public, punishment has been light. Those with command responsibility have remained beyond the law. But the immunities they have created for themselves can and will be broken. They must eventually be brought to justice.

The US Coalition is the principal cause of Iraq’s current ills. There is no doubt that Iraqi-led criminal violence and sectarian political leaders have caused grave damage to the country and its future. But those who started the war and occupation – particularly the US and the UK – are responsible for the false claims they made, the illegal war that they have waged and the vast destruction they have wrought. They are also responsible for the chaotic and violent conditions they have largely provoked and the grave violations of international law which they have systematically committed. The Security Council,

because of the mandate it has given the Coalition, also shares responsibility for the debacle.

The road ahead is difficult. Iraq will not easily recover and achieve stability. But there are clear steps that can begin a resolution of the conflict. The United Nations and the international community must end the complicity of silence and vigorously address the Iraq crisis. The Security Council must assume its responsibilities and consider alternatives for the future. The US Congress must heed and act on the wishes of the electorate. The courts must bring those with command responsibility to justice.

The following policy recommendations suggest an immediate path forward:

- The international community should fully acknowledge and address Iraq's humanitarian crisis.
- The Security Council should end the Coalition mandate at the earliest opportunity and plan for a stable transition in Iraq, respecting international law.
- The US Coalition must promptly and speedily withdraw all its forces from Iraq.
- Withdrawal must be governed by a clear and speedy timetable and it must be complete, with no residual forces or bases and with no conditions.
- A UN peacekeeping force, clearly distinct from the Coalition, could assist with the transition, by monitoring the ceasefire, strengthening local police forces and the judicial system, and organizing fully-credible elections.
- US Coalition forces should fully respect international law during any period they remain in Iraq.
- US Coalition forces and the Iraqi government should speedily release all "security detainees" who have not been charged with a crime; an amnesty of others being held in connection with the post-invasion conflict should also be considered.
- Iraqis should engage in comprehensive and broadly-inclusive negotiations to arrive at a plan for security and peaceful government of the national territory. The United Nations could provide assistance for this process.
- All armed groups and militias must agree to a ceasefire and a disarmament process. Iraqi government forces should act with restraint and with full respect for the rule of law. As Coalition forces withdraw, irregular forces should turn in their weapons and disband, as part of the national peace and reconciliation process.
- New elections should be held in Iraq after the withdrawal of occupation forces, based on international electoral standards and subject to international observers; a new (or revised) constitution would be a necessary part of the reconciliation process.
- No new oil laws and contracts should be adopted until peaceful, post-occupation conditions guarantee a full and democratic national debate about the future of Iraq's most important natural resource.
- The international community should assist with reconstruction and rebuilding of Iraq's infrastructure and badly-damaged cities, as well as the speedy resettlement (and guaranteed security) of those who have been displaced.
- Courts, both national and international, should pursue those with command responsibility, to hold them accountable for the many grave violations of international humanitarian and human rights law.