

# War and Occupation in Iraq



Arab Commission for Human Rights  
Campaña Española contra la Ocupación y por la Soberanía de Iraq  
Center for Constitutional Rights • Center for Development of International Law • Code Pink  
Council on International and Public Affairs • Fellowship of Reconciliation  
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US Labor Against the War • Weltwirtschaft, Ökologie & Entwicklung (WEED)  
Women's International League for Peace and Freedom

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# Contents

Executive Summary .....	i
Map of Major Coalition Attacks, Bases and Prisons	
Political Map of Iraq	
1. Introduction.....	1
2. Destruction of Cultural Heritage .....	13
3. Indiscriminate and Especially Injurious Weapons .....	23
4. Unlawful Detention.....	31
5. Abuse and Torture of Prisoners .....	43
6. Attacks on Cities.....	55
7. Killing Civilians, Murder and Atrocities .....	65
8. Displacement and Mortality .....	76
9. Corruption, Fraud and Gross Malfeasance .....	86
10. Long-Term Bases and the New Embassy Compound.....	101
11. Other Issues.....	111
• Iraqi Public Opinion and the Occupation .....	111
• Cost of the War and Occupation.....	112
12. Conclusion & Recommendations .....	116



# 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 re-

building. 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.





# IRAQ: Major Coalition Attacks, Bases and Prisons



**Base map source:** UN Cartographic Section, Vmap0.

**Data source:** War and Occupation in Iraq, Global Policy Forum and Partners (2007).

**Projection:** Lambert azimuthal equal-area, Central meridian 40E, Latitude of origin 40N.

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The boundaries and names shown and the designations used on this map do not imply endorsement by Global Policy Forum.









## Chapter 1

### Introduction

*“We will help Iraqis build an Iraq that is whole, free and at peace with itself and with its neighbors... that respects the rights of Iraqi people and the rule of law; and that is on the path to democracy.”*

– US National Security Advisor Condoleezza Rice<sup>1</sup>

**O**n 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. 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.

Much has been written about the war and occupation, but there is little available that presents a comprehensive picture and an assessment of the responsibility of the Coalition. Most public discussion of Iraq today – especially in the United States – focuses on inter-ethnic conflict among Iraqis, the “civil war,” ethnic cleansing, terror bombings and the like. Commentators often blame these tragedies on flawed concepts such as Iraqis’ age-old ethnic hatreds, the extremism of Islam, or the meddlesome impulses of neighboring countries. Anything but the occupation itself.

Although the occupation is the central political reality in Iraq, Coalition influence and Coalition violence too often fade into the background of Western political discourse. When Interior Ministry

forces commit yet another atrocity, for instance, few mention that a hundred US advisors work in the ministry and heavily influence its every move.<sup>2</sup> Amazingly, some commentators and political leaders have re-branded Coalition forces as humanitarian agents who must be allowed to continue their work to promote peace and stability in the unruly country. The Iraq Study Group presented such a perspective, as do the major media and many leading political figures.

This report assesses the war and occupation after the passage of four years. It considers the evidence from the vantage point of international law. It draws extensively on information in the public domain – reports by governments, the United Nations, human rights organizations, and other NGOs, as well as journalists’ accounts. The report considers the role of the United Nations, the legality of the occupation in action, and the human consequences of the conflict. The information assembled presents an argument for a swift end to the occupation and groundwork for a peaceful post-occupation Iraq.

This report considers above all the actions and the responsibility of the United States and the United Kingdom. The US and the UK are powerful nations that

claim to defend and promote the global rule of law. As permanent members of the United Nations Security Council, they present themselves as the guardians of order and justice in the world, insisting on the “rule of law,” and chastising others for violations of law and breaches of the peace. They should be held to the highest standards, since they constantly and vigorously apply such standards to others.

Certainly, there are various kinds of responsibility for the Iraq tragedy. Saddam Hussein was a tyrant who left behind a fractured and badly weakened society. The terrible long-lasting war with Iran (1980-88) and the punishing thirteen years of UN sanctions unquestionably took their toll. Yet the US and UK governments supported Saddam for many years with arms and aid, even while he was carrying out his worst excesses.<sup>3</sup> And they authored the thirteen years of comprehensive UN economic sanctions, which harmed the Iraqi people and left Saddam in power.<sup>4</sup>

While the overwhelming majority of Iraqis are innocent victims of the bloodshed and violence, some Iraqis share responsibility for recent events. Some have participated in reprehensible acts – by setting off bombs in crowded city streets, attacking religious shrines, killing innocent civilians, and operating gangs for robbery, kidnapping, extortion and murder. Iraqis in and out of the government have been implicated in sectarian strife, militias, assassinations, bombings, and death squads, as well as massive corruption.

But none of these acts by Iraqis can justify the wrongdoing of the Coalition. Those who started the war and occupa-

tion, particularly the US and the UK, must take responsibility for the death and destruction they have wrought, as well as the breakdown of public order, the rise of sectarianism and the economic chaos that their rule has provoked. They destroyed the Iraqi state and now are reaping the consequences. They must also take responsibility for the erosion of international law and the undermining of international cooperation that the war and occupation has created.

### **False Arguments for War**

Prior to the invasion, the US and the UK pressed the UN Security Council to authorize the “use of force” against Iraq. They argued that force was necessary to prevent the Iraqi government from developing or using weapons of mass destruction that could be targeted against other nations. They declared that Iraq was in “material breach” of Security Council resolutions and they presented evidence to the Council, notably in the famous meeting of February 5, 2003. Secretary of State Colin Powell said then: “What we’re giving you are facts and conclusions based on solid intelligence.”<sup>5</sup> But most Council members were skeptical and in the end the Council did not authorize military action. We now know that Iraq did not possess weapons of this type and had destroyed virtually all of them in 1991, twelve years before the invasion.<sup>6</sup>

The governments of the United States and the United Kingdom, with their renowned intelligence services, were almost certainly aware before the war that the evidence for mass destruction weapons in Iraq was weak or even nonexistent. Memoirs and other accounts suggest that Bush administration offi-

cialists were discussing a war against Iraq in early 2001 without reference to WMDs<sup>7</sup> and that President George W. Bush and Prime Minister Tony Blair talked about an attack on Iraq at the White House on September 20, 2001.<sup>8</sup> As UK intelligence chief Sir Richard Dearlove commented in a meeting with Prime Minister Blair in June 2002: “the intelligence and facts were being fixed around the policy” by leaders in Washington.<sup>9</sup> London was soon at work on a parallel campaign of exaggerated and false claims, including two notorious “dossiers” released by Downing Street.<sup>10</sup> US Secretary of State Colin Powell later described his speech to the Security Council as a “blot” on his record.<sup>11</sup>

The two countries also claimed that they acted in legitimate “self-defense” under article 51 of the UN Charter. Yet we now know that Iraq posed no clear and immediate threat of offensive military action and the policymakers knew that.<sup>12</sup> Carne Ross, the senior Iraq expert at the UK mission to the UN, later testified that he saw US and UK intelligence traffic on Iraq every working day for four and a half years, and not a single report suggested that Saddam had significant WMD capability or posed a threat to the UK or any other country.<sup>13</sup>

Washington also claimed that Saddam Hussein was giving support to al-Qaeda and promoting international terrorism that threatened the United States. This too was false and those propagating the accusation knew it was not true. A thorough investigation by the Select Committee on Intelligence of the US Senate later showed that these claims were irresponsible and had no basis in fact.<sup>14</sup>

Finally, the US and the UK put forward humanitarian arguments, such as liberat-

ing the Iraqi people from Saddam Hussein’s dictatorship and his frightful human rights abuses.<sup>15</sup> The war, they contended, would bring freedom and democracy to Iraq. But if Washington and London were so concerned about this issue, why had they earlier cooperated with Saddam, given him arms, aid and military assistance, and even shielded him from censure by UN human rights bodies?<sup>16</sup>

## War and the Coalition

As the timing of the conflict approached, Washington assembled a “coalition of the willing” to give its military action greater legitimacy and to lend it the appearance of a multilateral effort, with wide support. Washington announced that its “Coalition” had attracted 49 countries.<sup>17</sup> But some of the members contributed no military contingents, while many others participated only in a symbolic way. Kazakhstan’s contingent in 2003 numbered 29, Moldova’s 24 and Iceland’s just two.<sup>18</sup> The military force that invaded Iraq was almost entirely composed of US and UK combat units. The total force numbered just over 300,000 ground troops, as well as large naval and air assets.<sup>19</sup>

Massive aerial bombardment, to “shock and awe,” preceded the ground campaign. The US made use of reprehensible weapons such as napalm, depleted uranium munitions and cluster bombs, an early sign that the Coalition would exercise little moral or legal restraint.<sup>20</sup> Saddam Hussein’s troops were no match for the enormous military might brought into the field by the United States. In just under three weeks, on April 8, Coalition forces entered Baghdad. Though many Iraqis welcomed the fall of the dictator, they did not throw flowers or cheer the

arrival of the Coalition troops, as some Washington pundits had predicted. Soon after, on May 2, President Bush gave his “mission accomplished” speech aboard the aircraft carrier Abraham Lincoln.

### **Destruction of the Iraqi State and the Breakdown of Public Order**

In the first days of the occupation, the Coalition demobilized the Iraqi police force and army, laying open Iraqi cities to looting and arson while the Coalition military stood by. Seventeen government ministries were gutted, including the Ministries of Education, Health, Culture and Trade, while Coalition forces protected only the Oil Ministry.<sup>21</sup> Fires destroyed most Iraqi government records, while thieves made off with furniture, computers, and everything else, even ripping copper wires out of the walls to sell for scrap. Looters simultaneously attacked banks, businesses and even major hospitals. Iraq’s leading cultural institutions were sacked, including the National Museum and National Library and many were badly damaged by fire. Concerned Iraqis, international scholars and humanitarian leaders pleaded with Coalition officials and military commanders to protect Iraq’s institutions and cultural treasures, but to no avail.<sup>22</sup>

In the absence of any civil authority, there began robberies, kidnappings, murders and the settling of scores from the old regime. Chaos ruled the neighborhoods and many people sought arms to defend themselves. A strange nonchalance seemed to grip the Coalition leadership. “Stuff happens,” said US Defense Secretary Rumsfeld, shrugging off the looting of the National Museum in a news conference on April 11.<sup>23</sup>

In May, the Coalition took a final step to disband the army and cancel all military pensions, stripping 400,000 families of their main livelihood.<sup>24</sup> A radical “de-Baathification” was also set in motion, which purged more than 30,000 members of the old ruling party from all official posts, with virtually no effort to exempt those who were innocent of the crimes of the old regime.<sup>25</sup> This removed many of the most qualified people from state service, dealing a devastating blow to what was left of the old state apparatus.

### **The Strange Postwar Role of the Security Council and the UN**

Having refused to authorize the use of force, the Security Council sharply reversed course after the invasion. Keen to avoid further tension with Washington and persuaded that no alternative options were available, Council members agreed to several resolutions that conceded legality to the occupation and provided it with financing from Iraq’s oil revenue. Resolution 1483 of May 22, 2003 recognized the US and the UK as “occupying authorities,” an effort to insure compliance with international humanitarian law. At the same time, the resolution also gave the Coalition the right to sell Iraqi oil, to take billions of dollars from the UN’s Oil for Food accounts and to spend as they saw fit for “purposes benefiting the Iraqi people.”<sup>26</sup> The Council’s anti-war majority was hopeful that, as the resolution insisted, the UN would play a “vital role” in Iraq, eventually taking over real responsibility. But this was self-deception. The US had no intention of ceding authority to the United Nations and left only the most marginal role to it.

Sergio Vieira de Mello, the UN's Special Representative in Baghdad, tried to stake out an independent function for the UN, but the US-led administration in Iraq gave him little room for maneuver, rejecting his proposals for broad consultation with Iraqis of all political persuasions. The "vital role" foreseen by the Security Council never materialized. On August 19, 2003, a truck bomb destroyed UN headquarters in Baghdad, killing Vieira de Mello and thirteen members of his staff. Thereafter, the organization drastically reduced its presence in the country and moved its Iraq operations to Amman, Jordan.

Yet in October 2003, the Security Council took another fateful step with Resolution 1511. In exchange for US-UK promises that a political process would soon lead to elections and a turnover of authority to Iraqis, the Council gave an official UN mandate to the occupation, making the Coalition a "multinational force" (MNF). The US and the UK afterwards stepped up their claims that they were acting on behalf of the UN and that the UN has provided legal authorization for what they do.

Since that time, despite the many violations of international law by the Coalition, the Council has twice renewed the mandate.<sup>27</sup> But it has never exercised any meaningful oversight of the MNF nor has it had a frank and full discussion of the Iraq matter. A few ambassadors, like Juan Gabriel Valdes of Chile and Adolfo Aguilar Zinser of Mexico, tried to press the issue early on, but Washington forced their governments to recall them, making it very clear that no dissent would be tolerated.<sup>28</sup> As other ambassadors have reported ruefully since then, Washington does not even accept

questions when it presents periodic reports to the Council in the name of the MNF.<sup>29</sup>

### **US Rule in Iraq**

In place of the Iraqi state, the US established the Coalition Provisional Authority (CPA), a governing body without Iraqi participation, headed by Paul Bremer, a Pentagon appointee.<sup>30</sup> Bremer set up his offices in Saddam's former Republican Palace and ruled the country by decree, with almost unlimited powers. To protect the unpopular CPA from a growing Iraqi resistance movement, Bremer organized a tightly-controlled, four square mile security area in the middle of Baghdad known as the "Green Zone," where the CPA and the military high command could live and work in relative safety. With virtually no Arabic speakers and only the most minimal knowledge of the country, Bremer and his team of youthful Republican enthusiasts from Washington set out to rebuild Iraq according to neo-conservative principles.

Bremer radically restructured Iraq's public institutions and the Iraqi economy. He issued over a hundred sweeping decrees. In one of the first such "Orders," he suspended all tariffs, customs duties and import fees, opening Iraq's economy to the effects of free trade after years of protectionism. Meanwhile, the CPA was freely spending Iraq's oil revenues and the billions taken over from the UN Oil-for-Food account. CPA staff and military officers handed out millions in cash, in hopes of winning Iraqi friends and "jump starting" the Iraqi economy. A spirit of corruption, beginning in the CPA itself, quickly took root. Halliburton, Parsons, Fluor and other huge con-

struction companies, took billions in “reconstruction” contracts.<sup>31</sup> Behind the scenes, planning was under way for the privatization of Iraq’s fabulous oil resources, from which US and UK companies like Exxon, Shell and British Petroleum expected an enormous profit. While Bremer gave wide publicity to a newly-created Iraq stock exchange, Iraq’s banking system was dysfunctional, its industry collapsing, and even its vital oil sector sinking. Unemployment and poverty rose steadily.

### Repression

In the absence of a functioning local police, Coalition forces faced directly the increasingly unhappy populace. Troops were totally unfamiliar with the local culture and unable to communicate with the people in their language. These inexperienced and unprepared soldiers were heavily armed and backed up by deadly air power and long-distance artillery. Their first impulse was to take up positions in the heart of Iraqi cities, provoking immediate conflict.

In Falluja, soon after taking control, US forces seized a school in the city center as a military outpost. Fallujans demanded the facility back for their children. On April 28, 2003, just five days after the US army moved into the city, several hundred protesters assembled in front of the building. It was a key test of democratic dissent after the dictatorship. Edgy US soldiers opened fire on the crowd with automatic weapons, killing seventeen and wounding more than seventy.<sup>32</sup> Two more bloody incidents followed in the next three days. Falluja soon became a center of the anti-occupation resistance. Similar incidents took place in Mosul and other cities.

As clashes of this kind spread, the Coalition reacted with increasingly repressive force. Military squads began to enter and search houses, kicking down doors, destroying furniture, shouting orders (in English) and arresting inhabitants.<sup>33</sup> In neighborhood sweeps, troops summarily arrested hundreds of Iraqis, subjecting them later to abusive interrogation. Soon, thousands of Iraqis were locked up in Coalition jails and prison camps, without charge and with no opportunity to defend themselves in court.<sup>34</sup> Torture began in the very earliest weeks.<sup>35</sup>

The Coalition also used extensive covert operations, with thousands of special forces including Army Rangers, Navy Seals, Delta Force, and the UK Special Air Services.<sup>36</sup> Additionally there were CIA and MI6 units, special groups of Military Intelligence and other “black ops” forces. In the name of the search for Saddam and the pursuit of terrorists, these shadowy forces carried out secret military-type operations, seizure of suspects and extremely brutal interrogations in secret camps.<sup>37</sup>

Finally, the Coalition brought to Iraq large numbers of private military contractors, soon to number in the tens of thousands.<sup>38</sup> Some, like employees at Blackwater, DynCorp and CACI International, were former US Special Forces soldiers, police officers, intelligence service personnel and others with special skills in clandestine warfare, interrogation, force protection, and the like. Heavily armed and exempt from any accountability, even under the military justice system, these soldiers of fortune were highly-paid and drawn from many countries in addition to the US and the UK.<sup>39</sup> They were deployed as interrogators in Coalition prisons, bodyguards for

Coalition officials in the Green Zone, “force protection” units, special warfare squads, trainers of Iraqi commando units and much more.<sup>40</sup> They epitomized the option of violence and repression that was the unwavering strategic choice of the occupation authorities.

### **Coalition-Sponsored Militias, Commandoes, and Death Squads**

The Coalition created or expanded Iraqi irregular forces. Before the invasion, the US and the UK had given covert support to Kurdish peshmergas -- party/tribal militias in Iraqi Kurdistan.<sup>41</sup> In 2003, they numbered tens of thousands of fighters. Coalition commanders announced that the peshmergas could keep their weapons and maintain their units, since they were considered as operating “under Coalition supervision.”<sup>42</sup> Peshmergas enforced Kurdish rule over non-Kurdish minorities in the North. And the Coalition command used peshmergas to attack insurgent targets in the North and Center. This policy promoted Kurdish separatism and greatly increased Sunni and Shia resentment against the Kurds.

The US had also armed, trained and funded a sizeable militia of the Iraq National Congress under the leadership of Ahmad Chalabi, an Iraqi exile who was a Pentagon favorite and tipped as a future prime minister. This militia, called the “Free Iraq Forces,” was set up in 2002 and enjoyed multi-million dollar funding by the Pentagon.<sup>43</sup> Very shortly after the invasion, the US air force flew Chalabi and 600 of his militia into Nasiriya in the South.<sup>44</sup> A multi-million dollar CPA contract (nominally to guard oil installations), later reportedly bankrolled the militia, as did a stipend to the INC/Chalabi from the Pentagon of

\$342,000 a month.<sup>45</sup> Chalabi’s forces fought pitched battles with rivals in Baghdad. Many accused them of car theft, fraud, illegal seizure of assets of former Baathists, and outright murder.

The Scorpions were yet another irregular Iraqi force, built by the CIA and operating from the beginning very clandestinely.<sup>46</sup> This force came to light most prominently in the brutal beating (and eventual death) of an Iraqi detainee in US custody in November 2003.<sup>47</sup>

By the fall of 2003, Washington had clearly opted for a dirty war. A war-funding bill, proposed by the Pentagon and passed by Congress in November included \$3 billion in monies for Iraqi militias.<sup>48</sup> After mid-2004, the Coalition made increasing use of Iraqi irregular forces as well as special units set up under the nominal control of the Iraqi Ministry of the Interior.

Pentagon sources and news reporters spoke of this policy as “the Salvador option,” referring to US counter-insurgency tactics in Central America in the 1980s.<sup>49</sup> James Steele, a special advisor in the US embassy who had played a key role in the dirty wars of Central America, was assigned to advise many of these units.<sup>50</sup> New irregular units, set up in the summer and fall of 2004, included the Hilla SWAT Team, the Iraqi Freedom Guard, the Amarah Brigade, and the Special Police Commandos, sometimes referred to as the Wolf Brigade.<sup>51</sup> Many were trained and armed by the Coalition.<sup>52</sup> Some functioned as death squads, carrying out targeted assassinations. Many of the Iraqi commanders were former officers of Saddam’s secret police and special army units, restored again to favor after the

wholesale de-Baathification purges.<sup>53</sup> Some of these groups were extremely violent and undisciplined and they sometimes ran amok, looting, burning, torturing and executing.

Violence multiplied. Ethnic and religious groups as well as political parties set up militias for their own defense (or for aggressive political ends). SCIRI, the leading Shia political party, expanded its Badr Brigades, while cleric Moktada al-Sadr strengthened his Mahdi Army.<sup>54</sup> Neighborhoods and political leaders hired armed guards. Government figures used official police and army units as semi-independent militias. Armed gangs came into being to carry out lucrative kidnappings in cities as well as armed robbery and the seizure of goods on highways. The Coalition, by playing the militia card, had redoubled the violence in the country and further undermined the state.

### **“A Free and Sovereign Iraq”**

From the beginning, the United States and its partners insisted that they were establishing a democratic Iraq that would soon be a model for the entire region. But in practice, they ruled with minimal consultation and little understanding of the country and its people. For a year, the Coalition Provisional Authority ruled Iraq from its confines in the Green Zone, promulgating orders, decrees, memoranda and public notices.<sup>55</sup> Most of the CPA staff worked on six-month assignments and had little opportunity to learn about the country before heading home.<sup>56</sup>

Bremer and the CPA set up a “Governing Council” made up of US-handpicked Iraqis, friendly to the occupation.<sup>57</sup>

Many had spent decades in exile and they had few roots in contemporary Iraq. Some, like Iyad Allawi and Ahmad Chalabi, had worked for years directly on Washington’s payroll.<sup>58</sup> By naming the Governing Council on the basis of sectarian affiliation and “balance,” the CPA gave prominence to the sectarian dimension of Iraqi politics and deepened sectarian rivalries.<sup>59</sup> “Divide-and-rule” tactics seemed to be at work.

At the end of June 2004, the CPA turned over “sovereignty” to Iraqis and dissolved itself. The Coalition announced that a “sovereign” Iraqi Interim Government was now in charge and in New York the Security Council welcomed the transition.<sup>60</sup> The new Interim Government had been hand picked by Bremer, with the assistance of UN special envoy, Lakhdar Brahimi. Though supposedly composed of technocrats, it contained familiar personalities, chosen and presented (again) according to sectarian identity.<sup>61</sup> CIA-linked Allawi was the new Prime Minister. Bremer finally departed with most of his staff, but an enormous US presence remained.

The trappings of sovereignty had been put in place. Iraq again had ministries, civil servants, a nascent police force and army, as well as prisons, a Ministry of Finance, even an intelligence service. And, of course, there were elections -- touted by the Coalition as proof of success and the ultimate benchmark of democracy. But the reality was quite different. Ambassador John Negroponte, who followed Bremer, continued to exercise overwhelming influence in the country, at the head of the world’s largest US embassy. Each ministry had dozens of US “advisors” guiding policy.<sup>62</sup> The army was entirely under US com-



mand and the intelligence service took its orders (and payroll) from the CIA.<sup>63</sup>

The initial elections for the 275-member Iraqi National Assembly took place on January 30, 2005. Because of dangerous security conditions, international election experts supervised the elections from outside the country, relying on information from mostly partisan Iraqi monitors. The International Mission for Iraqi Elections declared that the elections “generally met recognized standards.”<sup>64</sup> Critics, though, complained that the elections were organized on a flawed basis with a single national constituency and unified lists of candidates, that no meaningful campaigning had been possible, and that the elections had taken place under conditions that violate international human rights standards.<sup>65</sup> Another cloud over the election was the extremely low Sunni turn out.

The process of drafting and approving a new Constitution was also problematic, leading to further sectarian rancor. The referendum ground-rules, stipulated in the interim constitution, were changed at the last minute before the vote of October 15, 2005<sup>66</sup> and voting irregularities cast a shadow over the results.<sup>67</sup> Instead of the widely-expected rejection, the constitution was declared adopted. Parliamentary elections followed on December 15 with an outcome that gave power to sectarian blocs of Kurdish and Shia parties. The political process had become increasingly sectarian and rising violence made issue-based campaigning virtually impossible. When finally a new constitutional parliament took office in early 2006, the fleeting hopes generated by the elections had already begun to fade among the Iraqi public. Months of maneuvering were required to form a

government. The political leadership under Prime Minister Nouri al-Maliki proved weak, sectarian and incapable of uniting the country. Symbolically sited in the fortified Green Zone along with the huge US embassy, the parliament and the government leaders had little room for political maneuver. Corruption flourished in the ministries. Militias multiplied. The government’s authority scarcely had any meaning, inside or outside the Green Zone.

### **A Landscape of Massive Illegality**

In the chapters that follow, this report examines the tragic landscape of the occupation. It shows in detail how US forces used indiscriminate and especially injurious weapons and how the Coalition failed to act to prevent the destruction of Iraqi institutions and cultural heritage, including hospitals, universities, libraries, museums and archeological sites. The report also shows how the Coalition used massive military might that badly damaged or destroyed a dozen of Iraq’s cities, displacing hundreds of thousands of people.

Coalition forces have held thousands of Iraqis in unlimited detention without charge or trial, subjecting many to abusive interrogation and torture. Coalition troops routinely kill Iraqi civilians at checkpoints, during house searches, and during military operations of all kinds and Coalition troops have committed murder and atrocities. A “reconstruction” program has squandered billions of dollars in Iraqi funds through theft, fraud and gross malfeasance.

The report documents how hundreds of thousands of Iraqis have died. More than four million have been displaced, includ-

ing over two million that have fled the country. Poverty is widespread, illness and mortality of children exceptionally high, and food insecurity rising steadily. Iraqis vigorously oppose the long-term bases that the US is constructing and the enormous embassy complex that symbolizes hegemony. By an overwhelming majority, Iraqis want the Coalition to withdraw, as repeated public opinion polls show.

For some readers, the broad themes of the report will be familiar. But the chapters seek a deeper and more complete picture than has previously been available. The report describes a landscape of massive illegality and violence. Documenting the many gross violations of international law, the report calls on the international community to address the Iraq crisis and find alternatives for the future. Peace cannot return to Iraq as long as the occupation continues.

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<sup>1</sup> White House, *Press Briefing by National Security Advisor Dr. Condoleezza Rice* (April 4, 2003)

<sup>2</sup> Yochi J. Dreazen and Christopher Cooper, "Behind the Scenes, US Tightens Grip on Iraq's Future" *Wall Street Journal* (May 13, 2004). Also see Bradley Graham and Robin Wright, "Aid to Iraq Ministries To Shift to Pentagon" *Washington Post* (September 26, 2005)

<sup>3</sup> See Mark Phythian, *Arming Iraq: How the U.S. and Britain Secretly Built Saddam's War Machine* (Boston, 1997)

<sup>4</sup> The sanctions continued for many years against the wishes of most members of the Security Council because the US and the UK could use their vetoes to block any effort to bring the sanctions regime to an end. See Global Policy Forum et al, *Iraq Sanctions: Humanitarian Options and Implications for the Future* (August, 2002)

<sup>5</sup> UN Security Council Meeting 4701 on Iraq, Verbatim Transcript S/PV.4701 (February 5, 2003) p.5

<sup>6</sup> See US Central Intelligence Agency, *Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD* (September 30, 2004)

<sup>7</sup> Richard Clarke, *Against all Enemies* (New York, 2004) Clarke was the chief counter-terrorism expert on the National Security Council in the Bush administration's early years.

<sup>8</sup> Sir Christopher Meyer, *DC Confidential* (London, 2005). Meyer was the UK ambassador in Washington at the time.

<sup>9</sup> "Iraq: Prime Minister's Meeting, 23 July [2002]" Secret memorandum of a meeting of senior UK civil servants and ministers at 10 Downing Street, leaked to the Sunday Times and published May 1, 2005. Its authenticity has never been disputed. See Walter Pincus, "British Intelligence 'Warned of Iraq War'" *Washington Post* (May 3, 2005)

<sup>10</sup> Assessment of the British Government, *Iraq's Weapons of Mass Destruction* (September 24, 2002) and UK 10 Downing Street, *Iraq: Its Infrastructure of Concealment, Deception and Intimidation* (February 3, 2003)

<sup>11</sup> "Powell Calls Pre-Iraq U.N. Speech a 'Blot' on his Record" *Associated Press* (September 8, 2005)

<sup>12</sup> Lord Goldsmith, the chief legal officer of the UK government dissented from the self-defense argument in his private advice to the Prime Minister (March 7, 2003), saying that only a resolution of the Security Council authorizing the use of force would make the UK military engagement legal under international law

<sup>13</sup> Ross worked at the UK's UN Mission for four and a half years, from December 1997 until June 2002. His testimony was kept secret and only made public 30 months later after pressure from members of Parliament. See "Full Transcript of Evidence given to the Butler Inquiry, Supplementary Evidence Submitted by Mr. Carne Ross, Director, Independent Diplomat," dated June 9, 2004, published by the *Independent* (December 15, 2006). See Colin Brown and Andy McSmith, "Diplomat's Suppressed Document Lays Bare the Lies Behind Iraq War" *Independent* (December 15, 2006)

<sup>14</sup> US Senate, 109<sup>th</sup> Congress, 2<sup>nd</sup> Session, *Report of the Select Intelligence Committee on Postwar Findings on Iraq's WMD Programs and Links to Terrorism and How They Compare with Prewar Assessments* (September 8, 2006). A report by the Inspector General of the Department of Defense, released to the Congress on April 5, 2007, came to the same conclusion. See "Hussein-Qaeda Link 'Inappropriate,' Report Says" *Bloomberg News* (April 6, 2007)

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<sup>15</sup> White House Press Release, *Remarks by the President to the Military Personnel and Their Families Marine Corps Base Camp Lejeune, North Carolina* (April 3, 2003)

<sup>16</sup> See Dilip Hiro, "Outside Powers," in *The Longest War* (New York, 1991) and Mark Phythian, *Arming Iraq: How the US and Britain Secretly Built Saddam's War Machine* (Boston, 1997). Also see Human Rights Watch, *Annual Report: Iraq* (1989)

<sup>17</sup> White House Press Release, *Iraq Coalition* (March 27, 2003)

<sup>18</sup> See for example US Department of State, Office of the Coordinator for Counterterrorism, "Patterns of Global Terrorism" (April 29, 2004); US CENTCOM, "International Contributions to the War on Terror" (January 10, 2005); Sewell Chan, "Rumsfeld Thanks Kazakhstan" *Washington Post* (February 26, 2004); Globalsecurity.org, *Iraq Coalition Troops* (February 2007)

<sup>19</sup> Jim Garamone, "More than 100,000 Coalition Troops in Iraq" *American Forces Press Service* (March 31, 2003)

<sup>20</sup> See chapter 3 of this report: Indiscriminate and Especially Injurious Weapons.

<sup>21</sup> The White House website notes that the Ministry of Health was "completely looted". For details on the Oil Ministry see Andras Riedlmayer, "Yes the Oil Ministry Was Guarded" *Iraq War and Archeology* (May 7, 2003)

<sup>22</sup> See detailed information in Chapter 2: Destruction of Cultural Heritage.

<sup>23</sup> Department of Defense, *News Briefing by Secretary of Defense Donald Rumsfeld and General Richard Meyers* (April 11, 2003). See Sean Loughlin, "Rumsfeld on Looting in Iraq" *CNN* (April 12, 2003)

<sup>24</sup> See Coalition Provisional Authority, Order Number 2: *Dissolution of Entities* (May 23, 2003)

<sup>25</sup> Toby Dodge, "Staticide in Iraq" *Le Monde diplomatique* (February 2007)

<sup>26</sup> The US eventually took more than \$8 billion – the remaining balances in the UN Oil-for-Food account.

<sup>27</sup> See UN Security Council Resolutions S/RES/1637(2005) and S/RES/1723 (2006)

<sup>28</sup> Maggie Farley and Richard Boudreaux, "Mexico's Envoy to UN Leaves, With Defiance" *Los Angeles Times* (November 22, 2003)

<sup>29</sup> Private communication with former ambassadors on the Council.

<sup>30</sup> Bremer had served in the State Department for many years and from 1989-2000 had been a Managing Director of Kissenger Associates. His biographies describe him as a counter-terrorism expert. See the bio presented by the CPA website <http://www.iraqcoalition.org/bremerbio.html>

<sup>31</sup> See chapter 9 of this report: Corruption, Fraud and Gross Financial Negligence.

<sup>32</sup> In another incident on April 30, US forces opened fire again on a crowd, killing three and wounding sixteen. See Human Rights Watch, *Violent Response: the U.S. Army in al-Falluja* (June 17, 2003) According to HRW, Fallujan protester were also outraged that US observers posted on the high rooftop could see into the privacy of local dwellings, dishonoring the women.

<sup>33</sup> See chapter 7 of this report: Killing Civilians, Murder and Atrocities.

<sup>34</sup> See chapter 4 of this report: Detention and Prisons.

<sup>35</sup> See chapter 5 of this report: Prisoner Abuse and Torture.

<sup>36</sup> Seymour Hersh, "Moving Targets" *New Yorker* (December 15, 2003). Also see Matthew B. Stannard, "Special Forces Have Scoped Iraq for Weeks" *San Francisco Chronicle* (March 21, 2003)

<sup>37</sup> Thom Shanker, "Special Operations in Iraq: High Profile But in the Shadow," *New York Times* (May 29, 2007) and Human Rights First, "Command's Responsibility," (February, 2006)

<sup>38</sup> The US Government Accountability Office estimated that as of March 2006 there were approximately 181 private security companies, with over 48,000 employees working in Iraq. See US Government Accountability Office, Testimony Before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, Statement of William Solis, Director Defense Capabilities and Management, *Rebuilding Iraq: Actions Still Needed to Improve the Use of Private Security Providers* (June 13, 2006)

<sup>39</sup> Human Rights Watch, *Private Military Contractors and the Law* (May 5, 2004)

<sup>40</sup> See Jeremy Scahill, *Blackwater* (New York, 2007) and Amnesty International USA, *Human Rights Responsibilities of Private Companies Operating in Iraq*.

<sup>41</sup> See for instance Kenneth Katzman, "Iraq: US Efforts to Change the Regime" *Congressional Research Service* (March 22, 2002); Scott Peterson, "Kurds Ready to Be Next N. Alliance" *Christian Science Monitors* (March 28, 2002); "US Intelligence Teaming up with Kurds" *Houston Chronicle* (December 22, 2002)

<sup>42</sup> Patrick E. Tyler, "U.S. May Let Kurds Keep Arms, Angering Shiites" *New York Times* (May 24, 2003)

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<sup>43</sup> US General Accounting Office, Report to Congressional Requesters, *State Department: Issues Affecting Funding of Iraqi National Congress Support Foundation* (April 2004)

<sup>44</sup> Johanna McGeary, "Who Will Call the Shots?" *TIME* (April 14, 2003)

<sup>45</sup> Knut Royce, "A Start-Up Company with Connections" *Newsday* (February 15, 2004)

<sup>46</sup> Dana Priest and Josh White, "Before the War, CIA Reportedly Trained a Team of Iraqis to Aid US" *Washington Post* (August 3, 2005)

<sup>47</sup> Human Rights First, *Command's Responsibility* (February 2006) p. 8. The detainee was Major General Abed Hamed Mowhoush.

<sup>48</sup> Robert Dreyfuss, "Phoenix Rising" *The American Prospect* Volume 15, Issue 1 (January 1, 2004)

<sup>49</sup> Michael Hirsh and John Barry, "The Salvador Option" *Newsweek* (January 14, 2005)

<sup>50</sup> Peter Maass, "The Way of the Commandos" *New York Times Magazine* (May 1, 2005). Another important advisor who had been involved in US Latin American counter-insurgency operations was Steven Casteel.

<sup>51</sup> The *Wall Street Journal* identified six of these units. See Greg Jaffe, "New Factor in Iraq: Irregular Brigades Fill Security Void" *Wall Street Journal* (February 16, 2005) and "Bands of Brothers New Factor in Iraq: Irregular Brigades Fill Security Void" *Wall Street Journal* (February 23, 2005). See esp. A.K. Gupta, "Let a Thousand Militias Bloom" *NYC Indymedia Center* (April 22, 2005) and A.K. Gupta, "Iraq: Militias and Civil War" *Z Magazine* (December 2006)

<sup>52</sup> Lionel Beehner, "Iraq: Militia Groups" *Council on Foreign Relations* (June 9, 2005)

<sup>53</sup> Michale Hirsch and John Barry, "Special Forces May Train Assassins, Kidnappers in Iraq" *Newsweek* (January 14, 2005) and Peter Maas, "The Way of the Commandoes" *New York Times Magazine* (May 1, 2005)

<sup>54</sup> Beehner, *op.cit.*

<sup>55</sup> Between May 2003 and June 2004, CPA Administrator Paul Bremer issued 100 orders, 12 regulations, 17 memoranda and 12 public notices. See Coalition Provisional Authority website: <http://www.iraqcoalition.org>

<sup>56</sup> Special Inspector General for Iraq Reconstruction, *Lessons in Human Capital Management* (January 2006) p.14

<sup>57</sup> Coalition Provisional Authority Regulation Number 6, *Governing Council of Iraq* (July 13, 2003)

<sup>58</sup> For example, see Joel Brinkley, "Ex-C.I.A. Aides Say Iraq Leader Helped Agency in 90's Attacks" *New York Times* (June 9, 2004)

<sup>59</sup> Raad Alkadiri and Chris Toensing, "The Iraqi Governing Council's Sectarian Hue" *Middle East Research and Information Project* (August 20, 2003)

<sup>60</sup> UN Security Council Resolution S/RES/1546 (2004)

<sup>61</sup> Coalition Provisional Authority Regulation Number 10, *Members of Designated Iraqi Interim Government with Annex A* (June 9, 2004)

<sup>62</sup> Yochi J. Dreazen and Christopher Cooper, "Behind the Scenes, US Tightens Grip on Iraq's Future" *Wall Street Journal* (May 13, 2004). Also see Bradley Graham and Robin Wright, "Aid to Iraq Ministries To Shift to Pentagon" *Washington Post* (September 26, 2005)

<sup>63</sup> Ned Parker, "Divided Iraq Has Two Spy Agencies" *Los Angeles Times* (April 15, 2007)

<sup>64</sup> International Mission for Iraqi Elections, *Final Report Assessment of the January 30, 2005, Election Process* (2005)

<sup>65</sup> Asian National Exchange for New Alternatives, *Open Letter to UN Secretary General Kofi Annan on the Elections in Iraq* (January 26, 2005)

<sup>66</sup> "UN Condemns Iraq Charter Change" *BBC* (October 4, 2005)

<sup>67</sup> For example, see Dexter Filkins, "Vote Totals Under Inquiry in 12 Iraqi Provinces, Panel Says" *New York Times* (October 17, 2005); "Iraq Vote Counts 'Points to Fraud'" *BBC* (October 18, 2005)

## Chapter 2

### Destruction of Cultural Heritage

*“Stuff happens . . . Freedom is untidy.”*

– US Secretary of Defense Donald Rumsfeld<sup>1</sup>

**D**uring the war and occupation, the Coalition has failed to protect Iraq’s incomparable cultural heritage, exposing it to looters and art thieves. The National Library and the National Museum,<sup>2</sup> along with many other important cultural institutions, were badly damaged and looted in the early days of the occupation. Since then, the Coalition has built encampments on sensitive archaeological sites and destroyed historic cities during military operations. In spite of many pleas from around the world, the occupiers have left Iraq’s archeological sites exposed to thieves, in gross disregard of international law. Looters have now pillaged dozens of the most important sites and every day the looting continues.

#### Warnings and Other Opinions as War Approached

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. Eight thousand years of history in the fertile valley of Mesopotamia produced some of the world’s greatest cultural treasures and sites, in the land that is now Iraq. This rich heritage includes collections of extraordinary museums and libraries, as well as historic buildings, old cities, and hundreds of important archeological

sites. Some of the world’s leading scholars of archaeology, art and history warned of damage during military operations and especially the danger of post-war looting.<sup>3</sup>

In January 2003, a delegation of scholars, museum directors, art collectors and antiquities dealers met with officials at the Pentagon to discuss the implications of the invasion.<sup>4</sup> They warned that Baghdad’s National Museum was the single most important site in the country.<sup>5</sup> One of the delegation members, McGuire Gibson of the University of Chicago, twice returned to the Pentagon to discuss precautions the Coalition should take.<sup>6</sup> He and his colleagues sent several e-mail reminders to military commanders in the weeks before the war began.<sup>7</sup> “I thought I was given assurances that sites and museums would be protected,” Gibson later remarked.<sup>8</sup>

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.<sup>9</sup> They reminded US and UK leaders of their responsibilities under international law, notably the 1954 Hague Convention for the Protection of Cultural Properties in the Event of

Armed Conflict.<sup>10</sup> They urged that protection of Iraq's cultural sites and institutions be a high priority for the occupying forces.<sup>11</sup>

But 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.<sup>12</sup> 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."<sup>13</sup>

Council members met with officials in the State Department and the Pentagon prior to the war and again in April 2003.<sup>14</sup> 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.<sup>15</sup>

Concerned scholarly organizations were alarmed at this new lobby group. Many scholars have argued that trade and collecting of antiquities tend to fuel the looting and destruction of archeological sites, as well as promoting theft from museums.<sup>16</sup> Dominique Collon of the British Museum, commenting in early 2003 on the collectors' lobbying, said: "This is just the sort of thing that will encourage looting. Once there is American blessing they have got a market for

these antiquities and it becomes open season. The last thing we want is condoned looting."<sup>17</sup>

### **The Early Looting**

The troops that captured Baghdad and other Iraqi cities in early April 2003 did not act to protect cultural sites. They neither took up protective positions nor prevented acts of looting and destruction, even when asked to do so by concerned civilians.<sup>18</sup> Since the most important cultural institutions stood in two small areas of the city, military commanders could have taken simple steps, such as those used to safeguard Iraq's Oil Ministry. Several tanks and detachments of foot soldiers, were stationed nearby. They could easily have intervened, but the soldiers said their orders prevented them from getting involved.<sup>19</sup> Having demobilized the Iraqi army and police force, Coalition commanders exposed Iraq's cultural treasures to great danger and almost certain damage.

Attacks on the heritage sites began soon after the old regime collapsed, as part of widespread looting and destruction of government buildings and other targets. As the art scholars had warned, looting often happens when public order breaks down, even in cities like Montreal and New York.<sup>20</sup> In Iraq, looters seem to have had several different motivations. Some were expressing their anger at the old regime. Some were neighborhood thieves. Some appear to have been organized political groups (such as those that burned the archives of the Saddam era in the National Library). And some were well-organized art thieves with knowledge of what they were after. 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.<sup>21</sup>

While art thieves took the world-class exhibition objects, rare books, and other high-value items, local neighborhood looters made off with computers, printers, photocopy machines, conservation materials, lighting fixtures, furniture, carpets, generators and air conditioners. Some looters even tore copper wiring out of the walls and removed windows and doors. For various reasons, the looters set fires, leaving extreme devastation behind.<sup>22</sup>

Many concerned Iraqis took risks and made great efforts to prevent the looting and to protect the endangered cultural heritage. Institution staff secured many of the most precious objects in basement storerooms or special bunkers.<sup>23</sup> While Baghdad was under air attack, and even after the looting started, rescue efforts were undertaken. A local imam arranged to store part of the National Library's collections in the local Haqq mosque for safekeeping.<sup>24</sup> Volunteers carried thousands of books and manuscripts through the streets, even though armed looters might have attacked them at any time. The imam also helped library staff to weld shut a steel fire door to prevent further looting.<sup>25</sup>

As early news of cultural destruction spread, international cultural bodies and scholarly groups renewed their pleas to Coalition military and civilian leaders. In Iraq, staff and officials of cultural institutions also made urgent requests for protection, both to troops stationed in the neighborhood and to officers at headquarters in the Palestine Hotel.<sup>26</sup> But

commanders still failed to act quickly. On April 11, at the height of the looting, US Defense Secretary Donald Rumsfeld dismissed reports of cultural devastation from Baghdad as misplaced and exaggerated.<sup>27</sup> Damage continued for days.<sup>28</sup>

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.<sup>29</sup>

### **Detailed Losses to Manuscript Collections, Archives and Libraries**

The National Library in Baghdad suffered two fires – on April 10 and 12 – which badly damaged a major section at the front of the building.<sup>30</sup> About a quarter of the total book collection was looted or burned, including rare books and newspapers. Fire consumed as much as 60% of the Ottoman and royal Hashemite documents, and nearly all government archives of more recent vintage went up in smoke.<sup>31</sup> Virtually all the collection of maps and photographs was destroyed.<sup>32</sup> Ash and soot damaged much of the remaining collections.<sup>33</sup>

Baghdad's other major libraries suffered as well. The National Manuscript Library building sustained serious damage due to fire and looting, but librarians and local citizens managed to save its collections in a special bunker.<sup>34</sup> Thieves pilaged and partially burned the manuscript collections of the Beit al-Hikma – the House of Science.<sup>35</sup> Fire badly damaged the Library of Religious Endowments. Curators saved much of the manuscript collections, though more

than 1,000 were stolen and more than 500 burned.<sup>36</sup> A number of other Baghdad libraries suffered from looting, including the Iraqi Academy of Sciences library, the al-Mustansiriya University Library, and the Baghdad Medical College Library.<sup>37</sup> The entire library of the University of Baghdad's College of Arts burned to ashes.<sup>38</sup>

Outside Baghdad, where Coalition protection was likewise nil, similar disasters struck. The Central Library of the University of Basra went up in flames, with a loss of at least 70% of its collections. Other university and municipal libraries of that city suffered a similar fate.<sup>39</sup> Vandals looted the Mosul University central library, which lost up to a third of its collections.<sup>40</sup>

### **Losses to Museums and Damage to Historic Buildings**

Looters struck the National Museum on three separate occasions between April 10 and 12<sup>th</sup> while Coalition forces did nothing. Thieves took 14-15,000 objects altogether, including coins, sculpture, ceramics, metalwork, architectural fragments, cuneiform tablets and most of the Museum's collection of valuable Sumerian cylindrical seals.<sup>41</sup> The famous alabaster "Warka Lady" dating from about 3100 BC disappeared, along with forty other objects of world renown. On April 16, four days after the looting ended, Coalition forces finally came to secure the premises.<sup>42</sup> Luckily, the museum's curators had transferred many objects in the collection to safe bunkers prior to the war and these were mostly intact. The Museum lost much of its card catalogues and computer files, including unique records of archaeological digs.

Outside Baghdad, looters and thieves attacked other important institutions including the Mosul Museum. There they stole hundreds of objects, including sixteen bronze Assyrian door panels from the city gates of Balawat (9th century BC), as well as reliefs and clay cuneiform tablets from important sites such as Nineva and Nimrud.<sup>43</sup> Rare books, maps and manuscripts also disappeared.<sup>44</sup>

Looters damaged or destroyed some of Iraq's most beautiful historic buildings and old city neighborhoods. In Baghdad, US forces failed to stop 12 weeks of plunder of the city's old cultural and administrative center, an area that includes the 12th century 'Abbasid Palace, the 14th century Madrasa al-Mustansiriya, the 16th century Saray Mosque, the Suq al-Saray (a handsome covered marketplace where old books were sold) and the 19<sup>th</sup> century Saray administrative complex.<sup>45</sup> The thieves looted and set several buildings on fire, taking furniture, fixtures, doors, windows, wall paneling, and floor tiles. They stripped everything, including even architectural details.<sup>46</sup> Over several months, thieves freely took apart some of the Ottoman Qishla (barracks) in Baghdad brick by brick.<sup>47</sup> As a Blue Cross report concluded, during the many weeks of pillage: "appeals to the cultural committee of the Coalition Provisional Authority were fruitless."<sup>48</sup>

### **Looting of Archaeological Sites**

Iraq's archaeological sites include more than 150 ancient Sumerian cities and towns as well as the later great capitals of Babylon, Nimrud and Nineva. Altogether, there are about 12,000 sites in the country.<sup>49</sup> Scholars had pointed out to Coalition authorities that looting de-



stroys the archaeological record which is the very basis for our understanding of ancient history. The record can only be understood by careful excavation and record keeping by professional archaeologists.<sup>50</sup>

The Coalition provided the sites with almost no meaningful protection. As a result, looters set immediately to work. Thousands of local Iraqis, many apparently in the pay of art thieves, descended on the sites, using shovels and even backhoes to dig for valuable coins, cylinder seals, pottery, clay tablets, stone carvings and other items.<sup>51</sup> The most intense looting has been in the South, where the most ancient sites are located.<sup>52</sup>

In October 2003, a knowledgeable military officer commented that although the CPA had hired 1,675 Iraqi guards to protect 3,000 sites “they are inadequately trained and equipped,” and they “have little formal security training, communications assets or vehicles.”<sup>53</sup> In November 2003, Dr. John Malcolm Russell, a CPA cultural advisor, said bluntly that for the Coalition “the protection of archaeological sites is not a priority.”<sup>54</sup>

Over time, the looters have become increasingly audacious and well-organized. At some major sites, thieves have hired hundreds of people to do the work, bussing them in from local towns. The Iraqi government has paid little attention to the issue. Its budget for guards to protect the sites ran out of funds in mid-2006, even though the cost for proper protection would probably be no more than \$3-4 million.<sup>55</sup> In September 2006, McGuire Gibson told *The Washington Post* “There has been looting of sites on an industrial scale. Some of the

greatest Sumerian sites have gone.”<sup>56</sup> The World Monuments Fund commented bitterly that Iraq’s sites “are being ravaged by looters who work day and night to fuel an international art market hungry for antiquities.”<sup>57</sup>

### Coalition Cultural Destruction

Coalition military operations have seriously damaged historic sites, landmark buildings and old city neighborhoods. They have had an especially harsh impact on old neighborhoods, including much of the central area of the holy city of Najaf, destroyed in a confrontation of Coalition forces with Mahdi Army irregulars in August, 2004. Coalition bombardment destroyed 65 mosques in the attack on Falluja in November 2004, while Coalition aerial and ground attacks have reduced old buildings to rubble in Tal Afar, Ramadi, Samarra and a number of other cities.

In some cases, Coalition forces have caused serious, irreversible damage to important archeological sites. The US military built bases on the sites of ancient Babylon and Ur. At Babylon, 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.<sup>58</sup> Polish troops camped at Babylon (known as Camp Alpha) from September 2003 to January 2005.

Dr. John Curtis, Keeper of the British Museum’s Near East Department, issued a scathing report on the overall damage.<sup>59</sup> He found military fortification

sandbags shoveled full of archaeological material from the site, including shards, bones, and ancient bricks. Parts of ancient buildings had collapsed.<sup>60</sup> International scholars and Iraqi leaders pled with US commanders, but the camp was not vacated until January 15, 2005. The Polish government later apologized for its complicity.<sup>61</sup>

### **Cultural Neglect and Lack of Protection During the Occupation**

In the early days of the occupation, in response to public criticism of the looting, the US and UK governments announced that they would take vigorous steps to recover the objects stolen from the National Museum, restore damage to the National Library and revive the culture of Iraq that had been so badly served during the era of Saddam Hussein. The State Department, USAID, the Library of Congress, the British Museum and the British Council all launched special programs.<sup>62</sup> Even the Pentagon, the FBI and the US Customs service got involved.

On April 15 2003, three days after the first news of the looting, the British Museum convened a press conference to pledge UK and international support for Baghdad's plundered National Museum. Ironically, during the news conference, a satellite phone call to the head of Iraq's Board of Antiquities revealed that the museum was still unprotected and exposed to further looting.<sup>63</sup> After protests by scholars and embarrassment at Downing Street, Coalition troops finally arrived to secure the museum the following day.

Washington later sent FBI agents and customs officers to Baghdad to track

down the lost National Museum objects. US Marine Colonel Matthew Bogdanos took charge of a recovery campaign, beginning in the local neighborhood. Iraqi clerics meanwhile had denounced cultural thievery and insisted that stolen objects be returned. An international effort eventually recovered, repurchased or seized in customs more than five thousand objects.<sup>64</sup> But in October 2003, after just six months, commanders reassigned Bogdanos and the hunt for museum objects lost momentum.

In the early days of the occupation, the Coalition Provisional Authority also named special advisors on cultural matters. John Agresto, the new CPA higher education chief, asked for an allocation of \$1.2 billion to revive Iraq's universities. But he got only \$9 million in the 2004 budget, as official enthusiasm quickly waned.<sup>65</sup> When he departed in 2005, he was not replaced.<sup>66</sup> A similar fate befell René Teijgeler, a Dutchman who was named Senior Consultant for Culture, with a portfolio that included libraries and museums. The CPA budgeted so little that Teijgeler could not begin to address the emergency. CPA chief Paul Bremer clearly had little interest in the subject. When Teijgeler left in 2005 he, too, was not replaced.<sup>67</sup>

The Library of Congress proposed an expansive plan for a new National Library, as well as a training program for Iraqi librarians, elaborated during a special mission to Baghdad in October, 2003.<sup>68</sup> The Washington experts decided that the new library should be housed in a beautiful modern building by the Tigris that had been the Senior Officers' Club in the Saddam era. The CPA applauded the idea and the US press was duly alerted. But in the end, Bremer gave the

Officers' Club to other supplicants, and virtually all the promised US assistance to restore the National Library came to naught.

Saad Eskander took office as the National Library's new Director in December 2003. Though eight months had passed after the fires and looting, the building was still "in a ruinous state." "There was no money, no water, no electricity, no paper, no pens, no furniture," he later reported.<sup>69</sup> The CPA had allotted the Library a budget of just \$70,000 for 2004, to cover all expenses, including repairs and the purchase of new furniture and equipment.<sup>70</sup> Eskander concluded after a year in office that "The Library of Congress team seems to have forgotten its promises."<sup>71</sup>

USAID, the development agency, launched with fanfare five projects in 2003 to support Iraqi libraries, museums and antiquities programs. Several universities signed up to help train librarians and museum staff, promote legal research, organize online scholarly resources and more. After positive beginnings and with training projects already under way, USAID failed to fund beyond the first year and the programs mostly collapsed.<sup>72</sup> Under Ambassador John Negroponte, priorities were shifting in favor of "security." Culture, underfunded though it was, took some of the budget cuts.

The British made a few grand gestures but in practice did little to address the culture debacle. In response to the public outcry over the first wave of looting, the Secretary of State for Culture, Tessa Jowell, promised on April 29 that the government would make available £15 million for cultural restoration projects.

Protection of archaeological sites was to be included. But the promise was soon forgotten and the UK government never set up such a program.<sup>73</sup>

The British Council, the UK's cultural service, announced in 2003 that it was collecting books for shipment to Iraq to replace some of the damaged collections. English universities donated thousands of books and periodicals, but there was no effort to determine what might be needed in Iraq and how the materials would find their way into Iraqi libraries.<sup>74</sup> Eventually, the Council shipped 25 tons of books via Amman to Baghdad, where they languished for many months in a warehouse. It still is not clear where the books ended up, or whether they were useful to Iraqi readers or to libraries gutted by looting.<sup>75</sup>

### **The Museum and the Library – Further Developments**

The National Museum has regained some of its collections, but the institution has never recovered. Donny George, President of Iraq's State Board of Antiquities and Heritage and Director of the National Museum fled to Syria in August 2006 and from there he submitted his resignation.<sup>76</sup> Before leaving Iraq, he ordered the doors of the National Museum sealed with concrete to protect against further looting. George found "intolerable" the ongoing failure of Iraqi leaders and the US military to protect the archeological sites.<sup>77</sup> In Baghdad, the Culture Ministry has not announced plans to reopen it. Surrounded by weeds, it now sits behind metal gates, sandbags and concertina wire, another symbol of the unraveling occupation.<sup>78</sup>

The story of the National Library is grim, but slightly more hopeful. Director Saad Eskander managed to rebuild his

institution in spite of US and UK neglect. With small grants from the Czech Republic and help from two NGOs, as well as Iraqi government budget support, Eskander managed to restore the damaged library building, enlarge his staff, and begin the difficult task of restoring the catalogue and conserving damaged holdings.<sup>79</sup> His multi-ethnic and non-political staff includes Sunni, Shia, Kurds and others. The library obtained computers and internet access thanks to Italian and Japanese help and it has managed to open regularly to the public.<sup>80</sup> But the Library has not been spared the violence of occupied Baghdad nor has it had proper protection. Eskander has posted a chilling blog on the internet, where he has told of the killing of members of his staff and a car bombing of an important publishing house.<sup>81</sup> Through guts and determination, the library continues its work but it is unclear how long it can continue.

## Conclusion

Under the Geneva Conventions, occupation forces must ensure public order and prevent looting. More specifically, the Geneva and Hague Conventions require the protection of cultural property against destruction and theft and prohibit its use in support of military action. The Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) further specifies that an occupying power must take necessary measures to safeguard and preserve the cultural property of the occupied country and must prevent or put a stop to “any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property.” The Coalition has ignored and violated these international laws, resulting in great and irreparable damage to the cultural heritage of Iraq and all humanity.

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<sup>1</sup> US Department of Defense, *News Briefing by Secretary of Defense Donald Rumsfeld and General Richard Meyers* (April 11, 2003). See Sean Loughlin, “Rumsfeld on Looting in Iraq” *CNN* (April 12, 2003)

<sup>2</sup> We have used here the most common English language names for these institutions. Their formal names are: Iraq National Library and Archive and Iraq Museum.

<sup>3</sup> Donald MacLeod, “Scholars Move to Protect ‘Priceless’ Iraqi Heritage” *Guardian* (March 21, 2003)

<sup>4</sup> Andrew Lawler, “Impending War Stokes Battle Over Iraqi Antiquities” *Science* (January 31, 2003)

<sup>5</sup> *Ibid.*

<sup>6</sup> McGuire Gibson is a Professor of Mesopotamian Archaeology. See “Cultural Tragedy in Iraq: A Report on the Looting of Museums, Archives, and Sites” in *Art Loss in Iraq: An Update* - Edited Proceedings: *IFAR Evening* (October 28, 2004)

<sup>7</sup> Guy Gugliotta, “Pentagon Was Told of Risk to Museums: US Urged to Save Iraq’s Historic Artifacts” *Washington Post* (April 14, 2003)

<sup>8</sup> *Ibid.*

<sup>9</sup> See, for example, the Statement by the International Committee of the Blue Shield (March 7, 2003), the “Open Declaration on Cultural Heritage at Risk in Iraq” (March 21, 2003) signed by 13 professional societies and research programs as well as about 180 scholars; and the Statement by the Archaeological Institute of America and the American Association for Research in Baghdad (April 9, 2003).

<sup>10</sup> *Ibid.* See also “Concern for Cultural Heritage in Iraq” *Archaeological Institute of America* (December 18, 2002); also: Archaeological Institute of America (AIA), “Resolution Regarding War and the Destruction of Antiquities” *Archeology Magazine* (January/February, 2003); also Guy Gugliotta, “Iraq War Could Put Ancient Treasures at Risk” *Washington Post* (March 3, 2003)

<sup>11</sup> David Tresilian, “‘Cultural Catastrophe’ Hits Iraq” *Al Ahrām* (April 24-30, 2003)

<sup>12</sup> The new organization appears to have been founded with the war especially in mind. See Lawler, *op. cit.*

<sup>13</sup> As quoted by David Darcy, “Legal Group to Fight ‘Retentionist’ Policies” *Art Newspaper* (October 24, 2002)

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- <sup>14</sup> Lawler, *op. cit.*
- <sup>15</sup> Donald MacLeod, "US Lobby Could Threaten Iraqi Heritage" *Guardian* (April 10, 2003)
- <sup>16</sup> Zainab Bahrani, "Looting and Conquest" *The Nation* (May 26, 2003)
- <sup>17</sup> As quoted in MacLeod, *op. cit.*
- <sup>18</sup> It seems that the earliest measure of protection was taken on April 16, at the National Museum, eight days after Coalition forces seized Baghdad.
- <sup>19</sup> There are many reports of Coalition units refusing to protect cultural sites, even when located nearby. See e.g. Nabil al-Tikriti, "Iraq Manuscript Collections, Archives & Libraries Situation Report" (June 8, 2003) [Oriental Institute, University of Chicago]
- <sup>20</sup> Jeffrey B. Spurr, "Iraqi libraries and Archives in Peril" *Middle East Librarians Association* (April 2007) p. 9
- <sup>21</sup> Matthew Bogdanos, *Thieves of Baghdad* (New York, 2005)
- <sup>22</sup> *Ibid.*
- <sup>23</sup> Stephen Farrell and Rana Sabbagh-Gargour, "For Sale: A Nation's Treasures" *Times, London* (July 2, 2005)
- <sup>24</sup> Jeffrey B. Spurr, "Indispensable yet Vulnerable: The Library in Dangerous Times, Preface to a Report on the Condition of Iraqi libraries and Efforts to provide assistance to them" *Middle East Librarians Association, Iraq Crisis website* (May, 2005)
- <sup>25</sup> *Ibid.*
- <sup>26</sup> al-Tikriti, *op. cit.*
- <sup>27</sup> Loughlin, *op. cit.*
- <sup>28</sup> al-Tikriti, *op. cit.*, provides powerful examples.
- <sup>29</sup> Robert K McCartney, "Expert Thieves Took Artifacts, UNESCO Says" *Washington Post* (April 18, 2003)
- <sup>30</sup> Saad Eskander, "The Tale of Iraq's 'Cemetery of Books'" *Information Today* (December 2004). See also Spurr, "Iraqi Libraries" *op.cit.*, pp. 16-18
- <sup>31</sup> Eskander, *op.cit.*
- <sup>32</sup> *Ibid.*
- <sup>33</sup> Jeffrey B. Spurr, "Indispensable yet Vulnerable: The Library in Dangerous Times, Preface to a Report on the Condition of Iraqi Libraries and Efforts to Provide Assistance to Them" *Middle East Librarians Association, Iraq Crisis website* (May 2005). See also May-Jane Deeb, et al, "The Library of Congress and the U.S. Department of State Mission to Baghdad: Report on the National Library and the House of Manuscripts" (October 27-November 3, 2003)
- <sup>34</sup> Spurr, "Iraqi Libraries" *op.cit.* pp. 29-30
- <sup>35</sup> *Ibid.*, p. 29.
- <sup>36</sup> *Ibid.*, pp. 28-29
- <sup>37</sup> al-Tikriti, *op. cit.*
- <sup>38</sup> Spurr, "Iraqi Libraries" *op. cit.*
- <sup>39</sup> Spurr, "Iraqi Libraries" *op. cit.* p. 32
- <sup>40</sup> Al-Tikriti, *op. cit.*
- <sup>41</sup> See John F Burns, "Pillagers Strip Iraqi Museum of its Treasure" *New York Times* (April 12, 2003)
- <sup>42</sup> McGuire Gibson, "Cultural Tragedy in Iraq: A Report on the Looting of Museums, Archives, and Sites" in *Art Loss in Iraq: An Update - Edited Proceedings: International Foundation for Art Research* (October 28, 2004). See also Milbry Park and Angela M H Schuster, *The Looting of the Iraq Museum, Baghdad: The Lost Legacy of Ancient Mesopotamia* (New York: Harry N. Abrams, 2005)
- <sup>43</sup> Mark Fisher, "Tomb Raiders" *Guardian* (January 19, 2006)
- <sup>44</sup> Douglas Birch, "In North Iraq, and Ancient Past Falls Victim to a Modern War" *Baltimore Sun* (April 18, 2003)
- <sup>45</sup> International Committee of the Blue Cross, *Heritage at Risk 2004/2005*, Chapter on Iraq, p. 120
- <sup>46</sup> *Ibid.*
- <sup>47</sup> *Ibid.*
- <sup>48</sup> *Ibid.*
- <sup>49</sup> Susan Breitkopf, "Lost: The Looting of Iraq's Antiquities," *Museum News*, American Association of Museums (January/February, 2007)

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- <sup>50</sup> See, for example, the statement by many leading scholars at the workshop on “The Threat to Iraq’s Cultural Heritage,” held at the University of Chicago’s Oriental Institute on July 23, 2005, posted on the web at [http://oi.uchicago.edu/OI/IRAQ/ws\\_statement.html](http://oi.uchicago.edu/OI/IRAQ/ws_statement.html)
- <sup>51</sup> Guy Gugliotta, “Looted Iraqi Relics Slow to Surface” *Washington Post* (November 8, 2005)
- <sup>52</sup> Scholar Elizabeth Stone studied satellite photographs of an area of the South and found a total of 17 square kilometers of looted sites (personal communication).
- <sup>53</sup> Colonel Matthew Bogdanos, as quoted in Cindy Ho, “Heritage Lost: looting of archeological sites continues in Iraq” *Savingantiquities.org* (2004)
- <sup>54</sup> *Ibid.*
- <sup>55</sup> Bretkopf, *op. cit.*
- <sup>56</sup> Sumedha Senanayake, “Iraq: Antiquities Continue to be Pillaged, Destroyed” *Radio Free Europe/Radio Liberty* (October 12, 2006)
- <sup>57</sup> Stephen Farrell and Rana Sabbagh-Gargour, “For Sale: A Nation’s Treasures” *Times, London* (July 2, 2005)
- <sup>58</sup> Mark Fisher, “Tomb Raiders” *Guardian* (January 19, 2006)
- <sup>59</sup> John Curtis, “Report on Meeting at Babylon 11-13<sup>th</sup> December, 2004” *British Museum* (2005). See also Joanne Farchakh Bejjaly, “History Lost in Dust of War-Torn Iraq” *BBC* (April 25, 2005) and Rory McCarthy and Maev Kennedy, “Babylon Wrecked by War” *Guardian* (January 15, 2005)
- <sup>60</sup> *Ibid.*
- <sup>61</sup> “Poland Apologizes for Damage Troops Inflicted on Babylon” *History News Network* (August 3, 2005)
- <sup>62</sup> Other US institutions involved at that time were: the National Endowment for the Humanities, the National Science Foundation, the National Endowment for the Arts, and the Institute of Museum and Library Services.
- <sup>63</sup> Martin Bailey, “After the Looting Was Over” *Apollo* (May 2004)
- <sup>64</sup> Mark Rose, “A Conversation with Matthew F. Bogdanos” *Archaeology Magazine* (October 16, 2003); Mary Wiltenburg, “‘Pit Bull’ Dogs Iraq Looters” *Christian Science Monitor* (February 20, 2004)
- <sup>65</sup> Spurr, “Iraqi Libraries” pp. 34-35
- <sup>66</sup> *Ibid.*, p. 21
- <sup>67</sup> *Ibid.*, p. 34
- <sup>68</sup> Mary-Jane Deeb, et al, “Report on the National Library and the House of Manuscripts” *Library of Congress* (November, 2003)
- <sup>69</sup> Eskander, “The Tale” *op.cit.*
- <sup>70</sup> *Ibid.*
- <sup>71</sup> *Ibid.*
- <sup>72</sup> Spurr, “Iraqi Libraries” *op.cit.* pp. 38-45
- <sup>73</sup> Marie Woolf, “Desecration of the Cradle of Civilization,” *Independent* (April 15, 2007)
- <sup>74</sup> *Ibid.* pp. 52-53
- <sup>75</sup> *Ibid.* p. 53
- <sup>76</sup> He later took up a post as resident scholar at Stony Brook University.
- <sup>77</sup> Ellen Knickmeyer, “Iraq’s Head of Antiquities Quits After Looting of Ancient Treasures” *Washington Post* (August 28, 2006)
- <sup>78</sup> Ellen Knickmeyer, “Iraqi Museum Sealed Against Looters” *Washington Post* (August 27, 2006)
- <sup>79</sup> Eskander, “The Tale” *op.cit.*
- <sup>80</sup> *Ibid.*
- <sup>81</sup> “Diary of Saad Eskander” posted at [www.bl.uk/iraqdiary.html](http://www.bl.uk/iraqdiary.html)

## Chapter 3

### Indiscriminate and Especially Injurious Weapons

*“The generals love napalm. It has a big psychological effect.”*

– US Marine Colonel Randolph Alles<sup>1</sup>

**T**he US and the UK have used indiscriminate and especially injurious weapons that are restricted by international conventions or widely considered unacceptable and inhumane. The United States has used incendiary devices – MK-77,<sup>2</sup> a napalm-type weapon, as well as white phosphorus munitions.<sup>3</sup> White phosphorus has been used against ground targets in densely populated civilian areas.<sup>4</sup> These weapons are extremely cruel – they stick to the flesh and burn victims to death. The US and UK governments initially denied use of these weapons but were later forced to retract.

During the 2003 invasion, the US and the UK also made extensive use of depleted uranium (DU) munitions<sup>5</sup> and cluster munitions.<sup>6</sup> Cluster weapons kill and maim indiscriminately when used in populated areas and also leave unexploded bomblets that later cause civilian death and injury. DU weapons, critics argue, can produce long-term negative health effects and several international bodies have called for a moratorium on their use. Both DU and cluster munitions violate prohibitions against weapons that cause unnecessary suffering and indiscriminate harm.

#### Napalm-type Firebombs

Napalm is an inflammatory mixture of fuel and sticky materials, employed in a

firebomb. Originally developed during World War II, napalm was extensively used by the US during the Vietnam War, giving rise to public outcry and criticism. Most countries today refrain from using such firebombs, because they are considered to be especially cruel and indiscriminate. The US armed forces use a modern form of napalm, known as the MK-77 Mod 5.<sup>7</sup>

Napalm-type bombs ignite on impact, creating a fireball. The burning gel sticks to structures and to the bodies of victims, killing them by immolation and asphyxiation. Victims who survive usually sustain extremely severe burns and body trauma. Many die after periods of intense suffering and pain.

During and immediately after the initial military operations in 2003, there were widespread reports that the US had used incendiary bombs in Iraq. Embedded journalists reported that US planes dropped napalm-like weapons at Safwan Hill on the border with Kuwait<sup>8</sup> and in Southern Iraq.<sup>9</sup> US Marine pilots and commanders have confirmed that they used napalm near bridges over the Saddam Canal and the Tigris River, south of Baghdad. “We napalmed both those [bridge] approaches... Unfortunately there were people there ... you could see them in the [cockpit] video... They were Iraqi soldiers. It's no great way to die...,” said Colonel Randolph Alles,

Marine commander of Air Group 11.<sup>10</sup>

The US military first denied allegations that it had used napalm.<sup>11</sup> However in August 2003, the Pentagon conceded that it had used Mark-77 bombs.<sup>12</sup> Its earlier denial had relied on a false distinction between napalm and the new Mark-77 firebombs, which are composed of a slightly different fuel mixture (jet fuel instead of benzene and gasoline).<sup>13</sup> The Pentagon eventually admitted that the two weapons are “remarkably similar,”<sup>14</sup> with identical effects on victims. As the director of the military studies group *GlobalSecurity.org* pointed out: “You can call it something other than napalm but it is still napalm. It has been reformulated in the sense that they now use a different petroleum distillate, but that is it. The US is the only country that has used napalm for a long time.”<sup>15</sup>

In answer to a question in the House of Commons, UK Armed Forces Minister Adam Ingram explicitly denied that MK-77 firebombs had been used in Iraq.<sup>16</sup> Ingram was later forced to retract his statement,<sup>17</sup> claiming not to have known what US soldiers had reported to the press and the Pentagon had already acknowledged.

Human rights groups consider incendiary bombs to be inhumane. “Incendiaries create burns that are difficult to treat,” said Robert Musil, Executive Director of Physicians for Social Responsibility.<sup>18</sup>

A legally-binding international convention restricts the use of incendiary weapons in combat and strictly prohibits its use in populated areas. Protocol III of the *UN Convention on Certain Weapons Which May Be Deemed To Be Exces-*

*sively Injurious Or To Have Indiscriminate Effects* (1980) bans the use of incendiary weapons against civilians or against military targets in areas with a concentration of civilians.<sup>19</sup> Customary humanitarian law also generally bans attacks that are indiscriminate and cause superfluous injury.

### White Phosphorous

White Phosphorus is a wax-like incendiary agent used for signaling, smoke-screening, and incendiary purposes. The US regularly used white phosphorus in Vietnam. “WP” or “Willie Pete” as it is often known to soldiers, is commonly exploded in the air and used to illuminate the night sky, to destroy the enemy's equipment or to limit its vision.<sup>20</sup> It has also been used in Iraq as an incendiary weapon against human targets, a use generally considered to be contrary to international humanitarian law.

When exposed to oxygen, WP ignites with a bitter, garlic-like smell and burns until the oxygen supply is cut off.<sup>21</sup> It burns the skin of the victims through their clothes, resulting in deep injuries and in abdominal pain, jaundice, necrosis of bones and multi-organ failure (mainly liver and kidneys), after which very few survive.<sup>22</sup>

Like napalm, the use of WP against human beings was initially denied by the US government. A documentary broadcast by Italian State television *RAI* revealed that US troops used WP against ground targets during initial combat in 2003 and in the battle of Falluja in November 2004. The film showed Falluja residents describing “a rain of fire fell on the city” and it presented footage of civilian bodies burned and melted,<sup>23</sup> later



identified through the cemetery registry under the supervision of US authorities.<sup>24</sup> At the time of the US-led assault on the city, the *Washington Post* reported that “some artillery guns fired white phosphorus rounds” and said “insurgents reported being attacked with a substance that melted their skin, a reaction consistent with white phosphorus burns. Kamal Hadeethi, a physician at a regional hospital, said, ‘The corpses of the mujaheddin which we received were burned, and some corpses were melted.’”<sup>25</sup>

In a letter to the *Independent*, US Ambassador in the UK Robert Tuttle rejected the claims, affirming that “US forces participating in Operation Iraqi Freedom continue to use appropriate lawful conventional weapons against legitimate targets.”<sup>26</sup> The Pentagon explained that WP was used only for providing illumination at night and for the creation of smokescreens.<sup>27</sup>

However, US military publications contradicted this State Department public relations effort. The May/June 2004 edition of *Infantry Magazine* reported that WP was used to attack directly, rather than just to provide a screen.<sup>28</sup> A further military report in *Field Artillery Magazine* confirmed that WP “proved to be an effective and versatile munition... [as] a potent psychological weapon against the insurgents... We fired ‘shake and bake’ missions at the insurgents, using WP to flush them out...”<sup>29</sup> A number of other reports backed up the fact that white phosphorus was used deliberately in populated areas.<sup>30</sup>

As the *New York Times* recalled in an editorial in November 2005, “in fact, one of the many crimes ascribed to Saddam

Hussein was dropping white phosphorus on Kurdish rebels and civilians in 1991” – one of the reasons invoked for the Iraq war.<sup>31</sup>

A US Army manual clearly states that “it is against the law of land warfare to employ WP against personnel targets.”<sup>32</sup> International law, including Protocol III of the UN *Convention on Certain Weapons Which May Be Deemed To Be Excessively Injurious Or To Have Indiscriminate Effects* (1980), bans the use of incendiary weapons against civilians or against military targets in populated areas.<sup>33</sup> So the US military were breaking their own rules as well as violating international law when they attacked a city using this frightful incendiary substance.

### Depleted Uranium

Depleted Uranium is a toxic and weakly radioactive waste product from the process of uranium enrichment, used in a range of weapons to penetrate the armor of tanks and other armored vehicles at a great distance.<sup>34</sup>

According to the *Guardian*, experts have calculated that Coalition forces used between 1,000 and 2,000 tons of depleted uranium anti-tank shells during the March 2003 invasion and the immediately subsequent fighting.<sup>35</sup> A United Nations Environment Program report tallies with this assessment.<sup>36</sup>

Leading health experts have stated that powder from exploded DU weapons may cause long-term negative effects on human health.<sup>37</sup> While the US military insists that DU does not pose a health threat, many US and UK veterans from the 2001 Gulf War have suffered from unexplained illnesses including fatigue,

sleep disorders and memory loss (referred to as ‘Gulf War Syndrome’). On December 19, 2005, the US Department of Veterans Affairs made a settlement award to a family of a veteran who had died from metastatic appendix cancer, on the basis that the cancer was medically related to exposure to DU during the veteran’s service.<sup>38</sup> In Iraq, increases in cancers and birth defects have been reported in areas where DU munitions had been used.<sup>39</sup>

Veterans, medical organizations and international bodies such as the World Health Organization<sup>40</sup> have called for scientific studies on the precise effects of DU on the human body.

A Sub-Commission of the UN Human Rights Commission<sup>41</sup> authorized a working paper on human rights and “weapons of mass destruction, or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering.” The 2002 report included DU as such a weapon. The author refers to a number of incidents and reports “showing the deaths and serious illnesses related to inhalation of depleted uranium - the key medical effects being cancers of those exposed and birth defects of children born of those who have inhaled depleted uranium” and qualifies DU weapons of “deadly and indiscriminate.”<sup>42</sup>

Though DU weapons are usually used against military targets, the munitions leave a chemical and radioactive residue that can contaminate air and pollute groundwater as in Bosnia and Herzegovina.<sup>43</sup>

In 2001, after NATO’s use of DU weapons in Kosovo, the Council of Europe demanded a ban on the production, test-

ing and sale of DU weapons, claiming that “effects on health and quality of life will be long-lasting, and future generations will likewise be affected.”<sup>44</sup> Carla Del Ponte, Chief Prosecutor for the UN International Tribunal for the former Yugoslavia, has said that the use of DU weapons could be investigated as a possible war crime.<sup>45</sup> In 2005, the UN Environment Program released a report stating that Iraq has 311 sites contaminated with DU.<sup>46</sup> At the same time, the European Parliament has reiterated its call for a moratorium on the use of DU as a weapon, with a view to introduce a total ban, using as a legal basis the Nuclear Non-Proliferation Treaty (1968), the Biological and Toxin Weapons Convention (1972), the Chemical Weapons Convention (1993) and the Comprehensive Test Ban Treaty (1996).<sup>47</sup>

In light of the possible consequences for human health, the use of Depleted Uranium probably contravenes well-established principles of humanitarian law, including those found in the Geneva Conventions and their Protocols, and UN guidelines relative to the protection of civilians, prevention of unnecessary human suffering and of damage to the environment.

### **Cluster Munitions**

Cluster munitions contain hundreds of “bomblets” or sub-munitions designed to explode on impact. Cluster ordnance can be dropped from the air or fired from the ground, initially exploding in the air and releasing the sub-munitions that disperse to strike ground targets. Some do not detonate (between 5%-30% depending on the type),<sup>48</sup> leaving unexploded bomblets that threaten civilians for decades after a conflict. Coalition forces and

Iraq government forces used both air and surface-launched cluster munitions during the 2003 operations.

When hitting victims, cluster munitions blast by successive waves due to their fragmentation effect. Fragments penetrate the body, creating small often internal injuries. “Fragments travel through the skin and muscles and hit a bone, sending pressure waves into the body and causing internal bleeding.”<sup>49</sup> About 30% of the victims die from their wounds.<sup>50</sup>

During the 2003 air campaign, US and British forces reportedly dropped thousands of cluster munitions “in many populated areas throughout Iraq, including Baghdad, Basra, Hillah, Kirkuk, Mosul, Nasiriyah and other cities and towns.”<sup>51</sup> According to an in-depth investigation by *USA TODAY*, the US used 10,782 cluster weapons, and the UK used almost 2,200 from late March to early April 2003.<sup>52</sup> The US Air Force also confirmed the use of 63 CBU-87 cluster munitions between May 1, 2003 and August 1, 2006,<sup>53</sup> containing a total of 12,726 bomblets.<sup>54</sup> While claiming to limit “collateral damage,” the Coalition dropped close to two million sub-munitions, many targeted at residential neighborhoods, killing or wounding more than 1,000 civilians.<sup>55</sup>

According to Human Rights Watch, “[g]round-launched cluster strikes caused hundreds of civilian casualties across Iraq [including in the cities of] al-Hilla, al-Najaf, Karbala, Baghdad, and Basra. ... The targeting of residential neighborhoods with these area effect weapons represented one of the leading causes of civilian casualties in the war.”<sup>56</sup>

Amnesty International describes scenes at al-Hilla’s hospital, where “bodies of the men, women and children - both dead and alive - brought to the hospital were punctured with shards of shrapnel from cluster bombs.” A doctor reported that almost all patients were victims of cluster bombs. “Injured survivors told reporters how the explosives fell ‘like grapes’ from the sky, and how bomblets bounced through the windows and doors of their homes before exploding.”<sup>57</sup>

A significant number of the bomblets do not explode when reaching their target.<sup>58</sup> According to a Department of Defense report submitted to the US Congress in 2000, “these sub-munitions have a failure rate of 16 percent. Thus, the typical volley of twelve MLRS rockets would likely result in more than 1,200 dud sub-munitions scattered randomly in a 120,000 to 240,000 square meter impact area.”<sup>59</sup> Unexploded bomblets remain on the ground long after the end of conflicts, presenting a long term threat to civilians. They will eventually explode when children pick them up or when farmers accidentally hit them with a tool. Like landmines, cluster bombs need to be located and destroyed one by one. Despite joint efforts by the Coalition Provisional Authority, the UN, and NGOs, unexploded munitions continue to wound and kill Iraqi civilians, or anyone else passing through areas where cluster bombs have been used.<sup>60</sup>

Because they kill indiscriminately – both in space and in time - cluster bombs are particularly controversial weapons and arguably violate international law principles protecting civilians (including Article 48 of Protocol I of the 4<sup>th</sup> Geneva Convention). They also violate law principles that prohibit indiscriminate attacks

and the infliction of unnecessary suffering, as well as principles requiring feasible precaution to minimize injury and death to civilians.

Many humanitarian and human rights organizations including the International Committee of the Red Cross, Human Rights Watch, Amnesty International, and Landmine Action, have repeatedly called for a ban on the use of cluster munitions in civilian areas including against military targets within built up areas. In a moving plea to the UN Security Council, Under Secretary General for Humanitarian Affairs Jan Egeland demanded a moratorium on the use of cluster bombs, whose use, he argued, “by anyone, anywhere in the world ... is immoral.”<sup>61</sup> Iraq is one of the most contaminated areas, along with Afghanistan, Cambodia, Laos, Kosovo and Vietnam.

## Conclusion

International Humanitarian Law sets clear standards for the conduct of military operations and limits permissible means and methods of warfare. These standards prohibit the use of weapons that do not distinguish between military targets and civilians, and inflict indiscriminate harm or unnecessary suffering. Yet Coalition forces have repeatedly used indiscriminate and especially injurious weapons, such as white phosphorus, napalm, cluster munitions and depleted uranium that have disproportionate effects far beyond their intended military objectives. These weapons are widely considered unacceptable and inhumane.

<sup>1</sup> James W. Crawley, “Officials Confirm Dropping Firebombs on Iraqi Troops” *San Diego Union-Tribune* (August 5, 2003)

<sup>2</sup> Iraq Analysis Group, *Fire Bombs in Iraq: Napalm by Any Other Name* (March/April 2005)

<sup>3</sup> Jason E. Levy, “TTPs for the 60mm Mortar Section” *Infantry Magazine* (May/June 2004) and Captain James T. Cobb, First Lieutenant Christopher A. LaCour and Sergeant First Class William H. Hight, “The Fight for Fallujah” *Field Artillery* (March/April 2005)

<sup>4</sup> Rai News 24, “Fallujah: La Strage Nascosta” [Fallujah: The Hidden Massacre] (November 2005)

<sup>5</sup> Scott Peterson, “Remains of Toxic Bullets Litter Iraq” *Christian Science Monitor* (May 15, 2003)

<sup>6</sup> Human Rights Watch, *Off Target: The Conduct of the War and Civilians Casualties in Iraq* (December 2003)

<sup>7</sup> Iraq Analysis Group, *op.cit.*

<sup>8</sup> “Dead Bodies Are Everywhere” *Sydney Morning Herald* (March 22, 2003)

<sup>9</sup> Martin Savidge, “Protecting Iraq's Oil Supply” *CNN* (March 22, 2003)

<sup>10</sup> Crawley, *op.cit.*

<sup>11</sup> *Sydney Morning Herald*, *op.cit.*

<sup>12</sup> Crawley, *op.cit.*

<sup>13</sup> GlobalSecurity.org, *MK-77750lb Napalm*.

<sup>14</sup> Crawley, *op.cit.*

<sup>15</sup> Cited in “US Admits It Used Napalm Bombs in Iraq” *The Independent* (August 10, 2003)

<sup>16</sup> British Parliament, Written Answers to Questions. *Defense Minister Adam Ingram Denies US Use of Firebombs* (January 11, 2005)

<sup>17</sup> British Parliament, Written Answers to Questions. *Defense Minister Adam Ingram Admits US Use of Firebombs* (June 28, 2005)

<sup>18</sup> Crawley, *op.cit.*

<sup>19</sup> The US remains one of a small number of non-signatories to this Protocol. The Protocol has been signed by 94 countries, making it a widely accepted rule of international law. Because the Coalition acts under a

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mandate of the UN Security Council, the highest international law standards should apply.

<sup>20</sup> Globalsecurity.org. *Incendiary Weapons: White Phosphorus*.

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

<sup>22</sup> US Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (ATSDR) *White Phosphorus*

<sup>23</sup> Rai News 24, *op.cit.*

<sup>24</sup> Marc Wells, "An Interview with Sigfrido Ranucci, Director of The Hidden Massacre" *World Socialist Website* (December 14, 2005)

<sup>25</sup> Jackie Spinner, Karl Vick and Omar Fekeiki, "US Forces Battle Into Heart of Fallujah" *Washington Post* (November 10, 2004)

<sup>26</sup> "US Forces Used 'Chemical Weapon' in Iraq" *The Independent* (November 16, 2005)

<sup>27</sup> US Department of Defence, Office of the Assistant Secretary of Defence (Public Affairs) *News Briefing with Secretary of Defense Donald Rumsfeld and Gen. Peter Pace* (November 29, 2005)

<sup>28</sup> Jason E. Levy, "TTPs for the 60mm Mortar Section" *Infantry Magazine*. (May/June 2004)

<sup>29</sup> Captain James T. Cobb, First Lieutenant Christopher A. LaCour and Sergeant First Class William H. Hight: "TF 2-2 IN FSE AAR: Indirect Fires in the Battle of Fallujah" *Field Artillery Magazine* (March-April 2005) p. 5

<sup>30</sup> "Violence Subsides for Marines in Fallujah" *North County Times* (April 10, 2004)

<sup>31</sup> "Shake and Bake" *New York Times* (November 29, 2005)

<sup>32</sup> Army's Command and General Staff College at Fort Leavenworth, KS. *The Battle Book*. ST 100-3 (July 1999)

<sup>33</sup> It can be objected that white phosphorus is not "primarily designed" to cause incendiary effects and therefore does not come under Protocol III of the CCW. However, if it is deliberately employed to cause such effects, this amounts to a legalistic evasion of Protocol III, and in any case such use is contrary to the fundamental principles forbidding infliction of unnecessary suffering and indiscriminate harm.

<sup>34</sup> Globalsecurity.org, *Military: Depleted Uranium*

<sup>35</sup> Paul Brown, "Uranium Hazard Prompts Cancer Check on Troops" *Guardian* (April 25, 2003)

<sup>36</sup> United Nations Environment Programme. *Assessment of Environmental "Hot Spots" in Iraq* (November 2005)

<sup>37</sup> The Royal Society, *The Health Hazards of Depleted Uranium Munitions* (2001)

<sup>38</sup> In the Appeal of David L. Larson, in the case of Janet E. Larson, Docket No. 01-05 766, XSS 001 56 2047 (December 19, 2005)

<sup>39</sup> Larry Johnson, "Iraq Cancers, Births Defects Blames on US Depleted Uranium" *Seattle Post Intelligencer* (November 12, 2002); Robert Collier, "Iraq Links Cancers to Uranium Weapons" *San Francisco Chronicle* (January 13, 2003)

<sup>40</sup> 54<sup>th</sup> World Health Assembly, Provisional Agenda Item 13.10: "Health Effects of Depleted Uranium (Report by the Secretariat)" A54 19 Add. 1 (April 26, 2001)

<sup>41</sup> Sub-Commission on the Promotion and Protection of Human Rights

<sup>42</sup> Commission on Human Rights: Sub-Commission on the Promotion and Protection of Human Rights, Fifty-fourth Session, Item 6 of the Provisional Agenda: "Human Rights and Weapons of Mass Destruction, or With Indiscriminate Effect, or of a Nature to Cause Superfluous Injury or Unnecessary Suffering" Working Paper Submitted by Y.K.J. Yeung Sik Yuen in Accordance with Sub-Commission Resolution 2001/36. E/CN.4/Sub.2/2002/38 (June 27, 2002)

<sup>43</sup> United Nations Environment Program. *Depleted Uranium in Bosnia and Herzegovina* (March 2003)

<sup>44</sup> Parliamentary Assembly of the Council of Europe. *Environmental Impact of the War in Yugoslavia on Southeasteast Europe, Recommendation 1495 (2001)* (January 24, 2001)

<sup>45</sup> "Use of DU Weapons Could Be War Crime" *CNN* (January 14, 2001)

<sup>46</sup> UN Environment Program. *Assessment of Environmental 'Hot Spots' in Iraq* (November 2005)

<sup>47</sup> European Parliament. *Resolution on Non-Proliferation of Weapons of Mass Destruction: A Role for the European Parliament (2005/2139(INI))*, P6\_TA-PROV(2005)0439. Text Adopted by Parliament (November 17, 2005)

<sup>48</sup> Cluster Munitions Coalition, *Technical Analysis of Cluster Munitions*

<sup>49</sup> Medact, *The Question of the Legality of Inhumane Weapons Used During the 2003 Iraq Conflict* Working Paper No. 2

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<sup>50</sup> H. Gilbert Husum and T.M. Wisborg, "Save Lives, Save Limbs: Life Support for Victims of Mines, Wars and Accidents" *Third World Network* (2003) quoted in UK Working Group on Landmines, *Cluster Bombs: the Military Effectiveness and Impact on Civilians of Cluster Bombs* (2003) p. 20

<sup>51</sup> Landmine Monitor, *Report 2003: Toward a Mine-Free World*

<sup>52</sup> Paul Wiseman, "Cluster Bombs Kill in Iraq, Even After Shooting Ends" *USA Today* (December 16, 2003)

<sup>53</sup> Letter from the Department of the Air Force, 20th Fighter Wing (ACC), Shaw Air Force Base, South Carolina (August 23, 2006) signed by Mary F. Huff, Base Freedom of Information Act Manager as quoted by the Mennonite Central Committee

<sup>54</sup> Mennonite Central Committee, *Use of Cluster Munitions in Iraq after the Initial Invasion*

<sup>55</sup> Human Rights Watch, *Minimize Civilian Casualties in Iraq* (March 17, 2006); Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (2003); also see Handicap International, *Fatal Footprint: The Global Human Impact of Cluster Munitions* (November 2006)

<sup>56</sup> Human Rights Watch (2003) *op.cit.* p. 85

<sup>57</sup> Amnesty International, *Iraq: Civilians under Fire* (April 8, 2003)

<sup>58</sup> B Rappert and R Moyes, "Out of Balance – The UK Government's Efforts to Understand Cluster Munitions and International Law" *Landmine Action* (November 2005) p.18

<sup>59</sup> Cited in Human Rights Watch, *US Using Cluster munitions in Iraq* (April 1, 2003)

<sup>60</sup> Medact, *The Question of the Legality of Inhumane Weapons Used During the 2003 Iraq Conflict*, Working Paper No.2

<sup>61</sup> Statement by Under-Secretary-General Jan Egeland to the Security Council on the protection of civilians in armed conflict (December 4, 2006)

## Chapter 4

### Unlawful Detention

*“They are like dogs and if you allow them to believe at any point that they are more than dogs then you’ve lost control of them.”*

– US Major General Geoffrey Miller<sup>1</sup>

**T**he Coalition and the Iraqi government are holding thousands of Iraqi citizens in arbitrary and unlawful detention. The great majority of the detainees have not been charged with a crime, nor are they allowed to defend themselves against accusations or have a trial in a court of law.

Heavily-armed soldiers make the arrests. Frequently, they are English-speaking US troops, whose orders the Iraqis may not even understand. The soldiers often take many people simultaneously into custody – during neighborhood sweeps and house searches, at checkpoints, and in round-ups of all kinds. They nearly always make arrests without judicial warrants or evidence of wrong-doing.

The Red Cross has described house arrests as follows: “Arresting authorities entered houses usually after dark, breaking down doors, waking up residents roughly, yelling orders, forcing family members into one room under military guard while further searching the rest of the house and further breaking doors, cabinets and other property. They arrested suspects, tying their hands in the back with flexi-cuffs, hooding them, and taking them away. Sometimes they arrested all adult males present in the house, including elderly, handicapped or sick people. Treatment often included

pushing people around, insulting, taking aim with rifles, punching and kicking and striking with rifles. Individuals were often led away in whatever they were wearing at the time of arrest – sometimes in pajamas or underwear – and were denied the opportunity to gather a few essential belongings such as clothing, hygiene items, medicines or eye-glasses.”<sup>2</sup> The Red Cross has also mentioned many allegations of theft of personal property, including money and automobiles, by arresting troops.<sup>3</sup> The Red Cross noted in 2004 that 70-90% of those taken into custody appeared to have been arrested “by mistake.”<sup>4</sup>

#### Thousands of Iraqis Arbitrarily Held

Since the early days of the occupation, US forces have taken thousands of Iraqis into custody for “security” reasons. By January 2004, the official detainee list numbered 8,500.<sup>5</sup> In late 2005, mass detention operations before the elections swelled the prisoner numbers still further.<sup>6</sup> Though the Coalition announced major releases during the summer of 2006, the Baghdad security operations in early 2007 boosted detainees to a record 18,000 by the end of March.<sup>7</sup> In addition, the US and its partners hold many hundreds in intake facilities, where detainees are not yet registered and counted.<sup>8</sup> Others are likely to be held, as

in the past, in secret detention centers, CIA interrogation sites and other “ghost” locations.<sup>9</sup>

The detainees include women, the elderly, and even two hundred juveniles, according to a July 2006 *IRIN News* estimate.<sup>10</sup> Reports speak of children as young as ten years old having been held for long periods.<sup>11</sup> Many have suffered from serious trauma as a result of their prison experience.<sup>12</sup> US General Janis Karpinski, former commander of prison guards in Iraq, told military interviewers that she met a boy in a US prison who was listed as an eleven-year-old but looked closer to eight. The boy was crying, she said, and asking for his mother.<sup>13</sup>

In April, 2007, the US announced that the average length of detention was one year, but that eight thousand Iraqis had been held longer than a year and 1,300 for more than two years.<sup>14</sup> Because of regular releases and new arrests, US forces have deprived a very large number of Iraqis of their freedom and exposed them to the harsh prison system, since the occupation began. No one has counted the total, but Amnesty International comments that in aggregate “tens of thousands of internees” have been held in arbitrary and extrajudicial detention.<sup>15</sup>

### **Outsourcing Detention to Iraqi Authorities**

In the second half of 2004, after the Coalition had transferred sovereignty to the interim government, Iraqi authorities asked for control over all detainees. The Coalition refused. But in the aftermath of the Abu Ghraib scandal, political and legal developments in the US had im-

posed limits on military detention practices in Iraq.<sup>16</sup> So commanders turned over hundreds of prisoners to the Iraqi Ministries of Defense, Justice and Interior, the latter a highly militarized department with little civilian police experience and a harsh sectarian reputation.<sup>17</sup> Iraqi-held prisoners were not legally under US or Coalition authority, but they were still largely under US control or influence.<sup>18</sup> Scores of US advisors were working with Iraqi authorities, including at detention sites. During Iraqi interrogations, US intelligence personnel could be present and even in a supervisory role, while preserving deniability.<sup>19</sup> Iraqi military and security forces were of course making their own arrests while Coalition arrests continued at a rapid pace. As a result, the country-wide prisoner count grew by a factor of four from April 2005 to April 2007.<sup>20</sup>

Iraqi-controlled detention centers are reportedly extremely crowded and operate with scant regard for legal standards. Iraqi authorities have not allowed international monitoring visits by human rights organizations or the Red Cross.<sup>21</sup> Even an Iraqi government legal committee was denied access to the notorious Kadhimiya detention center in early 2007.<sup>22</sup> Though Iraqi law does not allow the Ministry of Interior to hold prisoners, it continues to do so. During 2006, several scandals revealed Iraqi prisons to be exceptionally brutal. Reports in 2007 indicate that, if anything, conditions have gotten worse.<sup>23</sup> Human Rights Watch has commented that, to its knowledge, the plentiful US advisors have done nothing to promote detainee rights in this abusive atmosphere.<sup>24</sup>

In mid-2005, the Iraqis held about 5,000 detainees.<sup>25</sup> By May 2006, the number in



Iraqi custody had grown to 13,300.<sup>26</sup> And by March 2007, driven by the Baghdad security operations, there were almost 20,000 in Iraqi prisons and detention centers.<sup>27</sup> This rapid growth has led to abusive over-crowding.<sup>28</sup> In April 2007, Iraqi inspectors found 827 prisoners jammed into a Mahmudiya facility built for 300 and in Muthana air base they found 272 in a jail intended for 75. In some cases six people were crowded into a cell intended for one.<sup>29</sup> New prisons are being built, but the number of prisoners probably has overtaken the building program.

### **Unclear Legal Status**

The US holds the vast majority of its prisoners in an unclear legal status – without definition of their rights. US authorities have used the vague terms “enemy combatants,” “security detainees,” “security internees,” and “persons under custody.” The Coalition has refused to use the standard terminology -- “prisoners of war” or “criminal detainees” – for which legal rights are clearly specified under international law, domestic US law, and military doctrine. In effect, the detaining authorities do not recognize the rights of those they are holding. In this legal no-man’s-land, Iraqi prisoners have no recourse, no way of demanding rights, and no way of proving their innocence or gaining their release.

US authorities rarely bring charges against detainees or bring them to trial in Iraqi courts. Official Coalition figures from November 2005 report that only 1,301 detainees had received trials since the beginning of the occupation<sup>30</sup> – probably less than one in fifty of all those held until that time. The US insists on its right to hold these prisoners, based

on what it chooses to call “military necessity” or “imperative reasons of security.” In international law these terms are generally thought to have a limited meaning, for a short duration in wartime emergencies. It is thoroughly implausible that jailing tens of thousands of persons without charge or trial can be defended in these terms.

Responding to complaints about arbitrary arrest, the Coalition developed a system of review, which in theory gave all prisoners a chance to have their case examined. The Combined Review and Release Board (CRRB), set up in August 2004, is composed of both Iraqi and Coalition representatives, but it has recommending powers only and is not binding upon the Coalition.<sup>31</sup> Prisoners’ status is said to be reviewed at least every six months. The system for those held by UK forces is similar. Though reviews are more frequent, no Iraqi officials are part of the review panel. The prisoners cannot appear before either of these panels, nor can they have a lawyer represent them. The evidence (if any) is secret. Rules of due process do not apply. So the panels do not remotely fulfill the ordinary practices under domestic US and UK laws or the requirements of international law.<sup>32</sup>

Many legal authorities and international human rights bodies believe that long periods of incarceration without due process, especially in secret facilities and without any contact with families, constitutes by itself illegally abusive treatment.<sup>33</sup> Families also suffer – from worry, anguish and often economic difficulty.

Coalition commanders eventually release most prisoners, after months of de-

tention, interrogation and uncertainty. Releases are often as arbitrary as the original arrests. One prisoner may be released after a month, another after six months, another after a year or more, with no clear difference between the cases – and absolutely no explanations, apologies or proper compensation given for the months of incarceration. Even the manner of the release can be punitive. US forces have released some prisoners injured or sick from bad treatment. At Camp Nama, near Baghdad, after weeks of punishing interrogation, some prisoners were driven deep into the Iraqi desert and released there at night.<sup>34</sup> UK forces have also allegedly released penniless prisoners at night, along a deserted highway, miles from the nearest city.<sup>35</sup>

### **Secret Imprisonment**

International law requires occupation forces to register prisoners promptly, make them accessible to Red Cross visits, and inform families and friends of their whereabouts. These rules prevent “incommunicado detention,” since a lack of independent oversight often leads to bad conditions and abuse.<sup>36</sup> But in Iraq, Coalition commanders have frequently ignored these requirements. They have failed to keep an up-to-date and accurate central prisoner register and they have failed to fully and regularly disclose prisoner names.<sup>37</sup> They have held hundreds and perhaps thousands of hidden or unregistered detainees in local prison camps or in secret interrogation centers, where the detainees have remained incommunicado and invisible for weeks or even months, a practice in direct breach of US army doctrine which sets a twelve hour limit to holding of detainees prior to registration.<sup>38</sup> Even in central prisons like Abu Ghraib, interrogators have kept

“ghost detainees” by moving them around to avoid any encounter with Red Cross inspectors.<sup>39</sup> Some prisoners have allegedly been transferred out of Iraq to secret interrogation centers in foreign locations.<sup>40</sup>

In one case, documented by the UK Prime Minister’s office, an elderly Iraqi woman was “lost” after being arrested in a round-up at the beginning of the war. Finally, after many months in what Downing Street admitted was a “black hole” of invisible detention, the woman was “found” – still in custody – and released from a US-run prison, where she had suffered both physical and psychological abuse.<sup>41</sup>

Commanders have denied human rights organizations access to virtually all prisons in Iraq – in spite of several visit requests.<sup>42</sup> Commanders have also refused requests by UN human rights experts to visit Coalition prisons.<sup>43</sup> And they have selectively denied Red Cross access to detention sites other than the central prisons, including, reportedly, local facilities, special interrogation centers and other sites where detainees are most at risk.<sup>44</sup> In March, 2005, a Human Rights First lawyer expressed great concern about the field prisons where “conditions are terrible,” the “worse abuses” occur and Red Cross access is “limited to nonexistent.”<sup>45</sup>

### **Coalition Prisons**

Coalition forces hold prisoners throughout Iraq in dozens of places and many types of facilities. Some are held in prison buildings with long rows of cells, some in makeshift quarters like school buildings and army barracks, but most are held in prison camps with tents for

shelter, surrounded by razor wire and elevated guard towers. Most prisoners have been held at five central facilities.<sup>46</sup>

**Abu Ghraib Prison**, a complex of buildings near Baghdad, was a notorious jailhouse of the former regime. Abu Ghraib became the main US interrogation center and it also became a worldwide symbol of prisoner abuse and inhumane conditions. Its stone cellblocks and extensive tent camps have been described as unsanitary, seriously overcrowded and lacking adequate quarters for prisoners.<sup>47</sup> One US soldier assigned to guard duty at Abu Ghraib wrote in a letter that military interrogators had “instructed us to place a prisoner in an isolation cell with little or no clothes, no toilet or running water, no ventilation or window, for as much as three days.”<sup>48</sup> On May 24, 2004, at the height of the torture scandal, the White House announced that Abu Ghraib’s prison buildings would be soon torn down,<sup>49</sup> but instead they were kept in service and were reported to hold about 4,700 detainees in November, 2005.<sup>50</sup> The main prison buildings were finally emptied over the summer of 2006 and turned over to Iraqi authorities on September 2.<sup>51</sup> Some detainees were shifted to Camp Bucca and those remaining – an estimated 3,000 – were moved to a new US prison at Camp Cropper.<sup>52</sup>

**Camp Bucca**, the biggest US detention facility, is a 100-acre prison camp in the desert near Umm Qasr, in the south. Bucca was the subject of the first official US military inquiry into abuse and torture in May 2003, very soon after the site was built.<sup>53</sup> Initially, US military planners intended the facility to hold 2,000 to 2,500 prisoners.<sup>54</sup> But as of March 2006, an estimated 8,500 Iraqis were held there<sup>55</sup> and by March 2007 the

number had jumped to 13,800.<sup>56</sup> Amnesty International reported in 2003 that detainees at Camp Bucca were being “held in tents in the extreme heat and were not provided with sufficient drinking water or adequate washing facilities. They were forced to use open trenches for toilets and were not given a change of clothes - even after two months’ detention.”<sup>57</sup> By 2006, some tents had been replaced by tin-roofed huts and sanitation had marginally improved, but this vast complex in the scorching desert, subject to sandstorms, remains a hellhole for prisoners. The whole complex is divided into “compounds,” each surrounded by barbed wire and guard towers and holding about 800 prisoners. Prisoners have rioted several times to protest maltreatment, poor conditions, and religious insults by guards. In January 2005, guards opened fire from observation towers during one protest, killing four detainees and wounding six more.<sup>58</sup>

**Fort Suse**, a former Iraqi military barracks located near Sulimaniye in the north, was reconstructed and opened in 2005 to accommodate the rising number of Coalition prisoners.<sup>59</sup> In late 2005 it held about 1,200 inmates.<sup>60</sup> It was handed over to Iraqi authorities in September 2006.

**Camp Cropper** near Baghdad was an important center for interrogation during the early months of the occupation and the Red Cross reported “at least 50 incidents of abuse” in early July 2003.<sup>61</sup> The prison is best-known for holding “high value” prisoners, mainly top political and military leaders of the former regime<sup>62</sup> who were held in solitary confinement, devoid of sunlight, under conditions that the Red Cross considered “se-

rious violations” of the Geneva conventions.<sup>63</sup> In August 2006, the US detention command opened a \$60 million expansion and the facility can now hold several thousand inmates. Reportedly, 3,000 were brought in from Abu Ghraib during the summer of 2006.<sup>64</sup> In April 2007, US prison authorities said that 3,300 were being held there.<sup>65</sup> According to the *New York Times*, though Camp Cropper is supposed to symbolize “reform” in the US detention system, “several detainees there have died mysteriously in the past year.”<sup>66</sup>

**Camp Shu’aiba**, a detention center located at a major British base south of Basra, has generally held less than 200 detainees. In August 2006 it reportedly held just 85.<sup>67</sup> Though the numbers are relatively low compared with the prisons under US authority, the British have not had a good record as jailors. In 2003, an officer’s order to “work prisoners hard” led to serious abuse of British detainees at a nearby site<sup>68</sup> and there have been several investigations and court martials as a result of prisoner mistreatment. In late 2005, reports spoke of hunger strikes and prisoner “disturbances” at Camp Shu’aiba, protesting beatings by guards and holding of inmates without trial.<sup>69</sup> At the same time, families blocked the road to the facility in protest at a lack of family visits.<sup>70</sup> Attempted suicides by despondent prisoners have also been reported.<sup>71</sup>

**Other Sites** include six relatively large detention centers – a facility known as MNF Center and five prisons maintained by US forces at brigade or divisional level.<sup>72</sup> Coalition forces have held prisoners in dozens of smaller sites, including secret interrogation centers such as the former Camp Nama near Baghdad.

In Nama, detainees were forced to stand for days in cargo containers in the blazing sun with temperatures rising to 135 degrees Fahrenheit, deprived of their clothes and not allowed to sleep.<sup>73</sup> Camp Diamondback at the Mosul airport in the north is another secret scene of notoriously bad conditions.<sup>74</sup> Additionally, prisoners are held in makeshift prison camps, collection points, and other local detention centers, including many of the sixty “forward operating bases” close to the theater of military operations.<sup>75</sup>

### Prison Conditions

While torture and abuse have been the worst aspect of Coalition prisons, authorities have also subjected detainees to unacceptable and inhumane conditions of incarceration, which violate international human rights standards. Reports have spoken of poor food and bad quality water, prisoners exposed to extremes of temperature, grossly overcrowded cells, and seriously inadequate sanitation arrangements.<sup>76</sup> General Paul Miko-lashek reported that at Abu Ghraib, garbage and sewage covered the grounds of the outdoor camps, bathing facilities were minimal, fresh water was in short supply and detainee meals were frequently contaminated with dirt and rodent droppings.<sup>77</sup> In order to pressure prisoners and to “soften them up” for interrogation, guards at many facilities have reportedly withheld or greatly curtailed access to food and water, punitively limited visits to the latrine, confined inmates to fetid isolation cells, and removed mattresses, sheets and prisoners’ clothing.<sup>78</sup>

Conditions in the Coalition prisons are greatly worsened by the language barrier between guards and detainees, which

results in what the Red Cross has called “frequent misunderstandings” that are “compounded by a widespread attitude of contempt on the part of the guards.”<sup>79</sup> The Red Cross has reported further that “a failure to understand or a misunderstanding of orders given in English was construed by guards as resistance or disobedience,” leading to abusive punishments.<sup>80</sup>

At Camp Nama, a temporary detention site at the Baghdad International Airport, run by a secret US military unit called Task Force 6-26, prisoners were crammed into dozens of small cells, overwhelmed by the smell of human waste, and often forced to squat or crouch for sleeping because of overcrowded conditions.<sup>81</sup> In Tal Afar, at a police station under direct supervision of US forces, “forty-seven prisoners were squeezed into a cell so tight that they had to take turns sleeping; four or five others were crammed into the latrine.”<sup>82</sup> In this jail, one of the detainees was a twelve year-old boy; another man was a school-teacher who had been arrested after a roadside bomb detonated near the taxi he had hired. He had never seen a lawyer.”<sup>83</sup>

Prisoners have repeatedly protested, rioted, gone on hunger strikes and otherwise taken extreme measures to call attention to their unacceptable prison conditions. The March 2004 report by General Antonio Taguba, investigating prison abuse, makes it clear that Coalition prisons were seriously overcrowded and that during 2003 there had already been a number of protests, to which guards had responded by opening fire on prisoners.<sup>84</sup> In one such incident at Abu Ghraib on November 24, 2003, guards killed three and wounded nine.<sup>85</sup>

Two of the world’s most respected medical journals, *The Lancet* and the *New England Journal of Medicine*, have run articles detailing the unethical and illegal behavior of military medical staff at Coalition prisons.<sup>86</sup> Doctors, nurses and other medical personnel have failed to monitor and correct unhealthful sanitary conditions and inadequate provision of food and shelter.<sup>87</sup> Most seriously, they have not reasonably attended to the medical needs of prisoner. Not only have they failed to conduct routine examinations, but they have failed to attend to prisoners’ wounds, sores, broken limbs and other serious conditions.<sup>88</sup> Military medical personnel have also failed to report prisoners’ medical condition or filled out false reports and death certificates.<sup>89</sup> They have failed to provide prisoners with needed medicines.<sup>90</sup> And they have turned over prisoners’ medical records to interrogators, to allow them to exploit the vulnerabilities of detainees.<sup>91</sup> Few Coalition military doctors or medical professionals have come forward to give evidence about these serious violations of medical ethics and international law, though the crimes have been well-documented by civilian medical researchers. Nor has any military medical professional been brought to trial for these acts, so damaging to the prisoners put under their care.

### **Practices Condemned in Iraq and at the UN**

In September, 2005, Iraqi Justice Minister Abdul Hussein Shandal said “No citizen should be arrested without a court order. There is abuse [of human rights] due to detentions, which are overseen by the Multinational Force and are not in the control of the Justice Ministry.”<sup>92</sup> UN Secretary General Kofi Annan re-

peatedly called attention to the Coalition's policies of arbitrary imprisonment, referring in 2005 to "the detention of thousands of persons without due process;" Annan also noted that "prolonged detention without access to lawyers and courts is prohibited under international law, including during states of emergency."<sup>93</sup> In March 2006, Annan again reiterated these concerns, making a clear judgment that the Coalition's arguments about security are unacceptable.<sup>94</sup> UN High Commissioner for Human Rights, Louise Arbour has made the same point and the UN Assistance Mission in Iraq has frequently criticized the mass-detention operations and the large number of detainees without access to judicial review.<sup>95</sup>

## Conclusion

The Geneva Conventions and the International Covenant on Civil and Political Rights set clear standards for the legal status and treatment of prisoners of war and criminal detainees. Under these standards, it is illegal to hold persons arbitrarily and incommunicado. All detainees are guaranteed the right to legal counsel and due process of law. They have a right to decent and humane standards of incarceration, they have a right of contact with the Red Cross, and they

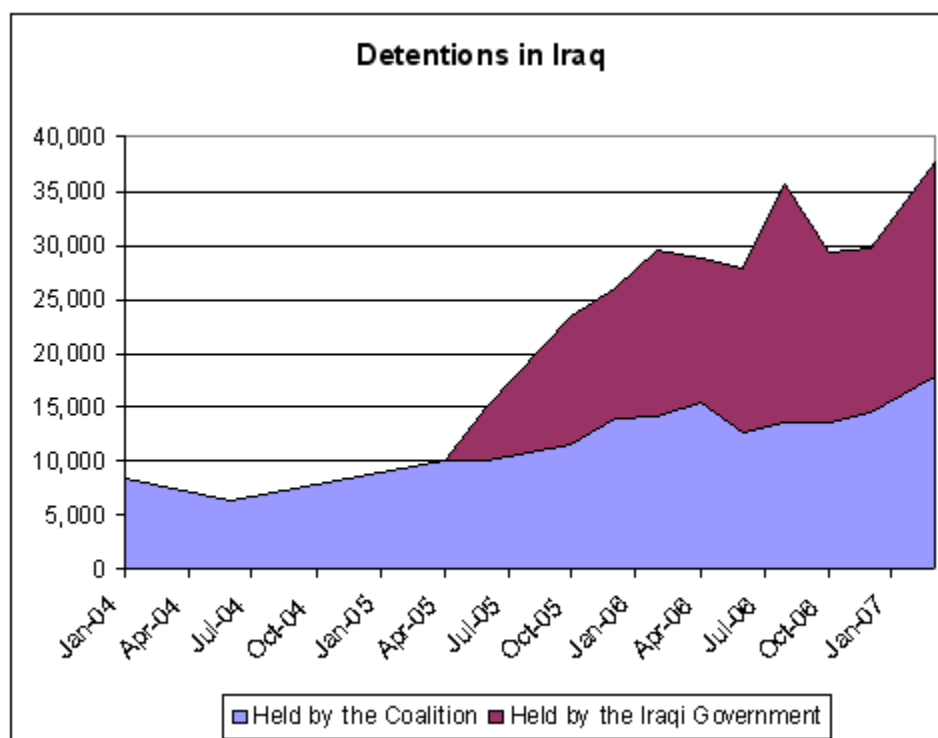
must not to be mistreated. Domestic laws of the United States, the United Kingdom and other Coalition members, as well as the laws of Iraq, also afford protections against arbitrary, extrajudicial and incommunicado detention. The International Convention for the Protection from Enforced Disappearance qualifies the widespread or systematic practice of unlawful arrests and detentions as a crime against humanity.<sup>96</sup>

The United States and the United Kingdom have argued unconvincingly that they have been given unlimited detention authorization under a letter from US Secretary of State Colin Powell, attached to UN Security Council Resolution 1546. The letter speaks of "internment where this is necessary for imperative reasons of security." UN Secretary General Kofi Annan rejected this interpretation and the UN continues to raise questions about the legality of this policy.

Tens of thousands of people have been held in abusive detention, removed from their families and kept incommunicado for long periods. The policy has terrorized the Iraqi population. It has done great harm and seriously violated international law.

<b>Detentions in Iraq</b> (numbers rounded to nearest hundred)			
	<b>Held by the Coalition</b>	<b>Held by the Iraqi Government</b>	<b>TOTAL</b>
Jan-04	8,500	-	8,500
Jun-04	6,400	-	6,400
Nov-04	8,300	-	8,300
Apr-05	10,000	-	10,000
Jun-05	10,000	5,000	15,000
Oct-05	11,600	11,800	23,400
Dec-05	14,000	12,000	26,000
Feb-06	14,200	15,300	29,500
Apr-06	15,400	13,300	28,700
Jun-06	12,600	15,200	27,800
Aug-06	13,600	22,000	35,600
Oct-06	13,600	15,700	29,300
Dec-06	14,500	15,200	29,700
Mar-07	17,900	19,800	37,700

**Sources:**  
 January 2004 - June 2005: Amnesty International "Beyond Abu Ghraib," p. 17  
 October 2005 - March 2007: UNAMI human rights reports, except for December 2005 which is a GPF estimate



<sup>1</sup> As quoted by Brigadier General Janis Karpinski, reported in “Iraq Abuse Ordered From the Top” *BBC* (June 15, 2004)

<sup>2</sup> International Committee of the Red Cross, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation* (February, 2004) [“ICRC Report”], p. 7

<sup>3</sup> *Ibid.* pp. 21-22

<sup>4</sup> The ICRC reported that it was given this estimate by Coalition Military Intelligence officers, *ibid.*, p. 8

<sup>5</sup> The true number of detainees at that time was widely believed to be higher. Amnesty International, *Beyond Abu Ghraib* (March, 2006) p. 17

<sup>6</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2005). See also Will Dunham, “US Holds Bulging Prisoner Population in Iraq” *Reuters* (December 28, 2005)

<sup>7</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2006) p.18

<sup>8</sup> See the discussion about these facilities below and about the slow process of registration. In March 2005, it was estimated that 1,300 persons were being held in transient facilities. Edward Wong, “US Jails in Iraq Are Bursting with Detainees” *New York Times* (March 4, 2005)

<sup>9</sup> Human Rights Watch, *No Blood, No Foul* (July 2006), provides extensive information about two such secret detention facilities – Camp Nama and Camp Diamondback – that were operating in 2005.

<sup>10</sup> UN Integrated Regional Information Networks, *Child Prisoners Left Without Support* (July 30, 2006) See also “The Other Prisoners” *Guardian* (May 20, 2004), an article with considerable evidence about women prisoners.

<sup>11</sup> Neil Mackey, “Iraq’s Child Prisoners” *Sunday Herald* (August 1, 2004)

<sup>12</sup> United Nations Integrated Regional Information Networks, *op.cit.*

<sup>13</sup> “US Held Youngsters at Abu Ghraib” *BBC* (March 11, 2005)

<sup>14</sup> Walter Pincus, “US Holds 18,000 Detainees in Iraq” *Washington Post* (April 15, 2007)

<sup>15</sup> Amnesty International, *op.cit.* p. 16. Janis Karpinski, who was in command of prison guards in 2003, thinks that average detainee turnover could be 4-6 months, which would suggest a detainee total of well over 100,000 (private communication January, 2007).

<sup>16</sup> In October, 2004, for instance, the US Congress passed a law requiring the Department of Defense to provide regular reporting of the number of those held in military custody. (“Behind the Wire” pp. i and ii) In this same period, the US Supreme Court took an important decision in the case *Raisul v. Bush* that also impacted detention policy.

<sup>17</sup> Human Rights Watch, *The New Iraq* (January, 2005) pp. 6-7. See esp. Robert Perito, “Reforming the Iraqi Interior Ministry, Police and Facilities Protection Service” *United States Institute for Peace* (February 2007)

<sup>18</sup> Amnesty International, *op.cit.* pp. 8-9.

<sup>19</sup> *Ibid.* pp. 6 and 9.

<sup>20</sup> We estimate that the total rose from around 13,000 to around 29,000 in this period.

<sup>21</sup> The International Committee of the Red Cross has been in negotiations with Iraqi authorities to gain access since 2004. There were some reports in early 2007 that agreement was close. But in late May 2007, the head of the ICRC, Jakob Kellenberger, told the press that he was not optimistic about a breakthrough in the talks. See Stephanie Nebehay, “ICRC Still Seeking Access to Iraqi-Run Prisons,” *Reuters* (May 24, 2007)

<sup>22</sup> Joshua Partlow, “New Detainees Strain Iraq’s Jails” *Washington Post* (May 15, 2007)

<sup>23</sup> *Ibid.*

<sup>24</sup> Human Rights Watch, *op.cit.* p.3

<sup>25</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January 1-February 28, 2006) p. 6.

<sup>26</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1- August 31, 2006) p. 14.

<sup>27</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January 1- April 30, 2007) p. 22.

<sup>28</sup> *Ibid.*, p. 22

<sup>29</sup> Partlow, “New Detainees” *op. cit.*

<sup>30</sup> Multinational Force in Iraq, *Central Criminal Court of Iraq* (November 28, 2005)

<sup>31</sup> Amnesty International, *op.cit.* pp. 22-24

<sup>32</sup> Amnesty International, *op.cit.* pp. 22-24. The UK panel is known as the Divisional Internment Review Committee.



<sup>33</sup> *Ibid.*, pp. 37-38

<sup>34</sup> Eric Schmitt and Carolyn Marshall, "In Secret Unit's 'Black Room,' a Grim Portrait of U.S. Abuse" *New York Times* (March 19, 2006)

<sup>35</sup> In one incident, described by the head of the Iraqi Red Crescent in Basra, UK authorities released him and 200 other detainees from Camp Bucca at night along the road from Basra to Zubai. They had to walk 25 miles to the nearest town. See Robert Verkaik, "Kidnap and Torture: New Claims of Army War Crimes in Iraq" *Independent* (May 18, 2007)

<sup>36</sup> See comments in Amnesty International, *Beyond Abu Ghraib* (March, 2006) pp. 31, 33, and 34.

<sup>37</sup> Human Rights First, *Behind the Wire* (March, 2005) p. 7

<sup>38</sup> Josh White and Scott Higham, "Army Calls Abuses 'Aberrations'" *Washington Post* (July 23, 2004) In some cases, the Pentagon and the CIA have removed prisoners from Iraq and transferred them to other locations, evidently to naval ships or third countries for detention and interrogation. One such prisoner was reported to be transferred to Egypt and others to secret prisons on the island of Diego Garcia, in other Arab countries or in Eastern Europe.

<sup>39</sup> See Julian Borger, "Jailed Iraqis hidden from Red Cross, Says US Army" *Guardian* (May 5, 2004). The Taguba Report first made reference to this practice. See also Human Rights First, *Ending Secret Detentions* (June, 2004) and American Civil Liberty Union, *Enduring Abuse* (April, 2006), esp. Section 5, pp. 45-49. It is clear that the ICRC has had some degree of access to Coalition prisoners, as the leaked report of February, 2004 makes clear (29 visits to 14 facilities), but the access was far from satisfactory or complete, as the report also makes clear.

<sup>40</sup> Amnesty International, *Beyond Abu Ghraib* (April, 2006) p. 6. Human Rights First estimates that at least a dozen detainees in Iraq have been transferred abroad ("Behind the Wire" *op.cit.* p. 6).

<sup>41</sup> Gaby Hinsliff, "Blair Envoy Reveals Plight of Iraqis Left in Jail Maze" *The Observer* (April 9, 2006)

<sup>42</sup> Information from Amnesty International and Human Rights Watch. These organizations have apparently had access to prisons in Kurdistan. Amnesty was evidently allowed one visit to a prison in Mosul early in the occupation.

<sup>43</sup> Five independent experts of the UN Commission on Human Rights have made several requests for visits See Amnesty International, *op.cit.* p. 34-35

<sup>44</sup> Ed Vulliamy, "Red Cross Denied Access to PoWs" *The Observer* (May 25, 2003); Human Rights First, *Behind the Wire* (March 2005); in 2006 Amnesty International writes that the ICRC "does not have access to brigade and division internment facilities of the MNF – that is, military bases where detainees are mainly held during the first days or weeks of their detention." *Beyond Abu Ghraib* (March 2006) p. 34

<sup>45</sup> Matt Kelley, "US Holds About 10,500 Prisoners in Iraq" *Associated Press* (March 30, 2005)

<sup>46</sup> The information in this section is largely drawn from Human Rights First, *Behind the Wire* (March, 2005) and Amnesty International, *op.cit.*

<sup>47</sup> See Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade (March, 2004) [Taguba Report] p. 38

<sup>48</sup> Seymour M. Hersh, "Torture at Abu Ghraib" *New Yorker* (May 10, 2004)

<sup>49</sup> George W. Bush, Speech at the US Army War College, Carlisle, Pennsylvania (May 24, 2004)

<sup>50</sup> Amnesty International, *op.cit.* p. 18. This number was taken by Amnesty from the official MNF web site.

<sup>51</sup> "Inmates Transferred out of Abu Ghraib as Coalition Hands Off Control" *Associated Press* (September 3, 2006) See also Nancy A. Youssef, "Abu Ghraib No Longer Houses any Prisoners, Iraqi Officials Say" *McClatchy Newspapers* (August 26, 2006)

<sup>52</sup> Patrick Quinn, "US War Prisons Legal Vacuum for 14,000" *Associated Press* (September 16, 2006)

<sup>53</sup> CID Report of Investigation, Department of the Army, 10<sup>th</sup> Military Police Detachment, Third Military Police Group, Camp Bucca, Um Qasr (June 8, 2003)

<sup>54</sup> Jackie Spinner, "Remote Facility in Iraq Shows New Face of US Prison System" *Washington Post* (June 21, 2004)

<sup>55</sup> Global Security, *US Military Occupation Facilities – Umm Qasr* (April 2006). Amnesty International reported 7,365 prisoners at Bucca in November, 2005, see *Beyond Abu Ghraib* (March 2006) p. 18

<sup>56</sup> Walter Pincus, "US Holds 18,000 Detainees," *op. cit.*

<sup>57</sup> Spinner, *op. cit.*

<sup>58</sup> Bradley Graham, "Prisoner Uprising in Iraq Exposes New Risk for US" (February 21, 2005); Bradley Graham, "US to Expand Prison Facilities in Iraq" *Washington Post* (May 10, 2005)

<sup>59</sup> Multinational Force in Iraq, *New Theater Internment Facility Opens in Northern Iraq* (October 30, 2005)

<sup>60</sup> Amnesty International, *op.cit.* p. 18

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- <sup>61</sup> Douglas Jehl, "Earlier Jail Seen as Incubator for Abuses" *New York Times* (May 15, 2004)
- <sup>62</sup> Amnesty International, *op.cit.* p. 40
- <sup>63</sup> "ICRC Report", *op.cit.* p. 4
- <sup>64</sup> Quinn, "US War Prisons" *op.cit.*; Graham, "US to Expand" *op.cit.*
- <sup>65</sup> Pincus, "US Holds 18,000 Detainees" *op. cit.*
- <sup>66</sup> Damien Cave, "American Colonel Accused of 'Aiding Enemy' at Prison in Iraq," *New York Times* (April 26, 2007)
- <sup>67</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1- August 31, 2006) p. 14
- <sup>68</sup> Audrey Gillan, "Senior Behavior Infected Soldiers" *Guardian* (February 11, 2005)
- <sup>69</sup> Audrey Gillan, "Allegations of Ill-Treatment After Protest by Iraqi Detainees" *Guardian* (December 24, 2005)
- <sup>70</sup> *Ibid.*
- <sup>71</sup> *Ibid.*
- <sup>72</sup> Amnesty International counted 650 persons held at the brigade or divisional level on a list published in November 2005. See *Beyond Abu Ghraib* p. 17
- <sup>73</sup> Eric Schmitt and Carolyn Marshall, "In Secret Unit's 'Black Room,' a Grim Portrait of US Abuse" *New York Times* (March 19, 2006); Human Rights Watch, *No Blood, No Foul* (2006) pp. 6-24
- <sup>74</sup> Human Rights Watch, *op.cit.* pp. 38-47
- <sup>75</sup> See "ICRC Report", *op.cit.* p. 5. We have compiled the list of prisons additionally from reports of Amnesty International, Human Rights Watch and Human Rights First. A "forward operating base" is a small, temporary base located close to a theater of operations. For commentary on local sites, see White and Higham, *op. cit.* GlobalSecurity.org had a list of forward operating bases in Iraq that numbered 62 when searched in August, 2006.
- <sup>76</sup> Christian Peacemaker Teams, *Iraq. Report and Recommendations on Iraqi Detainees* (January 2004); White and Higham, *op. cit.* Department of the Army, The Inspector General, "Detainee Operations Inspection (July 21, 2004) [The Mikolashek Report]
- <sup>77</sup> White and Higham, *op. cit.* ; The Mikolashek Report, *op.cit.*
- <sup>78</sup> Taguba Report documents a case in which Military Interrogation personnel at Abu Ghraib asked guards to remove mattresses, sheets and clothing and it otherwise talks about demands by MI and by the CIA that guards pressure prisoners by creating unbearable conditions.
- <sup>79</sup> "ICRC Report", *op.cit.* p. 17
- <sup>80</sup> *Ibid.*
- <sup>81</sup> Schmitt and Marshall. *op.cit.*
- <sup>82</sup> George Packer, "The Lesson of Tal Afar" *New Yorker* (April 10, 2006)
- <sup>83</sup> *Ibid.*
- <sup>84</sup> Taguba Report, pp. 27-31. This list with brief descriptions covers the period June 2003-January 2004.
- <sup>85</sup> Taguba Report. pp. 28-29.
- <sup>86</sup> Robert Jay Lifton, "Doctors and Torture" *New England Journal of Medicine* (July 29, 2004) and Steven H. Miles, "Abu Graib: its legacy for military medicine" *The Lancet*, Vol 364 (August 21, 2004), pp. 725-729. The *Journal of the American Medical Association* has also run an article. See C. Reis et al, "Physician Participation in Human Rights Abuses in Southern Iraq" *JAMA*, Vol 291, 2004, pp. 1480-1486.
- <sup>87</sup> Miles, *op.cit.* p. 726
- <sup>88</sup> *Ibid.*
- <sup>89</sup> *Ibid.* pp. 726, 728
- <sup>90</sup> *Ibid.* p. 726
- <sup>91</sup> *Ibid.* p. 728 and Lifton, *op.cit.*
- <sup>92</sup> As quoted in Mariam Karouny and Alastair Macdonald, "Iraq Slams US Detentions, Immunity For Troops" *Reuters* (September 14, 2005)
- <sup>93</sup> Report of the Secretary-General pursuant to paragraph 30 of resolution 1546, S/2005/373 (June 7, 2005) para. 72
- <sup>94</sup> Report of the Secretary General Pursuant to Paragraph 30 of Resolution 1546, S/2006/137(March 3, 2006)
- <sup>95</sup> All UNAMI Human Rights reports provide commentary on the detention system.
- <sup>96</sup> Adopted by the UN General Assembly in December 2006, the Convention is now open for ratification.

## Chapter 5

### Abuse and Torture of Prisoners

*“...what has been charged so far is abuse, which I believe technically is different from torture...I'm not going to address the 'torture' word.”*

– US Secretary of Defense Donald Rumsfeld<sup>1</sup>

Coalition 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.

#### Early Abuse & Torture

In the spring and summer of 2003, as the armed Iraqi insurgency grew stronger, Washington and London promoted increasingly aggressive detention and interrogation methods. In spite of official investigations that showed serious abuse of Iraqi detainees,<sup>2</sup> the top command in Baghdad sent emails to US military interrogators in late summer, saying that the “gloves are coming off” and asking for “wish-lists” of harsher interrogation methods.<sup>3</sup> At the same time, the Pentagon sent the commander of Guantanamo Prison, General Geoffrey Miller, to advise occupation forces on more aggressive interrogation tactics.<sup>4</sup> Miller proposed innovations such as the use of fierce guard dogs to frighten naked inmates.<sup>5</sup>

In the fall of 2003, in response to rising worldwide public concern, the US military commissioned several investigations that provided extensive evidence of detainee abuse and torture.<sup>6</sup> Confidential Red Cross reports provided similar evidence.<sup>7</sup> General Antonio Taguba submitted an influential report in March 2004, concluding that US guards had subjected Iraqi detainees to “numerous incidents of sadistic, blatant and wanton criminal abuses.”<sup>8</sup> The report further described these abuses as “egregious acts and grave breaches of international law.”<sup>9</sup> Gen. Taguba concluded that General Miller’s recommendations were inappropriate and conducive to excessive use of force in the interrogation process.<sup>10</sup> As news (and photos) of torture began to leak out to the public, the Pentagon removed the commander of military police guards serving at Abu Ghraib, General Janis Karpinski, and later named as the new commander of Iraq-wide detainee operations the very person widely seen as architect of the worst illegalities – General Geoffrey Miller himself.

#### Details of the Torture System

Reports have revealed acts by Coalition guards and interrogators that included vicious beating, strangulation and suffocation, forced nudity and other forms of humiliation, threats with dogs, and pro-

longed exposure to intense heat or cold.<sup>11</sup> Reports have also detailed hooding, sleep deprivation, hanging by the arms, near-drowning, sexual abuse, restricted food and water, burns, use of sharp and blunt instruments, exposure to intolerable noise, threats of murder, beating with clubs and wire, prolonged “stress” positions, electric shocks and more.<sup>12</sup> Even Pentagon reports have described torture in clear, unambiguous and agonizing detail.<sup>13</sup>

The abuses at Abu Ghraib Prison on the outskirts of Baghdad – controlled by US forces – are known worldwide. But Coalition personnel have abused and tortured prisoners at numerous other sites, including:

- Central prisons such as Camp Cropper, Camp Bucca and Camp Shu’aiba near Basra (a UK facility)
- Secret interrogation sites such as Camp Nama near Baghdad,<sup>14</sup> and Camp Diamondback at the Mosul Airport.<sup>15</sup>
- Makeshift prison camps
- Divisional and brigade level military detention centers
- Forward operating bases such as Tiger in al-Qaim<sup>16</sup> and Mercury in Falluja,<sup>17</sup>
- Points of capture.<sup>18</sup>

Hundreds of US personnel have abused and tortured prisoners in Iraq.<sup>19</sup> UK forces have also been clearly involved and the Dutch contingent has also been implicated.<sup>20</sup> Regular military forces and units of military police guards have most often appeared in press stories, official reports and court martials. Virtually all of those in the spotlight during the Abu Ghraib scandal were US army reservists, members of the 800<sup>th</sup> Military Police

Brigade. But this focus was seriously misleading.

Less visible, but far more systematically involved in abusive practices, are:

- Military Intelligence personnel
- Special Operations personnel (US Army Rangers, US Navy Seals, British Special Air Services, etc.)
- CIA and other intelligence and police service personnel (in particular, staff of the Defense Intelligence Agency, the FBI and the British Secret Intelligence Service, sometimes known as MI6).<sup>21</sup>

At Abu Ghraib, Military Intelligence (and the CIA) controlled Cellblocks 1A and 1B, the prison buildings where torture was taking place.<sup>22</sup> Military Intelligence put pressure on the Military Police guards to “set the conditions” (i.e. abusively prepare detainees) for interrogation.<sup>23</sup> The notorious Camp Nama, another major interrogation site, included among its key personnel: special operations, military intelligence, and CIA.<sup>24</sup> Others involved in the torture and abuse are:

- Military medical personnel, including doctors, who have helped design, approve and monitor abusive interrogation, as well as filing false medical reports, including false death certificates.<sup>25</sup>
- Private military contractors, including employees of Titan and CACI International, who were hired to perform guard duty, translation or interrogation services.<sup>26</sup> CACI alone employed almost half of all interrogators and analysts at Abu Ghraib during the scandal period.<sup>27</sup> Some of

these contract personnel previously worked in US domestic prisons, where they already had records of criminal abuse of prisoners.<sup>28</sup>

### **Continuing Torture and Abuse**

The world public began to learn the details of the Iraq torture scandal in April 2004. During the spring and summer, US officials assured the public that the abuse would cease, that it was not official policy.<sup>29</sup> But torture and abuse clearly have continued. Though abuse apparently diminished at Abu Ghraib and other central detention facilities, it continued in secret interrogation centers, forward operating bases and local military prisons – and particularly in Iraqi-run facilities.<sup>30</sup> Serious cases have regularly come to light and the head of the UN Human Rights Office in Baghdad, Gianni Magazzeni told Associated Press in April, 2006 that cases of torture and summary execution are “happening every day.”<sup>31</sup>

A March 2006 report by Amnesty International provides evidence of some grisly cases long after the official promises of reform. In one instance, seven US soldiers were sentenced in a court martial for an incident in March 2005 in which they used electric shock on Iraqi detainees at a site near Baghdad.<sup>32</sup> In another case, five soldiers were also sentenced in connection with an incident in September 2005 for the violent punching and kicking of detainees.<sup>33</sup> Amnesty also obtained an October 2005 photo of a detainee in a harmful “restraint chair” at Abu Ghraib, a chair that authorities said was being used as “punishment.” Such a chair, Amnesty determined, posed a major health risk, was seriously abusive,

and was clearly contrary to international law.<sup>34</sup> Still more alarming are the subsequent reports of murder of Iraqi detainees.

A Pentagon survey, released on May 5, 2007, found that many US military personnel were willing to tolerate torture of Iraqi detainees and unwilling to report abuse by comrades.<sup>35</sup> General David Petraeus, the top Coalition commander, wrote an open letter to troops shortly afterwards expressing concern about this fresh evidence of widespread abusive behavior.<sup>36</sup> But it remains to be seen whether the general’s letter, posted on a web site, is intended to change the treatment of detainees on the ground or is mainly a public relations measure.

### **The Secret Gulag Shields Torture**

Extremely limited access to detainees by lawyers, families, even the Red Cross means that there are thousands of Iraqis at the mercy of their captors, with no independent oversight. The complete lack of visits by human rights groups and UN experts compounds the situation, as does the absence of army criminal investigators in some highly-restricted sites.<sup>37</sup> Thus shielded from independent oversight and accountability, especially in the field sites, angry and battle-weary officers and soldiers have seriously abused detainees, as have CIA and Military Intelligence interrogators. In the many field interrogation centers, UK personnel too, such as Special Air Service interrogation specialists, have been implicated in abusive acts.<sup>38</sup>

Interviews by Human Rights Watch with US army veterans have revealed that concerned soldiers or officers who tried to raise questions or complained were

pressured into silence – by senior officers or even military lawyers of the Judge Advocate General’s office.<sup>39</sup> The hesitant soldiers were assured that interrogation methods were approved by commanders and perfectly legal.<sup>40</sup> Even officers who doubted the legality of their actions found it almost impossible to get satisfactory answers from the chain of command and one officer was reminded of the “honor of the unit” as a reason to stay silent.<sup>41</sup> Interviews have revealed that soldiers working in special detention facilities have had limited communication with the outside world. They report that they did not know the family names of others serving with them, and they had no contact with military justice investigators.<sup>42</sup> At Camp Nama, commanders assured the interrogation personnel that there would be no Red Cross visits and no visits by the army’s criminal investigators either.<sup>43</sup> The place was kept secret and even its code name was regularly changed.<sup>44</sup>

### **Deaths in Detention**

There have been many deaths in US or UK detention in Iraq, including cases where the deaths were due to torture, abuse or murder. In a 2006 report, Human Rights First (HRF) reviewed broad evidence on prisoners who have died in US custody in Iraq and Afghanistan, in some cases during and shortly after interrogation. It is clear from the report that there had been dozens of prisoner deaths from the beginning of the Iraq occupation until early 2006. Though the military officially attributes most of these deaths to “natural causes,” or “unknown causes” independent medical experts doubt such findings, considering the age of most detainees and the circumstances of their detention. HRF be-

lieves that about half of the cases it examined can be clearly attributed to homicide, bad treatment, abuse or torture.<sup>45</sup> UK cases include four that Amnesty identified in late 2004 as probably resulting from torture or ill-treatment.<sup>46</sup>

The most common form of death in detention has probably been the killing of prisoners during protests, riots, escape attempts and other incidents. Guards have apparently been very quick to apply “lethal force” in such circumstances and official reports indicate that guards have shot dozens of prisoners, while wounding many more.<sup>47</sup> Prisoners also die in circumstances that appear to be acts of vengeance. There are two well-known cases, one by US troops and one by UK troops, where those in charge of detainees pushed the Iraqis into rivers or canals from bridges or high embankments, causing death from drowning.<sup>48</sup>

In one case in November 2003, later brought to a court martial and widely publicized, US interrogators used a sledgehammer handle beating to “ratchet up the pressure” while interrogating Iraqi Major General Abed Hamed Mowhoush at Forward Operating Base Tiger in al-Qaim near the Syrian border.<sup>49</sup> Eventually, Mowhoush was moved to the “Blacksmith Hotel,” a makeshift facility in the desert. There, Chief Warrant Officer Lewis Welshofer stuffed Mowhoush head first into a sleeping bag, wrapped the bag with electrical cord, sat on his chest, and covered his mouth and nose, eventually killing him. Though the military immediately issued a statement attributing Mowhoush’s death to “natural causes,” the autopsy indicated that Mowhoush died of asphyxia due to smothering and chest compression, while suffering massive bruising and

five broken ribs.<sup>50</sup> The investigation determined that the abhorrent interrogation methods had been approved by Company Commander Major Jessica Voss and had been used on at least 12 other prisoners.<sup>51</sup> A shadowy CIA-organized Iraqi team called the “Scorpions” was involved in the incident.<sup>52</sup>

The *New York Times* reported on July 23, 2006 that sixteen US military personnel had been charged with murder in the previous month alone, with many homicides committed against Iraqis in detention.<sup>53</sup> On May 9, 2006, three US soldiers shot and killed three Iraqi detainees, having allowed the Iraqis to escape so as to make the killings appear justified. The army eventually brought homicide charges against four men, who include a sergeant and three others of lower rank, one of whom has pleaded guilty and been sentenced to 18 years in prison.<sup>54</sup> The case has raised evidence of a still more disturbing kind, though. The soldiers’ have testified that two senior officers gave an order to “kill all military age males” they encountered, information that the officers themselves have corroborated. In this context, the soldiers understood that detainees were to be summarily executed.<sup>55</sup>

### **Torture and Abuse by Iraqi Authorities**

Iraqi government and security forces, under the overall authority of US commanders, have taken a more active role in detention and interrogation, especially since the “transfer of power” in mid-2004. Reports have documented extreme abuse and torture in facilities under their control, as well as abuse by government-influenced paramilitary forces.<sup>56</sup> Iraqi torture has included burning flesh, sex-

ual assault, and the use of electrical shocks on delicate body tissue.<sup>57</sup>

Amnesty International states in a 2006 report that by shifting interrogation to Iraqi authorities the Coalition “would appear to have been either seriously negligent or, effectively complicit in the abuses committed by Iraqi government forces.”<sup>58</sup> It appears that US commanders have been outsourcing torture to the Iraqis in an effort to put criminal abuse at a deniable distance. Abundant evidence suggests that US personnel are present at (and may be involved in directing) abusive interrogation in Iraqi prisons.

An Iraqi general, a former commander of Special Forces at the Interior Ministry told Amnesty that US personnel visited the main Ministry prison at Al-Nasr Square “every day” and that “US troops knew everything about torture.”<sup>59</sup> Further, the main Iraqi intelligence service, certain to be involved in interrogation, is under the direct operational control of the CIA.<sup>60</sup> In response to reports of torture by Iraqi authorities with US military personnel present, US Defense Secretary Donald Rumsfeld commented in November 2005 that US soldiers were not obligated to intervene when they witnessed the inhuman treatment of detainees.<sup>61</sup> Since Iraqi forces operate almost exclusively under US command, it is likely that the US military and intelligence personnel present in the Iraqi torture chambers are far more than just innocent and surprised visitors.

In the summer of 2005, *The Observer* newspaper reported that US and UK aid money, intended to support the building of a regular Iraqi police force, “was being diverted to paramilitary commando

units accused of widespread human rights abuses, including torture and extrajudicial killings.”<sup>62</sup> In late 2005, new evidence emerged that forces of the Iraqi Interior Ministry were subjecting detainees to gross torture and ill-treatment in a number of facilities under its control. The Special Police Commandos, a unit of the Interior Ministry, trained and armed by the US, has reportedly been especially abusive and lawless.<sup>63</sup> On November 13, 2005, an Interior Ministry detention facility in the al-Jadiriya district of Baghdad, was found to be holding more than 170 detainees in appalling conditions, and many had apparently been tortured.<sup>64</sup> On December 8, 2005, another detention facility in Baghdad came to light, also controlled by the Interior Ministry. Several of the 625 detainees found there required immediate medical care, as a result of torture or ill-treatment.<sup>65</sup> The US ambassador to Iraq, Zalmay Khalilzad, admitted that “over 100” detainees found at the detention facility in al-Jadiriya and 26 detainees at the other detention location had been abused.<sup>66</sup> According to media reports, in both cases detainees alleged that they had been subjected to electric shocks and some had had their fingernails pulled out.<sup>67</sup> Hundreds of US advisors and military contractors work in the Interior Ministry, both in headquarters and in training programs with Ministry forces.

Abuse and torture of detainees in Iraqi facilities has not abated, despite many past reports and announcements of reform. In May 2007, a UN official in Baghdad told a *Washington Post* journalist about “routine ill-treatment and abuse,” detailing beatings, suspension by limbs, electric shocks, threat to families and injury with sharp instruments.<sup>68</sup>

## Failing to Bring Offenders to Justice

Members of the US Coalition have immunity from prosecution under Iraqi criminal and civil law, as stipulated in Security Council resolution 1546, so that the only likely venue for prosecution is the national courts of Coalition members. Amnesty International has expressed concern that this justice arrangement “may not meet international standards of impartiality.”<sup>69</sup>

The US and the UK governments have responded to reports of the use of torture and abuse with many official investigations of low-level misdeeds combined with firm denials of high-level responsibility. Few offenders have been brought to justice, light sentences have been handed out, and high-level officials and commanders have escaped responsibility.<sup>70</sup>

According to a definitive human rights report, among six hundred US military personnel clearly implicated in detainee torture and abuse in Iraq, Afghanistan and Guantanamo, only seventy-nine are known to have been recommended for court-martial, and only sixty-four appear to have actually been court-martialed as of April 10, 2006.<sup>71</sup> Only ten were sentenced to more than one year in prison. Even in the grave case of detainee deaths, only a handful of those implicated were punished. Most sentences were very light and the highest-ranking person prosecuted was a major.<sup>72</sup> The report describes a “pattern of impunity for the worst violations, with punishment for bad behavior too little and too late, and a still incomplete picture of what really went wrong.”<sup>73</sup>



In the trial of Chief Warrant Officer Welshofer, responsible for the sleeping bag death of General Mowhoush, sentencing was reduced to a \$6,000 fine and 60 days of restricted movement between home, base, and church.<sup>74</sup> Welshofer's defense pointed to the policies of the Bush administration and of those in the military chain of command to argue that he was acting within orders,<sup>75</sup> but no further charges were brought in the case. CIA and Special Forces personnel involved in the interrogation evidently escaped responsibility completely.<sup>76</sup>

In the UK, judicial accountability for forces in Iraq has also been sparse. British personnel tortured and beat to death an innocent Iraqi hotel worker, Baha Mousa, but when seven soldiers were finally brought to military trial, six were acquitted (including the senior officer, a colonel). The one soldier who pleaded guilty was sentenced to just a year in jail.<sup>77</sup>

While the CIA, MI6, FBI, special forces and military intelligence have been heavily involved in abusive interrogation, the US Army Criminal Investigation Division (CID) has not had the authority to investigate the agencies' personnel.<sup>78</sup> Alleged special forces crimes are said to have been investigated by commanders and action (if any) remains classified.<sup>79</sup> The CIA has kept all its cases classified, and, in spite of frequent CIA involvement, it appears that the Department of Justice has not indicted a single CIA employee.<sup>80</sup> Though a prosecution team was set up in Virginia in June 2004, it eventually decided against indictments in most cases (a few remain open), because evidence and witnesses were lacking, due to what one human rights report called "little action" and

"minimal initiative" in the investigation, as well as the secretive operational methods of the agency.<sup>81</sup>

The same is also true of Military Intelligence personnel. Human Rights Watch reported in July 2006 that not a single case had been brought against Military Intelligence personnel of any rank.<sup>82</sup> Where the military has prosecuted officers responsible for torture and abuse, in most cases it has targeted only those of low rank and used closed administrative hearings to hand down light administrative punishments like pay reductions and reprimands.<sup>83</sup> All official investigations have looked downward, mainly towards low-ranking offenders. There have been no serious efforts to investigate responsibility upward through the chain of command.<sup>84</sup>

### **Impunity of High Officials & Senior Officers**

US officials have continued to maintain that torture and abuse has only occurred in isolated instances, at the hands of a few "bad apples." But clear evidence shows that high officials and military commanders lifted restraints on torture and denied the applicability of international law, setting the stage for abuse in Iraqi prisons. US President George W. Bush issued a memorandum in February 2002 rejecting US obligations under the Geneva Conventions for persons detained during the "war on terrorism."<sup>85</sup> Top White House legal advisors defined such detainees using new terms such as "unlawful combatants" and "security internees" rather than "prisoners of war," in an effort to exempt them from the protection of domestic and international law. White House legal advisors also redefined the meaning of torture, reject-

ing the traditional meaning of international law. They limited the acts the US considers as torture and they considerably narrowed the standards for who is a torturer.<sup>86</sup> Similarly, the UK Attorney General, Lord Goldsmith, told UK field commanders in 2003 that their interrogation of detainees in Iraq did not have to meet the standards of the UK Human Rights Act and that they should adopt a “pragmatic” approach when handling prisoners.<sup>87</sup>

Senior US field commanders, taking their cues from Washington, issued new directives for more extreme forms of questioning and more heavy handed approaches to interrogation.<sup>88</sup> The Iraq abuses were part of a world-wide pattern, begun in Afghanistan and Guantanamo, and continued in the US programs of “extraordinary rendition” and secret prisons.<sup>89</sup>

When information about torture has been brought to the attention of those with command responsibilities, they have failed to act on it. General Taguba spoke of “wanton criminal abuses,” but General Barbara Fast, chief of US Military Intelligence, remained unpunished in her post and later was named commander of the Army’s Intelligence Center -- the training school for MI personnel. And while the top brass removed General Janis Karpinski, commander of the guard unit at Abu Ghraib,<sup>90</sup> they proceeded to name General Geoffrey Miller, the notorious Guantanamo chief, as the new, Iraq-wide detention commander.

To deflect responsibility from those at the top, official reports have spoken about lapses in policy implementation. These reports have referred to “improper training,”<sup>91</sup> “confusion or ignorance

about the rules,”<sup>92</sup> “lack of adequate oversight,”<sup>93</sup> “rivalry between interrogators and military police units”<sup>94</sup> and the like. The Pentagon’s high-level Schlesinger Report, released in August 2004, is a classic case of this obfuscation.<sup>95</sup> Since then, some high-ranking military officers with direct field responsibility for the torture have actually been praised, promoted and honored. General Miller, the main architect of US interrogation in Iraq, was honored on his retirement with a ceremony in the Pentagon’s Hall of Heroes where he was awarded the Distinguished Service Medal for “exceptionally commendable service in a position of great responsibility.”<sup>96</sup>

Under the international law doctrine of “command responsibility,” applied by the United States and the United Kingdom in the post-World War II war crimes trials, senior officials and commanders must be accountable for grave violations of international law, even if they did not give direct orders for such violations to take place. Under this doctrine, US and UK authorities at the highest level are clearly answerable for these offenses.<sup>97</sup>

## Conclusion

The Convention against Torture unequivocally prohibits the use of any form of torture. The Universal Declaration of Human Rights (1948) insists that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The same protection is guaranteed by other key international legal agreements, including the International Covenant on Civil and Political Rights, the Hague Regulations, and the Geneva Conventions. Legal arguments

by high officials of the United States and the United Kingdom have sought to undermine the absolute prohibition on torture, but the overwhelming opinion of humanity remains opposed to torture in all circumstances. US General Antonio

Taguba was correct in denouncing the deeds of Abu Ghraib and determining that they were “grave breaches of international law.” Those responsible at the highest levels, whose decisions led to these acts, must be held accountable.

<sup>1</sup> US Department of Defense, *Remarks by Secretary of Defense Donald Rumsfeld, Update Briefing* (March 4, 2004)

<sup>2</sup> “CID Report and Investigation – Camp Bucca” (June, 2003) [Bucca Report].

<sup>3</sup> Josh White, “Documents Tell of Brutal Improvisation by GI’s” *Washington Post* (August 3, 2005) The email about the gloves coming off was sent on August 30, 2003 (Human Rights First, *Command’s Responsibility* (February, 2006) p. 1)

<sup>4</sup> Miller visited Iraq from August 30 through September 9, with a team of about 20 others.

<sup>5</sup> R. Jeffrey Smith, “General is Said to Have Urged Use of Dogs” *Washington Post* (May 27, 2004)

<sup>6</sup> After the Bucca investigation was completed in June, there was a major investigation by General Donald J. Ryder (November) and another by Colonel Stuart Herrington (December).

<sup>7</sup> The International Committee of the Red Cross submitted a number of reports during the early months of the occupation. The best-known report, which was leaked, was dated February 2004, long after earlier warnings to high officials had been disregarded. See International Committee of the Red Cross, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation* (February 2004) [ICRC Report]

<sup>8</sup> Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade, March, 2004 [Taguba Report] p. 16 Taguba was tasked with investigating only the guards, not the Military Intelligence or CIA interrogators.

<sup>9</sup> *Ibid.*, p. 50

<sup>10</sup> *Ibid.*, pp. 8-9

<sup>11</sup> The first reports to detail torture methods were: Bucca Report, ICRC Report, and Taguba Report. We have studied seven military reports and twelve reports from human rights organizations where these methods are described in detail. Much additional evidence is available in the press and in military court martial trails, as referenced below.

<sup>12</sup> *Ibid.*

<sup>13</sup> See Bucca Report, Taguba Report; and reports by General Donald Ryder, Colonel Stuart Herrington, General Paul Mikolashek, and General George Fay, among others.

<sup>14</sup> Human Rights Watch, *No Blood, No Foul* (July 2006) pp. 6-25. See also Eric Schmitt and Carolyn Marshall, “In Secret Unit’s ‘Black Room,’ a Grim Portrait of US Abuse” *New York Times* (March 19, 2006)

<sup>15</sup> Human Rights Watch, *op.cit.* pp. 38-47

<sup>16</sup> *Ibid.*, pp. 25-38

<sup>17</sup> Human Rights Watch, *Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army’s 82<sup>nd</sup> Airborne Division* (September, 2005) A “forward operating base” is a temporary base located close to a theater of operations.

<sup>18</sup> The Mikolashek Report mentions that in the period to June 2004, nearly half of the alleged cases of abuse occurred at the “point of capture,” – that is, before persons had been brought to any detention facility at all. And of 20 cases of detainee deaths examined, 10 occurred in prisons, five at forward collection points and five at points of capture. See Josh White and Scott Higham, “Army Calls Abuses ‘Aberrations’” *Washington Post* (July 23, 2004)

<sup>19</sup> See Detainee Abuse and Accountability Project (Human Rights Watch, Human Rights First and the New York University School of Law Center for Human Rights and Global Justice, *By the Numbers* (April, 2006) and American Civil Liberty Union, *Enduring Abuse* (April 2006)

<sup>20</sup> As additional evidence emerges of UK abusive detention practices, the Parliamentary Joint Committee on Human Rights has expressed concern and asked for explanations about the “use of inhuman and degrading interrogation techniques.” Robert Verkaik, “Kidnap and Torture: New Claims of Army War Crimes in

Iraq" *Independent* (May 18, 2007); Robert Verkaik, "Human Rights in Iraq: a Case to Answer" *Independent* (May 29, 2007) "Dutch Military in Iraq Abuse Row" *BBC* (November 17, 2006)

<sup>21</sup> See for example Schmitt and Marshall, *op.cit.*; Human Rights First, *Command's Responsibility* (February, 2006) pp. 7 and 9; Peter Beaumont, Martin Bright, Paul Harris, "British Quizzed Iraqis at Torture Jail" *Observer* (May 9, 2004); David Johnston, "US Inquiry Falts on Civilians Accused of Detainee Abuse" *International Herald Tribune* (December 19, 2006). Human Rights Watch's information on Camp Nama, an extremely abusive secret site for prisoner interrogation, quotes a participant who says that most of those at the camp were CIA and special forces personnel. "No Blood, No Foul" p. 8. The FBI has also reportedly been involved in interrogation in Camp Nama and elsewhere in Iraq (Schmitt and Marshall, *op. cit.*).

<sup>22</sup> Taguba Report, *op. cit.* pp. 18-19

<sup>23</sup> *Ibid.*, p. 18. See also "ICRC Report", *op. cit.* p. 13. There has been extreme underreporting of the actual interrogations at Abu Ghraib.

<sup>24</sup> Human Rights Watch, *No Blood, No Foul* (July 2006) pp. 6-25

<sup>25</sup> Steven H. Miles, "Abu Graib: its legacy for military medicine" *The Lancet*, Vol 364 (August 21, 2004) pp. 725-729

<sup>26</sup> Taguba Report. The report mentions by name four persons from the two contractor firms who were involved in torture. Contractors have been immune from military law and none have been prosecuted under US law for these crimes.

<sup>27</sup> Peter Beaumont, "Abu Ghraib Abuse Firms are Rewarded" *Observer* (January 16, 2005)

<sup>28</sup> Avery Gordon, "D'où viennent les tortionnaires d'Abu Ghraib?" *Le Monde Diplomatique* (November, 2006) pp. 20-21

<sup>29</sup> See e.g. Donald Rumsfeld, Secretary of Defense, Testimony to the Senate Armed Services Committee (May 7, 2004) and George W. Bush, President, Speech at the US Army War College, Carlisle, Pennsylvania (May 24, 2004)

<sup>30</sup> For notorious Coalition sites see Human Rights Watch, *No Blood, No Foul* (July 2006)0; for Iraqi abuse, see Human Rights Watch, *The New Iraq?* (January, 2005) and Amnesty International, *Beyond Abu Ghraib* (March, 2006)

<sup>31</sup> Alexander G. Higgins, "UN Exec Decries Illegal Iraq Detainees" *Associated Press* (April 21, 2006)

<sup>32</sup> Amnesty International, *Beyond Abu Ghraib* (March 2006) pp. 28-29

<sup>33</sup> *Ibid.*, p. 29

<sup>34</sup> *Ibid.*, p. 30

<sup>35</sup> Thomas E. Ricks and Ann Scott Tyson, "Troops at Odds with Ethics Standards," *Washington Post* (May 5, 2007)

<sup>36</sup> Thomas E. Ricks, "Gen. Petraeus Warns Against Using Torture" *Washington Post* (May 11, 2007)

<sup>37</sup> "No Blood, No Foul", *op.cit.* pp. 6-25

<sup>38</sup> *Ibid.*, p. 4

<sup>39</sup> Human Rights Watch, *Leadership Failure* (September, 2005) and "No Blood, No Foul" *op.cit.*

<sup>40</sup> "No Blood, No Foul" *op.cit.* p. 6

<sup>41</sup> Human Rights Watch, *Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82<sup>nd</sup> Airborne Division* (September 2005) p. 17

<sup>42</sup> "No Blood, No. Foul" *op.cit.* p. 8

<sup>43</sup> *Ibid.*, pp. 16-17

<sup>44</sup> *Ibid.*, p. 17, incl. fn. 4.

<sup>45</sup> "Command's Responsibility" Appendix A

<sup>46</sup> Amnesty International, "United Kingdom Briefing for the Committee Against Torture" (November 26, 2004)

<sup>47</sup> Taguba Report, pp. 27-31. ICRC Report, pp. 18-21

<sup>48</sup> "Beyond Abu Ghraib," p. 13 (US case), p. 15 (UK case)

<sup>49</sup> Human Rights First, *Command's Responsibility* (February, 2006) p. 7

<sup>50</sup> *Ibid.*, p. 8

<sup>51</sup> *Ibid.*, p. 8

<sup>52</sup> *Ibid.*, p. 8

<sup>53</sup> Robert F. Worth, "Lawyers for 4 Accused Soldiers Say They Acted on Orders" *New York Times* (July 23, 2006) p. 10

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- <sup>54</sup> Catherine Philip, "US Troops Face Murder Charges" *Times, London* (June 20, 2006) ; Paul von Zielbauer, "G.I.'s Say Officers Ordered Killing of Young Iraqi Men" *New York Times* (August 3, 2006) p. A13. Private First Class Corey Claggett was sentenced on January 25, 2007.
- <sup>55</sup> Worth, *op. cit.* The officers are Captain Jason A. Sienko and Colonel Michael Steele.
- <sup>56</sup> See, for example, "Beyond Abu Ghraib" *op.cit.*
- <sup>57</sup> "Beyond Abu Ghraib" *op.cit.* and "The New Iraq?" *op.cit.*
- <sup>58</sup> "Beyond Abu Ghraib" *op.cit.* p. 8
- <sup>59</sup> *Ibid.*, p. 9
- <sup>60</sup> Ned Parker, "Divided Iraq Has Two Spy Agencies," *Los Angeles Times* (April 15, 2007)
- <sup>61</sup> Dana Milbank, "Rumsfeld's War on 'Insurgents'" *Washington Post* (November 30, 2005)
- <sup>62</sup> Peter Beaumont and Martin Bright, "UK Aid Funds Iraqi Torture Units" *The Observer* (July 3, 2005)
- <sup>63</sup> Council on Foreign Relations, *Iraq: Militia Groups* (June 9, 2005) See esp. Peter Maas, "The Way of the Commandos" *New York Times* (May 1, 2005)
- <sup>64</sup> "Beyond Abu Ghraib" *op.cit.* p. 4
- <sup>65</sup> *Ibid.*, p. 4
- <sup>66</sup> *Ibid.*, p. 4
- <sup>67</sup> "Iraqi Detainees Tell of Torture" *BBC* (November 24, 2005); Ellen Knickmeyer, "Abuse Cited in 2<sup>nd</sup> Jail Operated by Iraqi Ministry" *Washington Post* (December 12, 2005)
- <sup>68</sup> Joshua Partlow, "New Detainees Strain Iraq's Jails" *Washington Post* (May 15, 2007). In particular, abuse appears to be most serious in the detention facilities of the Ministry of Defense and Ministry of Interior.
- <sup>69</sup> "Beyond Abu Ghraib" *op.cit.* p. 15
- <sup>70</sup> Detainee Abuse and Accountability Project (Human Rights Watch, Human Rights First and the New York University School of Law Center for Human Rights and Global Justice, *By the Numbers* (April, 2006)
- <sup>71</sup> *Ibid.*, p. 9.
- <sup>72</sup> "Command's Responsibility" *op.cit.* Appendix A
- <sup>73</sup> *Ibid.*, p. 29
- <sup>74</sup> *Ibid.*, p. 8
- <sup>75</sup> *Ibid.*
- <sup>76</sup> *Ibid.*
- <sup>77</sup> Robert Verkaik, "Kidnap and Torture" *op. cit.* As of May 2007, rights groups were preparing an estimated 60 cases on behalf of Iraqis alleging torture, abuse, kidnapping, hostage-taking, and other violations by UK forces of the Human Rights Act.
- <sup>78</sup> *Ibid.*, p. 9
- <sup>79</sup> *Ibid.*, p. 9
- <sup>80</sup> *Ibid.* See Johnston, "U.S. Inquiry Falters" *op. cit.*
- <sup>81</sup> Johnston, *op. cit.* and "By the Numbers" *op.cit.* p. 3
- <sup>82</sup> "No Blood, No Foul" *op. cit.*
- <sup>83</sup> See details of the cases in "Command's Responsibility" *op.cit.* Special Forces cases have delivered even less justice, as demonstrated by the case of Navy Seals treatment of Manadel al-Jamadi ("Command's Responsibility" *op.cit.* pp. 11-12
- <sup>84</sup> "Leadership Failure" *op.cit.* p.3
- <sup>85</sup> White House, *Memorandum: Humane Treatment of Al Qaeda and Taliban Detainees* (February 7, 2002) Accessed at Human Rights First
- <sup>86</sup> US Department of Justice Office of Legal Counsel, *Memo from Deputy Assistant Attorney General John Yoo to the White House Counsel on Interrogation Methods that Do Not Violate Prohibitions against Torture* (August 1, 2002); US Department of Justice Office of Legal Counsel, *Memorandum for Alberto R. Gonzales, Counsel to the President* (August 1, 2002)
- <sup>87</sup> Robert Verkaik, "Human Rights in Iraq," *op.cit.*
- <sup>88</sup> General Richardo Sanchez, overall commander in Iraq, issued a clear directive in September 2003 for more aggressive interrogation. Seymour Hersh, "Chain of Command" *New Yorker* (May 9, 2004); James R. Schlesinger *et al.* "Final Report of the Independent Panel to Review DoD Detention Operations" (August 2004) [Schlesinger Report] p.9
- <sup>89</sup> Human Rights Watch, *The Road to Abu Ghraib* (June, 2004)

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<sup>90</sup> Karpinski was reprimanded, relieved of her command, and reduced in rank one grade to colonel. She was the only general to be penalized at all.

<sup>91</sup> Taguba Report, *op.cit.*

<sup>92</sup> “Command’s Responsibility” *op.cit.* p. 6-7

<sup>93</sup> See especially Schlesinger Report, *op.cit.*

<sup>94</sup> *Ibid.*, pp.12, 75

<sup>95</sup> *Ibid.* See also the July 22, 2004 report of General Paul Mikolashek, delivered to the US Senate.

<sup>96</sup> Thom Shanker, “General in Abu Ghraib Case Retires After Forced Delay” *New York Times* (August 1, 2006) p. A13. General Miller retired on May 31, 2006. The award ceremony took place in the Pentagon’s Hall of Heroes.

<sup>97</sup> For a thorough discussion of this issue, see “Command’s Responsibility” *op.cit.*

## Chapter 6

### Attacks on Cities

*“When we identify positively an enemy target, we're going to go ahead and take it out with every means we have available. I like to remember what Viscount Slim said during the Burma campaign. He said, ‘Use a sledgehammer to crush a walnut.’ And that's exactly what we will do. We will use force, overwhelming combat power when it's necessary.”*

– US Major General Charles H. Swannack Jr.<sup>1</sup>

**T**he Coalition has used overwhelming military force to attack several Iraqi cities, on grounds that they were “insurgent strongholds.” These offensives, using heavy air and land bombardment, culminate in massive armored assaults. They have displaced hundreds of thousands of people, caused large civilian casualties and destroyed much of the urban areas.

The offensives against Falluja in April and November 2004 caused a great outcry. The Coalition has also assaulted Najaf (April and August 2004), Tal Afar (September 2004 and September 2005), Samarra (October 2004, September 2005 and March 2006), al-Qaim (May and November 2005), Haditha (October 2005), Ramadi (October 2005 and June-July 2006) and Baqubah (January 2007). These military operations have harmed more than two million people and deepened Iraqi rage at the occupation.<sup>2</sup> Such attacks continue, especially in Anbar and Diyala provinces,<sup>3</sup> even though they repeatedly violate the Geneva Conventions.

#### Sealed-off Cities and Heavy Curfews

As prelude to the attacks, Coalition forces often surround the targeted area

with sandbags, concrete slabs, earthen barricades, and razor wire, turning cities into prison camps. These preliminary operations deploy thousands of troops, with helicopters and armored construction vehicles. They close highways and streets, set up roadblocks and checkpoints. In Tal Afar, attacking forces built an 8-foot high, 12-mile long dirt wall that ringed the entire city.<sup>4</sup>

Coalition troops seize control of all movement into and out of the cities, including goods and supplies, water, food, medicines and emergency assistance of all kinds. This “sealing off” strategy seeks to isolate insurgents and show ordinary civilians the heavy cost of not cooperating. Lieutenant Colonel Nathan Sassaman described the approach quite bluntly in the early months of the occupation: “With a heavy dose of fear and violence, and a lot of money for projects, I think we can convince these people that we are here to help them.”<sup>5</sup>

Coalition forces subject residents to intensive screening at check points, where they are required to present special identification cards.<sup>6</sup> At the checkpoints, troops arrest and detain some Iraqis (often arbitrarily), while routinely denying

access to others on grounds that their documents are not in order. “We are like birds in a cage,” said a resident of Abu Hishma to the *New York Times*, complaining of the humiliation endured.<sup>7</sup>

In Falluja, beginning immediately before the November 2004 siege, US forces imposed a harsh curfew, including restriction of movement within the city of all men under 45 years of age.<sup>8</sup> Similar curfews were imposed on Ramadi, Tal Afar and other cities. The UN reported that road closings and curfews in Ramadi raised prices and created a shortage of basic supplies in early July 2006, before attacks on the city began.<sup>9</sup> At Abu Hishma, US forces locked down the village for 15 hours a day, preventing residents from going to the mosque for prayers and badly disrupting many families’ livelihoods.<sup>10</sup> Coalition forces have routinely opened fire on any person or vehicle not in conformity with curfew orders.<sup>11</sup>

### **Forced Evacuation and Those Who Remain**

In preparation for the offensives, the US and its allies issue warnings to city residents, urging them to leave their homes and abandon the urban area. Most of the people then flee. The Coalition argues that displacement lessens civilian casualties during the heavy bombardment and fighting, but displacement also creates an excuse for unrestrained military operations – on grounds that all those remaining are enemy fighters or supporters. Free-fire zones within the target area are thought to be justified.<sup>12</sup>

In Tal-Afar, US forces played messages over loudspeakers warning residents to evacuate, while starting a demonstration

bombing of the Sarai neighborhood.<sup>13</sup> Most of the population (80 percent according to Jon Brain, the *BBC*’s correspondent in Baghdad<sup>14</sup>) eventually fled to escape the impending fighting. The Coalition has also used air-dropped leaflets to warn city residents of impending attacks.<sup>15</sup>

Among those who flee, the most fortunate are able to seek refuge with out-of-town relatives, but many flee into the countryside where they face extremely difficult conditions, including shortages of food and water. Eventually the Red Crescent, the UN or relief organizations set up camps. In Falluja, a city of about 300,000, over 216,000 displaced persons had to seek shelter in overcrowded camps during the winter months, inadequately supplied with food, water, and medical care.<sup>16</sup> An estimated 100,000 fled al-Qaim, a city of 150,000, according to the Iraqi Red Crescent Society (IRCS).<sup>17</sup> In Ramadi, about 70 percent of the city’s 400,000 people left in advance of the US onslaught.<sup>18</sup> These moments mark the beginning of Iraq’s massive displacement crisis.

While many leave the cities at the time of warnings, significant numbers remain – an estimated 50,000 in Falluja<sup>19</sup> and more than 100,000 in Ramadi.<sup>20</sup> Coalition forces assume that they are insurgents or sympathizers. But those staying behind have included large numbers of non-combatant civilians – unable or unwilling to abandon their homes, including children, the sick, the elderly, and those fearful of a worse fate that might await them beyond the familiar protection of their city.

### **Cutting Off Water, Food and Electricity**

The Coalition has repeatedly denied water to residents of cities under siege, in-



cluding Falluja, Tal Afar and Samarra, affecting up to 750,000 civilians.<sup>21</sup> Many families have only limited emergency water storage and cannot survive long once the central supply has been cut. Along with water, the Coalition has cut off electricity (which may power pumps and local wells). They also have cut off food and medical supplies, creating a “state of siege” and imposing a humanitarian crisis on the entire remaining urban population.

In September 2004, the US “turned off” water supplies to Tal Afar “for at least three days,” according to the *Washington Post*.<sup>22</sup> In October 2004, the *Independent* reported that “US-led forces cut off power and water” in Samarra.<sup>23</sup> And in November 2004, the UN reported a similar cut-off of vital necessities in Falluja, “directly affecting civilians (approximately 50,000 people then remaining inside [the city]) for whom water is a basic need and a fundamental human right.”<sup>24</sup> Supplies of necessities were unavailable within Falluja for many days and were withheld by the Coalition even from the displaced citizens in camps outside, again according to the UN.<sup>25</sup> The UN reported that in early July 2006, US forces imposed a “total blockade” of Rutba “for approximately four days” followed by subsequent blockades “intermittently.”<sup>26</sup>

These siege tactics seek to punish the inhabitants for their presumed sympathy with the insurgents, force those remaining to leave the city, and press them to turn over insurgent fighters.<sup>27</sup> In some cases, the Coalition has used the siege openly as a bargaining tool. In Ramadi, US and Iraqi forces reportedly told residents that they would not get water, electricity, telephones and other services back unless they would hand over “the

terrorists.”<sup>28</sup> According to Lieutenant Colonel Hassan al-Medan, the Iraqi spokesperson for the operation in Najaf, “if we allow the entrance of food and medicines to the city we are just feeding the insurgents”<sup>29</sup> – this in spite of thousands of civilians still within the area.

In his annual report to the Human Rights Commission in March 2005, the UN Special Rapporteur on the Right to Food, Jean Ziegler, denounced such practices.<sup>30</sup> Ziegler later said in a press conference that the “Coalition's occupying forces are using hunger and deprivation of water as a weapon of war against the civilian population,” calling this “a flagrant violation of international humanitarian law.”<sup>31</sup>

### **Confinement of Journalists and Blockage of Media Coverage**

Prior to the major assaults, Coalition commanders have prevented journalists from entering the targeted cities. All media workers not “embedded” with US forces have been banned for the duration of the battle and usually a long time afterwards. Sometimes, even embedded media have been refused access. This gives the Coalition almost complete control over international public perceptions of what is happening on the battlefield.

Preceding US military operations in Najaf in August 2004, Iraqi police encircled a hotel where journalists were staying, ordering them to leave the city and threatening to arrest all those who did not comply with the order.<sup>32</sup> While claiming that the ban was based on concerns for the safety of the journalists, police officers said they would confiscate all cell phones and cameras.<sup>33</sup> In Falluja, the US military banned all non-

embedded journalists from the city. Reports have mentioned that journalists and camera crews were arrested and their equipment confiscated, without explanation, before being released later without charges.<sup>34</sup>

Reporters Without Borders, referring to Najaf, condemned "the totally unacceptable imposition of an information black-out" and insisted that "the presence of journalists on the spot is indispensable, as the worst atrocities are always committed in the absence of witnesses."<sup>35</sup>

### **Massive Bombardment**

Coalition forces have inflicted prolonged and intense air and ground bombardment on these cities, destroying thousands of homes, shops, mosques, clinics and schools, and – inevitably – killing and injuring many civilians.<sup>36</sup> The strategy of indiscriminate and massive bombardment, in advance of ground offensives, has reduced the number of Coalition casualties, at a heavy cost in life and injury to the remaining Iraqi city residents.

The *Washington Post* reported that in Falluja, an "official, who spoke on condition of anonymity, described 12 hours of overnight strikes by American helicopters, fighter-bombers, field artillery and tanks as 'shaping operations.' Military commanders use the term as shorthand for battlefield preparation, combat operations specifically intended to remove enemy strong points in advance of an assault."<sup>37</sup> In the second assault on Falluja, the air strikes began on October 15, the first day of the Muslim holy month of Ramadan, and continued for three weeks prior to the assault of November 7. In Najaf, US Marines bombarded the cemetery near the

famous Imam Ali Shrine as well as much of the city center, in a massive attack backed by aircraft and tanks. In Ramadi, US forces carried out intensive bombardment, targeting the city's power stations, water treatment facilities, and water pipes, leaving many destroyed houses and no civilian services functioning.<sup>38</sup>

US military bombardment has destroyed large areas of the cities. Reports have confirmed that whole neighborhoods have been leveled and elsewhere just hulks of buildings stand. "Those who have witnessed US aircraft firing missiles into packed tenements in Sadr City, and have seen the resulting carnage, treat claims of 'precision strikes' ... with deep skepticism" commented the London-based *Independent* newspaper.<sup>39</sup>

Air strikes and artillery bombardment are typically indiscriminate. According to an Iraq Body Count study on different types of weapons, aircraft attacks have been responsible for the largest proportion of children killed.<sup>40</sup> In addition to massive bombardment with high explosives, there is clear evidence of the use of indiscriminate and especially injurious weapons, particularly incendiaries, in these ferociously violent campaigns.<sup>41</sup>

### **Urban Assault, Snipers and Violent Searches**

After extensive bombardment, Coalition armed forces storm into the cities with columns of tanks and other armored vehicles. Heavy tank fire blasts into many structures, widening the urban desolation.

Troops seize remaining buildings and carry out house searches in those struc-

tures still standing. The soldiers often use violent methods to enter houses, such as setting off explosives or knocking down part of the front wall with a military vehicle.<sup>42</sup>

The US military has increasingly relied on snipers to back-up infantry patrols. Commanders portray snipers as a precision method to avoid civilian casualties, but in fact sniper teams often fire at anyone moving in the streets, in gardens or even inside of buildings. Everyone is treated in the besieged cities as an enemy.

Using night goggles and special high-power scopes, snipers shoot at any moving object, which might be a civilian going out in desperate search for food or water, seeking medical care, escaping a collapsing building, or trying to leave the city. During the siege of Falluja in April 2004, the *Guardian* reported that US snipers shot an ambulance, an elderly woman carrying a white flag, and an aid worker delivering medical supplies on foot.<sup>43</sup> The UN reported that, in August 2006, snipers in Ramadi shot thirteen civilians who had breached the curfew, killing six and injuring seven in just one district of the city.<sup>44</sup>

### **Attacks on Medical Facilities and Prevention of Humanitarian Assistance**

Coalition troops have targeted medical facilities during urban offensives, and repeatedly destroyed and confiscated ambulances, making emergency care nearly impossible. In Falluja, US troops "destroyed a civilian hospital in a massive air raid, captured the main hospital and prohibited the use of ambulances."<sup>45</sup> Medical personnel were arrested and the patients removed.<sup>46</sup> Similarly, as the US prepared to launch a major assault on

Najaf, Al-Hakeem Hospital was "taken over as a coalition military base, off limits to civilians."<sup>47</sup>

In the summer of 2006, during an offensive against Ramadi, Coalition forces captured the city's General Hospital, endangering the sick and rendering health care impossible.<sup>48</sup> According to the UN, troops seized the city's Specialized Hospital on July 5 and held it more than a week until July 13, after which time they withdrew but set up a patrol outside.<sup>49</sup> Further UN reports have spoken of Coalition snipers stationed on the roof of the Ramadi General Hospital, troops quartered in the hospital garden, and fearful residents avoiding the hospital altogether.<sup>50</sup> In Tal Afar, the UN reported that the city hospital had been "occupied" by Coalition forces for six months.<sup>51</sup>

Coalition forces have blocked access to humanitarian and medical relief convoys trying to enter cities, obstructing the work of humanitarian agencies trying to assess needs, deliver relief supplies and bring urgent assistance to the population.<sup>52</sup> In Samarra, in March 2006, US troops turned back the Iraqi Red Crescent Committee's aid convoys, leaving hundreds of families, including children, without medical assistance and basic necessities.<sup>53</sup>

Najaf's top health official Falah Al-Mahani reported that the attack was causing "a real catastrophe" for local health services. "Ambulances are prevented from reaching the injured people," he said. "Our staff is not able to reach the hospitals. We are paralyzed."<sup>54</sup> As a result, a far higher proportion of injured civilians have died or suffered serious bodily damage than if medical care had been available, contributing to the soaring Iraq mortality rate.

## Civilian Casualties

US-led military operations in populated areas have caused scores of civilian deaths and injuries. People have been killed by ordnance explosions, collapsed buildings, fires, sniper shots and many other violent causes. While Coalition forces claim that most of those killed in attacks are men of military-age, reliable reports suggest that many, if not most, of the victims in these operations have been non-combatants. A 2005 report by UNAMI concluded: "The United Nations has been unable to obtain accurate figures concerning civilian losses following such operations but reports received from civil society organizations, medical sources and other monitors indicate that they are significant and include women and children."<sup>55</sup>

During the first week of the assault on Falluja in April 2004, the city General Hospital's Director Rafie al-Issawi reported that over 600 people had died, most of them women, children and the elderly.<sup>56</sup> In Najaf too, "the total number killed was 570 with 785 injured. These statistics were taken from local hospitals and didn't include bodies buried in homes or elsewhere during the fighting."<sup>57</sup> Using accounts from tribal leaders, medical personnel and local witnesses, the *Washington Post* calculated that "Operation Steel Curtain," a US offensive in November 2005, included bombings that killed 97 civilians in Husaybah, 80 to 90 in al-Qaim, 18 children in Ramadi, and many other civilians in additional cities and villages.<sup>58</sup>

Amnesty International and other human rights organizations have expressed concern at the growing number of civilian casualties due to extremely violent US

counter-insurgency operations.<sup>59</sup> The rising use of air strikes, which grew five-fold in 2005, has greatly increased the likelihood of civilian deaths in the battles over urban areas.<sup>60</sup>

## Massive Destruction

Heavy bombardment has caused great destruction in the cities under attack, including historical and religious sites, as well as water, electricity and sewage systems. US-led forces have bombed and even bulldozed numerous buildings, either as part of offensives or as retaliation against civilians who do not give information about insurgents.<sup>61</sup>

In Falluja, Operation Phantom Fury left the city in ruins, as a "ghost town." The Study Center for Human Rights and Democracy, a Falluja-based non-governmental organization, reports that the offensive destroyed an estimated 70 percent of the buildings, homes and shops.<sup>62</sup> Speaking in a press conference about the scale of destruction in Najaf, Minister of State Qassim Daoud said: "It is horrible and it is difficult to know where to start."<sup>63</sup> Officials in Najaf told *IRIN*, that "a total of 72 shops, 50 hotels, 90 homes, three schools and dozens of cars were destroyed in the fighting."<sup>64</sup> They said "there has also been massive destruction of the historic old part of the city, some of it impossible to repair."<sup>65</sup>

In the Ramadi operation of 2006, "instead of continuing to fight for the downtown, or rebuild it," the *New York Times* reported, Coalition forces "are going to get rid of it, or at least a very large part of it."<sup>66</sup> US Department of Defense newspaper *Stars and Stripes* reports that at least eight blocks of buildings were razed. "We're used to taking

down walls, doors and windows, but eight city blocks is something new to us,”<sup>67</sup> admitted Marine 1st Lieutenant Ben Klay who took part in the demolition work in Ramadi.

With power, water and sewage systems dysfunctional and most buildings in ruins, many of these cities will remain only marginally habitable for a long time to come, in spite of announced (but largely un-implemented) reconstruction programs.

### **“Joint” Military Operations and Criticism by Iraqi Authorities**

Increasingly, US commanders have portrayed military operations against Iraqi cities as joint operations between US and Iraqi forces. This appears to be an effort to make the sieges more palatable to Iraqi and international opinion. Officially, US troops only “back-up” Iraqi forces or the two are said to carry out operations jointly. Observers say, though, that the US always takes the lead.

In fact, Iraqi government authorities have often been critical of the operations and condemned the conduct of US forces. After a week of heavy fighting in August 2004, Iraq’s Interim Deputy President Ibrahim Al-Jaafari “call[ed] for multinational forces to leave Najaf and for only Iraqi forces to remain there.”<sup>68</sup> Deputy Governor of Najaf, Jawdat Kadhim Najam al-Quraishi, followed by 16 of the 30 members of the Najaf Provincial Council, resigned in protest against the assault.<sup>69</sup>

In the case of Falluja, feelings in Iraq ran high and several members of the Iraq Governing Council criticized the attacks

and threatened to resign if the US commanders did not halt the operation. Adnan Pachachi, a leading member of the IGC qualified the operation “as illegal and totally unacceptable.”<sup>70</sup> And Ghazi Yawar, another prominent member said: “How can a superpower like the United States put itself in a state of war with a small city like Falluja?”<sup>71</sup>

In a statement on government television in August 2006, Iraq’s Prime Minister Nouri al-Maliki sharply criticized US-Iraqi raids on Baghdad’s Sadr City, saying that such operations “violate the rights of citizens.” “This operation used weapons that are unreasonable to detain someone – like using planes,” he said, before apologizing to the Iraqi people. He promised “this won’t happen again.”<sup>72</sup>

These public statements signal serious differences between even hand-picked Iraqi politicians and US military commanders and they show how little control the sovereign and elected Iraqi government has over these offensives. Iraqi official statements have not stopped the US military from continuing these campaigns, even in Baghdad itself.

### **Conclusion**

Prior to the November 2004 attack on Falluja, UN Secretary General Kofi Annan wrote to President Bush and Prime Minister Blair, expressing his “particular concern about the safety and protection of civilians.” He continued: “Fighting is likely to take place mostly in densely populated urban areas, with an obvious risk of civilian casualties...”<sup>73</sup> Shortly afterwards, while the Falluja siege was still going on, UN High Commissioner for Human Rights Louise Arbour called

for an investigation into possible war crimes.<sup>74</sup> The United States and its partners ignored these warnings about the risk to civilians and war crimes. They continued with the attack.

International law sets clear standards for the conduct of military operations. The Geneva Conventions prohibit attacks which do not clearly distinguish between military targets and civilians, or have a disproportionate impact on civilians. Coalition military operations have clearly violated these laws, with massive displacement of populations, indiscriminate killings of civilians, and large-scale

destruction of habitation and urban infrastructure, including historic buildings and religious sites. Coalition forces have violated further provisions of the Conventions by deliberately targeting hospitals, stopping emergency medical care and blocking the delivery of humanitarian aid. In further violation of the prohibition of “siege tactics,” they have deprived civilians of food, water, electricity, medical supplies and vital services. Such practices have inflicted collective punishment on Iraqis. Taken together they represent a grave violation of international humanitarian law.

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<sup>1</sup> Major General Charles H. Swannack, Jr., Commander, 82nd Airborne Division, *Special Operational Briefing from Baghdad* (November 18, 2003)

<sup>2</sup> The pre-attack population of the named cities comes to about two million. This does not include other urban targets, notably the very populous Sadr City neighborhood of Baghdad that has sustained several attacks, including a major operation in August-September 2004.

<sup>3</sup> Internal Displacement Monitoring Center, *Iraq: A displacement Crisis* (March 30, 2007) p. 147

<sup>4</sup> Speech by George W. Bush, *President Discusses War on Terror and Operation Iraqi Freedom*, Renaissance Cleveland Hotel (March 2006)

<sup>5</sup> Cited in Wilkins, *op.cit.*

<sup>6</sup> American Friends Service Committee, *The Price of Forgetting* (January 20, 2005)

<sup>7</sup> Dexter Wilkins, “Tough New Tactics by US Tighten Grip on Iraq Towns” *New York Times* (December 7, 2003)

<sup>8</sup> United Nations, *Emergency Working Group -- Falluja Crisis*, “Update Note” (November 11, 2004)

<sup>9</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1-August 31, 2006) p. 12

<sup>10</sup> Wilkins, *op.cit.*

<sup>11</sup> For example see: B. Dominick, “In Fallujah, US Declares War on Hospitals, Ambulances” *New Standard* (November 12, 2004)

<sup>12</sup> According to the US Army Field Manual FM 6-20, a free-fire zone is “a specific designated area into which any weapon system may fire without additional coordination with the establishing headquarters.” The term has generally been expanded to include combat zone in which anyone unidentified is considered an enemy combatant, or areas in which soldiers can shoot at anyone moving around after curfew, without first making sure that they are hostile.

<sup>13</sup> Jonathan Finer, “US Forces Chase Ghost Fighters Amid Iraqis” *Washington Post* (September 9, 2005)

<sup>14</sup> Cited in “Iraq to Clear ‘Insurgent Town’” *BBC* (September 9, 2005)

<sup>15</sup> See for instance Jonathan Finer, “With Death at their Doors, Few Leave Iraqi City” *Washington Post* (September 7, 2005)

<sup>16</sup> United Nations, *Emergency Working Group -- Falluja Crisis* (December 19, 2004)

<sup>17</sup> As cited in “Iraq: Displaced in the West Need More” *United Nations Integrated Regional Information Networks* (November 16, 2005)

<sup>18</sup> Yasin al-Dulaimi and Daud Salman, “Ramadi: Mass Exodus Amid Rising Tensions” *Institute for War and Peace Reporting* (June 15, 2006)

<sup>19</sup> United Nations, *Emergency Working Group -- Falluja Crisis*, “Update Note,” (November 11, 2004 and November 13, 2004)

<sup>20</sup> al-Dulaimi and Salman, *op.cit.*

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- <sup>21</sup> Daniel O’Huiginn and Alison Klevnas, “Denial of Water to Iraqi Cities” *Cambridge Solidarity with Iraq* (November 2004)
- <sup>22</sup> Steve Fainaru, “After Recapturing N. Iraqi City, Rebuilding Starts from Scratch” *Washington Post*. (September 19, 2004)
- <sup>23</sup> Ken Sengupta, “Onslaught in Samarra Escalates in ‘Dress Rehearsal’ for Major US Assault on Rebels” *Independent* (October 3, 2004)
- <sup>24</sup> United Nations, *Emergency Working Group -- Falluja Crisis*, “Update Note”; United Nations, *Emergency Working Group -- Falluja Crisis*, “Update Note” (November 11, 2004 and November 13, 2004)
- <sup>25</sup> As per November 22, 2004, “The water system remains turned off, and PDS distribution has not resumed in either Falluja or for IDPs in the area.” United Nations, *Emergency Working Group – Falluja Crisis*, “Update Note” (November 22, 2004)
- <sup>26</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1-August 31, 2006) p. 12
- <sup>27</sup> O’Huiginn and Klevnas, *op. cit.*
- <sup>28</sup> Dahr Jamail, “Fallujah Delux” *ZNet* (June 15, 2006)
- <sup>29</sup> As cited in “Urgent Aid Required as Displacement Increases in Talafar” *United Nations Integrated Regional Information Networks* (September 14, 2004)
- <sup>30</sup> United Nations, *Report of the Special Rapporteur on the Right to Food, Jean Ziegler, to the Human Rights Commission* (January 24, 2005) Document E/CN.4/2005/47
- <sup>31</sup> “UN Food Envoy Says Coalition Breaking Law in Iraq” *Reuters* (October 14, 2005)
- <sup>32</sup> Adrian Blomfield, “Police Fire at Reporters as US Tanks Roll Up To Shrine” *Telegraph* (August 16, 2004)
- <sup>33</sup> “Iraq Evicts Reporters from Najaf” *Associated Press* (August 16, 2004)
- <sup>34</sup> Reporters Without Borders, *Annual Report 2004*
- <sup>35</sup> Reporters Without Borders, *New Blackout in Najaf Deplored* (August 15, 2004)
- <sup>36</sup> Amnesty International, *Iraq: Civilians under Fire* (April 2003)
- <sup>37</sup> Karl Vick, “Fallujah Strikes Herald Possible Attack” *Washington Post* (October 16, 2004)
- <sup>38</sup> Brian Conley, “Ramadi Becomes Another Fallujah” *Inter Press Service* (June 5, 2006)
- <sup>39</sup> Sengupta, *op.cit.*
- <sup>40</sup> Iraq Body Count, *A Dossier on Civilian Casualties in Iraq* (2003-2005)
- <sup>41</sup> See Chapter 3 on Indiscriminate and Especially Injurious Weapons
- <sup>42</sup> World Health Organization, *Detailed Situation Report in Talafar* (August 19, 2005)
- <sup>43</sup> Jo Wilding, “Getting Aid Past US Snipers Is Impossible” *Guardian*. (April 17, 2004)
- <sup>44</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1-August 31, 2006) p. 13. The district was al-Eakan al-Jadida.
- <sup>45</sup> Brian Dominick, “In Fallujah , US Declares War on Hospitals, Ambulances” *New Standard* (November 12, 2004)
- <sup>46</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2005) p.5
- <sup>47</sup> Scott Baldauf, “The Battle of Najaf” *Christian Science Monitor* (August 9, 2004)
- <sup>48</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2005) p.5
- <sup>49</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1-August 31, 2006) p. 12
- <sup>50</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2006) p. 27
- <sup>51</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1-August 31, 2006) p. 5
- <sup>52</sup> For example, see “Medical Need Massive in Fallujah – Red Crescent” *United Nations Integrated Regional Information Networks* (November 10, 2004)
- “‘We have supplies and people who want to help. People are dying due to the shortage of medical materials and other needing food and water, but you have to watch them die because US troops do not let you go in,’ [spokesman for the Iraq Red Crescent Society (IRCS), Firdoos ] al-Abadi added.”
- <sup>53</sup> “Aid Agencies Unable to Enter Samarra” *United Nations Integrated Regional Information Networks* (March 22, 2006)
- <sup>54</sup> Cited in Chris Shumway, “More Reports of US War Crimes in Najaf as Major Assault Looms” *New Standard* (August 11, 2004)
- <sup>55</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September 1 – October 31, 2005)
- <sup>56</sup> Abdul-Qader Saadi, “Fallujah Death Toll for Week More than 600” *Associated Press* (April 12, 2004)

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- <sup>57</sup> “Cost of Iraq Reconstruction Calculated” *United Nations Integrated Regional Information Networks* (September 8, 2004)
- <sup>58</sup> Ellen Knickmeyer, “US Airstrikes Take Toll on Civilians” *Washington Post* (December 24, 2005)
- <sup>59</sup> For example, see Amnesty International, *Iraq: End Bloodshed and Killing of Children* (October 1, 2004)
- <sup>60</sup> Knickmeyer, *op.cit.*
- <sup>61</sup> For example, see Patrick Cockburn, “US Soldiers Bulldoze Farmers’ Crops” *Independent* (October 12, 2003)
- <sup>62</sup> Cited in Dahr Jamail and Ali Fadhil, “Rebuilding? Not for Fallujah” *Inter Press Service* (June 25, 2006)
- <sup>63</sup> “Clean-up Process Starts in Najaf Following Fighting” *United Nations Integrated Regional Information Networks* (August 31, 2004)
- <sup>64</sup> “Cost of Iraq Reconstruction Calculated” *United Nations Integrated Regional Information Networks* (September 8, 2004)
- <sup>65</sup> *Ibid.*
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- <sup>67</sup> Monte Morin, “US Troops Razing Ramadi Buildings to Renew Security” *Stars and Stripes* (September 2, 2006)
- <sup>68</sup> Cited in Maher Mohammad, “Iraq Urges US Troops to Leave Najaf” *Reuters* (August 11, 2004)
- <sup>69</sup> “Najaf Officials Quit in Protest” *al-Jazeera* (August 13, 2004)
- <sup>70</sup> “Iraqi Governing Council Members Denounce US Action” *Radio Free Europe* (April 9, 2004).
- <sup>71</sup> “Governing Council Blasts Fallujah ‘Genocide’” *Financial Times* (April 10, 2004)
- <sup>72</sup> Cited in Qassim Abdul-Zahra, “Iraq PM Criticizes US-Led Attack” *Associated Press* (August 7, 2006)
- <sup>73</sup> “Kofi Annan’s Letter: Fallujah Warning” *BBC* (November 6, 2004)
- <sup>74</sup> Office of the High Commissioner for Human Rights, *Statement read by José Luis Dias, Spokesperson*, at the regular press briefing held at the UN Office in Geneva (November 16, 2004)



## Chapter 7

### Killing Civilians, Murder and Atrocities

*“We go out and kill these people... I define success as continuing to kill the enemy ...”*

– US Marine Captain Andrew del Gaudio<sup>1</sup>

**I**n the counter-insurgency campaign, Coalition commanders have established permissive “rules of engagement” to insure a swift and unhesitating use of force and to minimize their own casualties. At checkpoints and roadblocks, during house-searches and other operations, these rules allow troops to open fire with little hesitation or restraint. Increasing use of air power, notoriously indiscriminate, has further escalated the casualties. Commanders have seen the killing of Iraqi non-combatants in military operations as regrettable but unavoidable “collateral damage.” This environment of extreme violence has produced a rising number of killings, murders and even atrocities, committed by Coalition forces against Iraqi civilians.

#### Rules of engagement

Rules of engagement (ROE), drawn up by senior commanders, define when, where and how military personnel can “use force.”<sup>2</sup> Though field commanders set these rule, higher-level commanders – or even civilian leaders – must often give their approval. But the rules leave the final decision on the use of force to the troops on the ground (or pilots in the air), influenced by uncertainty, inexperience, nervousness, hatred, stress, and fear.

Because of the many civilian casualties,<sup>3</sup> human rights organizations have sharply criticized the rules of engagement in Iraq. Human Rights Watch<sup>4</sup>, the American Civil Liberties Union<sup>5</sup> and Amnesty International<sup>6</sup> have asked the Department of Defense to make the rules public, but the Department has kept them classified, or restricted them to “limited” distribution. In a news conference in May 2005, when asked about video footage of a US Marine shooting a wounded Iraqi prisoner in Falluja, Pentagon Spokesman Lawrence DiRita answered: “We don’t discuss rules of engagement... But [soldiers] have the right of self-defense at all times, and that’s a consistent rule of engagement.”<sup>7</sup>

Human Rights Watch has argued that a hostile environment “does not absolve the military from its obligations to use force in a restrained, proportionate and discriminate manner, and only when strictly necessary.”<sup>8</sup> Yet it seems that the rules are permissive and that there is further permissiveness in the application of rules on the ground. Local commanders use “kill counts” and other devices that encourage competition among soldiers to rack up “enemy kills.”<sup>9</sup> The result has been a rapid “escalation of force” by troops, leading to large numbers of civilian casualties.

## Roadblocks & Checkpoints

From the beginning of the occupation, troops have frequently opened fire at checkpoints, causing excessive and unnecessary deaths.<sup>10</sup> Checkpoints that motorists cannot see in advance are the most risky – set up temporarily and suddenly, or in unexpected places, or at night, or in bad weather, or on curvy roads with poor visibility, they can be especially lethal. Approaching civilians do not see the checkpoint and learn of it only when they face a hail of bullets or heavy weapon fire. The troops, for their part, see approaching vehicles as a potential threat and tend to fire on the slightest suspicion.

Soldiers often say they direct their fire at disabling the vehicle, but the record shows that they often fire directly at the driver and passengers, who they assume (often incorrectly) to be hostile persons. Walid Fayay Mazban, who was driving with his family in Basra in August 2003, was an early roadblock victim. It was about 8:30pm and very dark because there was no electricity. The vehicle turned at a junction near a British temporary checkpoint. The soldiers, fearing “suspicious” behavior, shouted “stop” in English. After the vehicle failed to stop and passed through, they shot at it several times from behind. Walid Fayay Mazban did not understand English. He may not even have heard the order. He died from multiple bullet injuries.<sup>11</sup>

Italian journalist Giuliana Sgrena brought checkpoint violence into broad public view. On March 4, 2005, after Italian intelligence had negotiated her release from abduction, Sgrena was riding in a car to the Baghdad airport with high-ranking Italian intelligence officer

Nicola Calpari. As the car approached the airport, the Italian driver alerted US military authorities by phone. But suddenly, as the car rounded a turn, US soldiers at a temporary roadblock opened fire with 50mm machine guns mounted atop Humvee vehicles. The bullets wounded Sgrena and killed Calpari.<sup>12</sup> The incident caused great outcry in Italy, where the government demanded an inquiry. It turned out that the “mobile checkpoint” had been set up because US Ambassador John Negroponte was having dinner with US General George Casey, commander of US forces, somewhere in the neighborhood.<sup>13</sup> US authorities apologized, but blamed the Italians for driving fast, not stopping, and not providing enough information about their whereabouts.<sup>14</sup> The Italians said they were going no more than 25 miles per hour, did not see the checkpoint until it was too late, and had kept authorities fully posted.<sup>15</sup> Even though none of the official procedures for warnings on the road had been followed, US commanders exonerated the soldiers involved. The media widely covered the incident and heavy criticism continued for weeks. Several other journalists and media workers have been injured or killed in checkpoint incidents.

Human Rights Watch issued a statement highly critical of checkpoint shootings, saying that many Iraqi civilians and others had died unnecessarily because Coalition forces had failed to take basic precautions.<sup>16</sup> Human rights organizations have urged commanders to reduce these killings by putting out warnings at a distance from the checkpoint – prominent signs in Arabic, physical barriers to force vehicles to slow down (such as speed bumps and rubber cones), bright lights and lines in the road.<sup>17</sup> Warning

shots, the human rights experts have pointed out, are ineffective and dangerous, because drivers sometimes mistake them as hostile fire and accelerate to escape. US commanders adopted many of the suggestions for improved procedures, but troops on the ground have rarely implemented them.<sup>18</sup> Checkpoint killings have continued, and the press reports cases regularly.<sup>19</sup>

### House-searches

Coalition forces routinely search houses, in pursuit of insurgent fighters and weapons caches. They often use disproportionate violence to break into houses – shooting door locks, placing a bomb or hand grenade outside the door and battering down front walls with military vehicles.<sup>20</sup> During the first two months of Operation Together Forward (August–September 2006), US and Iraqi forces damaged “more than 1,100 doors, 35 windows and 1,350 locks” in Baghdad alone.<sup>21</sup>

Searches are usually tense. Often, troops shout orders in English which family members cannot understand. Troops may “prep a room” by spraying it with gunfire or tossing in a hand grenade.<sup>22</sup> In Haditha, two house-searches resulted in the death of fifteen civilians.<sup>23</sup> Sometimes, troops may consider a house to be a “free-fire zone” and commanders may give orders to “shoot first and ask questions later.”<sup>24</sup> Such methods have killed many civilians, including women and children.<sup>25</sup>

### Patrols

During patrols, Coalition forces regularly fire on innocent Iraqis, fearful that they might be insurgents. According to a

*BBC* interview with an Iraqi witness, US patrols have shot and killed many civilians “by accident.”<sup>26</sup> Citing several examples from Anbar Province, the man claimed that “nearly 100 people have died in this way over the past year.”<sup>27</sup> According to estimates by the Iraqi Police in Baghdad, US forces killed 33 unarmed civilians and injured 45 in the capital alone, between May 1 and July 12, 2005.<sup>28</sup>

Under constant fear of being ambushed, troops tend to shoot first. In each convoy, a soldier is stationed on the roof of a humvee, ready to open fire in case a car comes closer than 100 yards. In June 2005, Salah Jmor arrived in Baghdad with his brother to visit his family. As he was driving, he did not see a US military convoy entering the highway. Suddenly, he collapsed after being shot by a single bullet in the head. His brother claims that there was no warning and no signal to slow down.<sup>29</sup> This type of incident is not rare in Iraq. Iraqis complain that they often do not understand signals or do not see them until it is too late and the shooting has already begun.

During routine foot patrols at night, troops are even more nervous about potential car or road bombs. After curfew, they stop all vehicles by shouting words in English and firing a warning shot. But often, the drivers do not see them in the dark, and do not understand the calls, if they can hear them at all. If cars fail to stop, troops fire waves of bullets, often wounding the driver and passengers. In a January 2005 case gruesomely documented by photojournalist Chris Hondros, a US foot patrol fired on an approaching vehicle carrying an Iraqi family. A US soldier shouted “Stop that car!” Simultaneously another soldier fired warning shots. But the car did not

stop immediately. A few seconds later, waves of bullets hit the car until it stopped. Six children emerged from the vehicle. The two parents were dead.<sup>30</sup>

Walking is not safer than driving at night. In one case, documented by Amnesty International, two men left their home in al-Majdiyeh, and went into the street to find out what was happening after hearing gunfire at night. A few minutes later, they were both dead, mistakenly shot by a British patrol. One of the men was hit by seven bullets in his chest and stomach. The other took five bullets in the right arm, the right leg, the chest and lower body. "I am sorry. There was a mistake. I apologize," said a soldier to the father of one of the men. "It was dark. One colleague was in a hurry. I am sorry..."<sup>31</sup>

### Air Strikes

The US is increasingly resorting to air strikes, to minimize US casualties and lower the risks of ground operations. According to military sources, the number of air strikes rose five-fold from January to November 2005.<sup>32</sup> Official reports indicate that US and UK air forces flew 10,510 "close air support missions," in 2006, a number that apparently does not include all types of offensive air operations.<sup>33</sup> In one typical week in March 2007, the Pentagon reported 327 missions, or about 48 every day – a rate about 50% above the previous year.<sup>34</sup> The intensifying air war has generated so much air traffic that US air bases in Iraq have installed new lighting and control systems enabling them to operate on a round-the-clock basis.<sup>35</sup>

While the US Air Force claims to operate with sophisticated, precision-guided

munitions to avoid civilian casualties, the electronic weapons are often aimed at houses or apartment buildings and they routinely kill or injure innocent civilians. Air assaults also use gravity bombs and rockets that have no claim to precision. And planes often rake the ground with high caliber cannon-fire.

In November 2005, the Coalition carried out an air offensive in Anbar Province. The US did not assess civilian casualties, but the *Washington Post* reported that according to eyewitnesses and doctors, many civilians were killed, including children.<sup>36</sup> The same month, Coalition air forces conducted an air strike against "two al-Qaida terrorist safe houses" in al-Qaim. While the military claimed to be acting on multiple intelligence sources, the UN *Integrated Regional Information Network* reported that "dozens of civilians including women and children" were killed.<sup>37</sup> In January 2006, US warplanes targeted a farmhouse in Baiji, killing in their sleep nine innocents in a family, including women and children.<sup>38</sup>

The US military does not count civilian deaths from US attacks, claiming that "investigating deaths caused by any one strike is often impractical in dangerous areas."<sup>39</sup> But it is clear from news reports and mortality studies that the toll has been large. According to the Hopkins mortality study, 13% of Iraqi excess deaths were due to Coalition air operations, or a total of about 78,000 through June 2006.<sup>40</sup> Commanders have certainly not hesitated to order frequent and deadly use of air power.

### Criminal Homicide & Murder

US troops have occasionally committed premeditated murder against Iraqi civilians, in unprovoked situations. Many

such murders escape notice, because they are attributed to “threatening behavior” that the perpetrator alleges came from the victim. Still, a number of cases have now come to light.

**Haditha** is the best-known case. On November 19, 2005, a squad of US marines went on a rampage after a roadside bomb killed one of their group. The squad's leader initially killed five unarmed young men who happened onto the scene in a taxi.<sup>41</sup> The marines then raided nearby houses, firing freely and killing civilians, including women and children.<sup>42</sup> Twenty-four Iraqis died in the incident, including ten women and children and an elderly man in a wheelchair.<sup>43</sup> The marines involved claimed that they were under a concerted attack by insurgents and their lawyers argued that their action was a “justifiable use of lethal force.”<sup>44</sup> But most evidence and court testimony suggests that the civilians were unarmed and that the marines shot the Iraqis in cold blood and then tried to eliminate damaging evidence, including a headquarters log and video from an aerial drone.<sup>45</sup> Like Abu Ghraib, US officials first described the Haditha massacre as an isolated case of misconduct. But the incident led to other revelations about atrocities, showing that it was part of a pattern of extreme and unrestrained violence that was more common among Coalition troops than anyone had realized.

**Mahmoudiya** was another massacre. On March 12, 2006, four army soldiers stationed at a checkpoint south of Baghdad had a drinking bout. They then changed into civilian clothes and walked to a close-by Iraqi home inhabited by the al-Janabi family. Leaving one soldier outside to guard the door, the others entered and killed the two parents and a five year

old daughter. Two of the soldiers then raped a 14-year-old Iraqi girl, Abeer Qassim al-Janabi, and then murdered her. The girl's body was found naked and partly burned, evidently in order to destroy the evidence.<sup>46</sup> According to a FBI affidavit filed in the case, the men made advances towards the young woman for a week before the attack.<sup>47</sup> One of the cases, involving Specialist James Barker, has already come to trial and the defendant has pleaded guilty and been sentenced to 90 years in prison. Barker told the court: “To live there, to survive there, I became angry and mean. I loved my friends, my fellow soldiers and my leaders, but I began to hate everyone else in Iraq.”<sup>48</sup>

**Ishhaqi** followed Mahmoudiya just three days later, on March 15, 2006. US marines attacked a farmhouse, eight miles north of the city of Balad, evidently because of intelligence that an insurgent was inside. Helicopter gunships fired on the house in support of the attackers. Some accounts say that fire was returned from the house, which US forces eventually captured. According to a report by the Iraqi police's Joint Coordination Center, based on a report filed after a local police investigation, US forces entered the house, “gathered the family members in one room and executed 11 persons, including five children, four women and two men. Then they bombed the house, burned three vehicles and killed their animals.”<sup>49</sup> Among those who died were a 75 year old woman and a six month old child.

**Hamdaniya** is similarly disturbing. On April 26, 2006, a squad of seven US marines and one navy sailor apparently dragged an innocent, unarmed and disabled Iraqi, Hashim Ibrahim Awad, from

his home, bound his hands and feet, and repeatedly shot him at point blank range.<sup>50</sup> The squad had been lying in ambush for someone else and when that person did not appear they devised a plan to kill any Iraqi instead.<sup>51</sup> The men entered Awad's home, dragged him out, shot him repeatedly in the head and chest, and then staged the scene to make it look like Awad had been an insurgent. The men were charged on June 21, 2006 with premeditated murder, kidnapping, conspiracy and making false statements to investigators. One participant, Petty Officer Nelson Bacos, who testified against the others in an early trial, said: "I didn't believe they would carry out a plan like that ... there was no justification ... I knew what we were doing was wrong."<sup>52</sup>

Military commanders and courts have systematically referred to Haditha and other massacres as isolated cases. But the large number of such incidents suggests that the atrocities are systemic and have arisen from a broad culture of excessive violence, often condoned by commanders.

### Cover-Ups

In most cases of serious misconduct and murder, soldiers directly involved have tried to cover up the crimes. Also, commanders have often ignored evidence, failed to pursue actively even the most serious cases and made exculpatory public statements. In the case of *Haditha*, the Marine Corps issued a press release the next day claiming that many of the Iraqis had died from the blast of an insurgent bomb, a version contested by witnesses. In spite of the many Iraqi casualties, the company commander did not inspect the site, choosing to rely on the report of the soldiers involved. Sub-

sequently, investigators found that pages were missing from a company logbook and a video tape from a drone flying overhead had disappeared. Apparently, the perpetrators or those in collusion with them had destroyed or withheld evidence.<sup>53</sup> Those involved in the incident apparently also made misleading statements to investigators.<sup>54</sup> A marine inquiry determined that "some officers gave false information to their superiors" in the initial follow-up to the case.<sup>55</sup> In a later report, Major General Eldon A. Bargewell found "willful negligence" among Marine officers and "attempts to hide criminal conduct." Senior officers, he concluded, "exhibited a determination to ignore indications of serious misconduct, perhaps to avoid conducting an inquiry that could prove adverse to themselves or their Marines."<sup>56</sup>

As in *Mahmudiya* where soldiers tried to conceal evidence of the rape and killing of the teenage girl and her family,<sup>57</sup> or in *Hamdaniya* where the soldiers put an AK-47 automatic rifle next to the man they had murdered,<sup>58</sup> those involved in the *Ishaqi* murders called in air support to blow up the house. It appears that they hoped that the crime would disappear beneath the rubble.<sup>59</sup> The US command first exonerated the soldiers, saying that three civilians died due to the exchange of fire in a military operation and also due to the collapse of the house which occurred during the combat. The civilian deaths were determined to be "unintentional," and US forces involved in the incident were said to have "followed the rules of engagement."<sup>60</sup> But neighbors and local leaders complained to Iraqi police that the soldiers entered the house while it was still standing. The police opened an inquiry, using a US-trained criminal investigation team that

literally dug up the facts from the collapsed house.<sup>61</sup> After examining the bodies, hands bound, all in one room with execution-style bullet holes to the head and spent US cartridges nearby, the investigators concluded that the people had been murdered in cold blood. Eleven, not three, bodies were found in the rubble.<sup>62</sup> Autopsies at Tikrit Hospital confirmed that all the victims had bullet wounds to the head.<sup>63</sup> The BBC has shown a video from an Associated Press cameraman, taken afterwards on the scene, that provides strong evidence of the atrocity.<sup>64</sup> But the US military has refused to open a case or to investigate further.

In the case of the death of Italian intelligence agent Nicola Calipari too, an Italian government report issued on May 3, 2005 criticized the way that evidence of the shooting disappeared. The scene of the incident was not preserved for investigation and the logs of the military unit on the day in question were later destroyed. At the very least, this was sloppy procedure. Quite possibly, it was obstruction of justice and the covering up of a crime.<sup>65</sup>

A Pentagon mental health survey of troops in Iraq found that “less than half of Soldiers and Marines would report a team member for unethical behavior,” such as not following general orders, violating the rules of engagement, and mistreating or killing civilians.<sup>66</sup> US military authorities, embarrassed by a rash of atrocities, have chosen to back up the official version of the facts, insisting that victims died as collateral damage in military operations. Such cover-ups have kept some cases from public view entirely, and they have diminished the strength of the evidence against the per-

petrators of the prosecuted crimes. They have contributed to the dismissal of cases and the very weak sentences that are usually handed down.

### Impunity

The military justice system has acted very rarely to punish cases of murder and atrocities. Most such cases have never reached the point of a formal charge. Even when a charge has been handed down, the cases have usually been dismissed at the preliminary administrative tribunal stage or at the later court martial phase. Or they have been settled at either stage with a very mild rebuke or punishment. Very few charges have included premeditated murder, even in such egregious incidents as Haditha.

In late August 2006, the *Washington Post* reviewed military cases during the period June 2003 to February 2006. The *Post* report found that while thousands of Iraqis had been killed by US soldiers under questionable circumstances, the military justice system prosecuted only a “small portion of the incidents.”<sup>67</sup> No homicide prosecutions at all have arisen from shootings at checkpoints and very few high-ranking officers have been charged.

Commanders – who must make the decision to start a criminal investigation against their subordinates – have often failed to investigate Iraqi civilian deaths. They have preferred to consider them as unintended consequence of combat operations and ordered administrative or non-judicial punishments instead. “I think there are a number of cases that never make it to the reporting stage, and [for those that do] there has been a reluc-

tance to pursue them vigorously,” said Gary Solis, a former Marine prosecutor. “There have been fewer prosecutions in Iraq than one might expect.”<sup>68</sup> An army major quoted by the *Washington Post* concurred: “I think there were many other engagements that should have been investigated, definitely. But no one wanted to look at them or report them high... It was just the way things worked.”<sup>69</sup>

## Criticism

The killing of civilians by US troops has raised anger and outrage among the Iraqi population and has sparked strong statements from Iraqi officials. Asked to comment on the events in Haditha, Prime Minister Nuri al-Maliki called them “totally unacceptable” and qualified US violence against civilians as a “daily phenomenon” in Iraq. He said bluntly that Coalition troops do not “respect the Iraqi people.”<sup>70</sup> After the announcement that a US investigation had cleared troops in the Ishaqi case, the Iraqi government reacted strongly. Adnan al-Kazimi, an aide to Prime Minister al-Maliki, said the government would demand an apology from the US and compensation for the victims in several cases.<sup>71</sup>

The small number of convictions has pushed the Iraqi government to question the immunity given to members of Coalition forces since June 2004. Al-Maliki publicly said he believed immunity from Iraqi courts “encouraged [troops] to commit crimes in cold blood.”<sup>72</sup> Iraq Human Rights Minister Wigdan Michael concurred, that the US failure to hold soldiers accountable for their crimes had fostered a climate of impunity among troops: “One of the reasons for this is the

UN resolution, which gives the multinational force soldiers immunity. Without punishment, you get violations. This happens when there is no punishment.”<sup>73</sup> Michael also raised the possibility that Iraq would demand a review of the Multinational Forces’ immunity by the UN Security Council.<sup>74</sup>

## Conclusion

The United States and its allies claim they do everything in their power to prevent civilian casualties. Yet, there are many accounts of Coalition forces opening fire and killing Iraqi civilians in circumstances where there was no imminent threat. This is in clear breach of international human rights standards. In many cases of patrols, house searches, and relentless bombing campaigns, military personnel have used lethal force in absolutely unjustified circumstances. Studies of civilian mortality in Iraq suggest that tens of thousands of innocent Iraqis have been killed in this way since the occupation began.<sup>75</sup>

Murders and atrocities are the extreme form of the daily deadly violence. In Iraq, where Coalition forces see every man of military age as a potential fighter, and where fear and anger affect the behavior of troops, events like the Haditha massacre are all too likely to occur. According to US Major General Eldon A. Bargewell, “all levels of command [tend] to view civilian casualties, even in significant numbers, as routine and as the natural and intended result of insurgent tactics.” “Statements made by the chain of command (...), taken as a whole, suggest that Iraqi civilian lives are not as important as US lives, their deaths are just the cost of doing business, and that the Marines need to get



'the job done' no matter what it takes," he concluded.<sup>76</sup>

This environment of extreme violence and impunity paves the way for murder,

rape and atrocities. These acts are absolutely prohibited by The Hague Conventions and the Geneva Conventions and they constitute serious war crimes.

<sup>1</sup> As cited in Dexter Filkins: "In Ramadi, Fetid Quarters and Unrelenting Battles" *New York Times* (July 5, 2006)

<sup>2</sup> Chapter 5 of the Operational Law Handbook put out by the Judge Advocate School of the Army

<sup>3</sup> See Chapter 8 on mortality

<sup>4</sup> Human Rights Watch, *Hearts and Minds* (October, 2003)

<sup>5</sup> American Civil Liberties Union, *ACLU to Seek Public Accountability in Haditha Investigations* (June 22, 2006)

<sup>6</sup> Amnesty International, *Killing of Civilians in Basra and al-Amara* (May 14, 2004)

<sup>7</sup> US Department of Defense, News Transcript, *Defense Department Regular Briefing with Lawrence Di Rita, Pentagon Spokesman; and Lieutenant General James T. Conway, Director, Operations, Joint Staff* (May 5, 2005)

<sup>8</sup> Human Rights Watch, *Hearts and Minds* (October, 2003)

<sup>9</sup> Borzou Daragahi and Julian E. Barnes, "Officers Allegedly Pushed 'Kill Counts'" *Los Angeles Times* (August 3, 2006)

<sup>10</sup> See, for example, Human Rights Watch, *Hearts and Minds* (October, 2003), Human Rights Watch, *US Checkpoints Continue to Kill* (May, 2005) and "Joint Letter from Human Rights Watch and the Committee to Protect Journalists to Secretary Rumsfeld" (June 17, 2005).

<sup>11</sup> Amnesty International, *Killing of Civilians in Basra and al-Amara* (May 14, 2004)

<sup>12</sup> "Hostage Recounts US Shooting" *CNN* (March 6, 2005)

<sup>13</sup> Christopher Dickey, "Reality Checkpoints" *Newsweek* (March 11, 2005)

<sup>14</sup> Declassified US Report

<sup>15</sup> "Italy Disputes US Shooting Account" *CNN* (March 8, 2005)

<sup>16</sup> "Joint Letter from Human Rights Watch and the Committee to Protect Journalists to Secretary Rumsfeld" (June 17, 2005)

<sup>17</sup> Human Rights Watch, *Hearts and Minds* (October, 2003) See also: Human Rights Watch, *Iraq: Checkpoints Lack Basic Safety Measures* (June 17, 2005)

<sup>18</sup> "Joint Letter from Human Rights Watch and the Committee to Protect Journalists to Secretary Rumsfeld" (June 17, 2005)

<sup>19</sup> See for instance Hillary Brown, "Pregnant Iraqi Woman Shot near Security Checkpoint" *ABC News* (May 31, 2006); Trudy Rubin "Hidden Toll: Civilians Killed Accidentally" *Philadelphia Inquirer* (July 12, 2006)

<sup>20</sup> For example, see World Health Organization, *Detailed Situation Report in Talafar* (August 19, 2005)

<sup>21</sup> Spc. Joshua Ramey, "Together Forward Restores Life to Ameriyah" *Official MNF-I website* (September 20, 2006)

<sup>22</sup> Gary Younge, "If Wanton Murder is essential to the US Campaign in Iraq, It's Time to Leave" *Guardian* (June 26, 2006)

<sup>23</sup> Gary Younge, *op.cit.*

<sup>24</sup> Josh White, "Death in Haditha" *Washington Post* (January 6, 2006)

<sup>25</sup> Richard Whittle, "Rules of Engagement: What Were They at Haditha?" *Christian Science Monitor* (October 10, 2006)

<sup>26</sup> "Iraqi Viewpoint: Iraqis Fear US Troops" *BBC* (June 1, 2006)

<sup>27</sup> *Ibid.*

<sup>28</sup> Richard Paddock, "Shots in the Heart of Baghdad" *Los Angeles Times* (July 25, 2005)

<sup>29</sup> *Ibid.*

<sup>30</sup> Chris Hondros, "A Shooting after Nightfall" *Newsday* (January 19, 2005)

<sup>31</sup> Amnesty International, *Killing of Civilians in Basra and al-Amara* (May 14, 2004)

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- <sup>32</sup> Ellen Knickmeyer and Salih Saif Aldin "US Raid Kills Family North of Baghdad" *Washington Post* (January 4, 2006)
- <sup>33</sup> Nick Turse, "The Secret Air War in Iraq" *The Nation* (June 11, 2007)
- <sup>34</sup> Data from CENTAF web site, as cited in Jeff Nygaard, "The Secret Air Wars in Iraq and Afghanistan," *Z Magazine* (June 2007), pp. 41-44
- <sup>35</sup> See Chapter 10 for more details.
- <sup>36</sup> Ellen Knickmeyer, "US Airstrikes Take Toll on Civilians" *Washington Post* (December 24, 2005)
- <sup>37</sup> "Civilians Killed Near al-Qaim in Air Strike, Doctors Say" *UN Integrated Regional Information Networks* (November 1, 2005)
- <sup>38</sup> Richard A. Oppel Jr. and Omar Al-Neami, "US Strike on Home Kills 9 in Family, Iraqi Officials Say" *New York Times* (January 4, 2006)
- <sup>39</sup> Knickmeyer and Aldin, *op.cit.*
- <sup>40</sup> Nygaard, *op. cit.* For commentary on the Hopkins study, see chapter 8.
- <sup>41</sup> White, *op.cit.*
- <sup>42</sup> *Ibid.*
- <sup>43</sup> Richard Engel, "What Happened in Haditha" *NBC News* (May 30, 2006)
- <sup>44</sup> David S. Cloud, "Marines Have Excised Evidence on 24 Iraqi Deaths" *New York Times* (August 18, 2006)
- <sup>45</sup> *Ibid.*
- <sup>46</sup> Tim Whitmire "Ex-Soldier Charged with Rape, Murder" *Associated Press* (July 3, 2006)
- <sup>47</sup> Rick Jervis & Andrea Stone, "Four More Soldiers Accused of Rape, Murder in Iraq" *USA Today* (July 9, 2007)
- <sup>48</sup> As quoted in "Iraq Rape Soldiers given Life Sentence" *Guardian* (November 17, 2006)
- <sup>49</sup> Mathew Schofield, "Iraqi Policy Report Details Civilians' Deaths and Hands of US Troops" *Knight Ridder (McClatchy)* (March 19, 2006)
- <sup>50</sup> Josh White and Sonya Geis, "8 Troops Charged In Death Of Iraqi" *Washington Post* (June 22, 2006)
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- <sup>60</sup> Will Dunham, "Troops Cleared in Iraqi Deaths in Ishaqi" *Reuters* (June 2, 2006)
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<sup>73</sup> Mariam Karouny, "Iraq to Ask UN to End US Immunity after Rape Case" *Reuters* (July 2, 2006)

<sup>74</sup> *Ibid.*

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<sup>76</sup> Cited in Josh White, "Report On Haditha Condemns Marines" *Washington Post* (April 21, 2007)

## Chapter 8

### Displacement and Mortality

*“...we will help you to build a new Iraq that is prosperous and free.”*

– US President Georges W. Bush<sup>1</sup>

**T**he invasion of Iraq in March 2003 caused many civilian casualties, but it did not create a major humanitarian crisis or set off mass migration. Soon, though, Coalition counter-insurgency operations, including massive attacks on cities like Falluja, Najaf and Tel Afar, caused many violent deaths as well as large displacement, affecting hundreds of thousands of people.<sup>2</sup> Unemployment and poverty rose sharply, too, as state institutions deteriorated or collapsed. Beginning in 2006, sectarian clashes worsened. Inter-communal violence led to rising death and injury, as well as massive new displacement. The international relief system has not been able to respond to the growing humanitarian challenges. Humanitarian NGOs have largely withdrawn and donor governments have stayed away. International relief agencies have themselves faced serious problems in overcoming political pressures, reaching Iraqis at risk, and mobilizing funds for the deepening emergency.<sup>3</sup>

#### Displacement

Violence and poverty have created an unparalleled movement of population in Iraq.<sup>4</sup> In April 2007, well over 4 million Iraqis had been displaced, about 14% of the total population. Of that number, about 1.9 million Iraqis were internally displaced and over 2.2 million had mi-

grated to other countries.<sup>5</sup> UNHCR, the UN refugee agency, has spoken of “growing concerns over the rapidly deteriorating humanitarian situation”<sup>6</sup> The agency expects many more people to leave their homes as violence and inter-communal strife continue to rise.<sup>7</sup> Large numbers are in urgent need of aid, food and shelter. The international relief system has responded weakly, because of political pressures, serious underfunding and difficulty in reaching the displaced people.

#### Coalition Operations

Since 2003, Coalition military operations have displaced large numbers of Iraqis, especially through aerial and ground attacks on urban areas. The attacks on Falluja in 2004 displaced over 200,000,<sup>8</sup> while attacks on other cities displaced hundreds of thousands more. Many families have been unable to return, due to the ongoing insecurity, recurrent military offensives, lack of water, electricity and health services, and because their homes and places of business are ruined.<sup>9</sup> According to an estimate by the Falluja Reconstruction Project, about 65,000 people from the city were still displaced in early 2006.<sup>10</sup>

#### Sectarian Violence

Beginning in 2006, while military operations continued to force people from

their homes, sectarian violence became the main cause for displacement, particularly in Baghdad. The UNHCR estimates that sectarian violence had displaced some 730,000 people following the attack on the Samarra Al-Askari shrine between February 2006 and March 2007.<sup>11</sup> Iraqis have been threatened because of their religious affiliation or profession. Sectarian militias and armed groups have attacked mosques, markets and villages of rivals. Mixed neighborhoods are increasingly polarized.

### **Minorities and Professionals**

Minority communities are especially at risk. Reports suggest that religious persecution has led to the displacement of Christians, Turkmens, and Assyrians, among others. The Sabeen-Mandean, a very old community, has dwindled from 13,500 in 2001 to roughly 4,000 in 2006.<sup>12</sup> Half of the 1.5 million Assyrians living in Iraq before 2003 have left the country and the remaining 750,000 are moving into “safe areas” in Zakho and North Ninevah.<sup>13</sup> Many Christians have been leaving for Syria and Jordan; a significant number has also sought refuge in Iraq’s Kurdistan region.<sup>14</sup>

Palestinian refugees in Iraq are facing very difficult conditions, and are subject to repeated threats and attacks. Palestinian media sources in early 2007 report that there have been over 655 attacks against Palestinians, killing at least 186.<sup>15</sup> Palestinians in Baghdad are extremely fearful for their lives and have expressed their wish to leave as soon as possible.<sup>16</sup> But for many Palestinians leaving Iraq is not an option, as they have no valid travel documents.<sup>17</sup> UNHCR estimates that about 850 Palestinians from Iraq are trapped at the border with Syria.<sup>18</sup> A group of 365 has

been living in a no man’s land between the borders of Iraq and Syria, refusing to return to Iraq and having been refused entry by the Syrian government.<sup>19</sup> Neighboring countries like Jordan, Kuwait, Saudi Arabia, and Syria refuse to admit them<sup>20</sup> and going back to the Palestinian territories is not an option. Only about 15,000 of an estimated 34,000 Palestinians formerly in Iraq remain in the country.<sup>21</sup>

Many professionals have been targeted because of their work. This includes academics, educators, professors, doctors, journalists, politicians, lawyers and judges.<sup>22</sup> Many have been arrested, kidnapped, killed or forced to flee to protect their lives and their families. According to the Iraqi Ministry of Health, 102 doctors and 164 nurses were killed between April 2003 and May 2006, and some 250 Iraqi doctors were kidnapped between mid-2004 and mid-2006.<sup>23</sup> According to the Brookings Institution’s *Iraq Index*, 2000 Iraqi physicians were killed and about 12,000 left the country from March 2003 through March 2007.<sup>24</sup> The negative effect of violence on professionals has substantially affected educational, judicial and health care systems in the country.

### **Internally Displaced Persons**

As of March 2007, an estimated 730,000 Iraqis had fled their homes for other parts of Iraq since the Samarra bombings and UNHCR estimates that the pace has increased to 50,000 per month.<sup>25</sup>

Most of these “internally displaced persons,” or IDPs, have sought refuge with relatives, or in mosques, empty public buildings, or tent camps.<sup>26</sup> With limited access to food, health services, education

and employment, IDPs live in very poor conditions.<sup>27</sup> Public buildings are particularly unsanitary, often overcrowded, without access to clean water, proper sanitation and basic services, in conditions especially conducive to infectious diseases.<sup>28</sup> In addition, occupants are constantly under threat of being evicted without being provided with alternative accommodation. Those living in camps often have to choose between locations away from military or militia operations, and locations more at risk but nearer education and health facilities.

Families and acquaintances have supported their displaced relatives and shared limited supplies. But this has created a “rising tension between families over scarce resources” according to UNHCR.<sup>29</sup>

Humanitarian agencies are facing great difficulties in assisting IDPs. UN operations are mostly managed from Amman and Kuwait. The lack of security and military-imposed restrictions has prevented access to those in need of assistance and protection. Coalition forces have denied access of local aid groups to displaced communities.<sup>30</sup> Aid groups are also subject to intimidation from militias for helping displaced families of other religious backgrounds.<sup>31</sup>

### **Refugees in Neighboring Countries**

In addition to the 1.9 million IDPs, over 2.2 millions Iraqis have sought refuge in other countries. At least 1.2 million Iraqis have fled to Syria, and an estimated 750,000 to Jordan. In addition, there are over 100,000 Iraqi refugees in Egypt, 54,000 in Iran, 40,000 in Lebanon, 10,000 in Turkey, about 200,000 in the Gulf States and around 200,000 have

moved to Europe, Northern America and New Zealand.<sup>32</sup> UNHCR reports that asylum applications by Iraqis in industrialized countries rose by 77 percent in 2006, making Iraq the leading country of origin in 2006.<sup>33</sup>

In neighboring countries, tensions are rising as the growing number of refugees overwhelms public services. Syria has tightened restrictions. It now charges for health care and has reduced entry visas from six to three months, forcing refugees to exit the country for renewal.<sup>34</sup> Lebanon has closed its borders to Iraqi refugees and Lebanese authorities have increased arrests for illegal presence, forcing refugees to choose between prison and deportation.<sup>35</sup> Jordan, worried about risks of instability, has tightened its immigration rules, now requiring Iraqis to hold a new type of passport.<sup>36</sup> The measure has increased Iraqis’ feeling of insecurity in the country. Amman had already closed its borders to young men, obliging families to separate,<sup>37</sup> and made it difficult for Iraqi children to access public schools.<sup>38</sup> Refugees International reports that in certain cases border officials have issued transit visas that expire after a few days, leaving Iraqis subject to deportation.<sup>39</sup>

### **Long-Term Crisis and Broader Consequences**

Hundreds of thousands of displaced Iraqis – both within and outside the country – are in dire need of assistance – for shelter, healthcare, education, legal aid, food and medicine. UNHCR predicts that Iraq’s humanitarian crisis will last for years.<sup>40</sup> The UN agency predicts that for most Iraqi IDPs, “this is not a temporary” but a “permanent displacement.”<sup>41</sup> The displacement has conse-

quences beyond the country's borders, affecting Syria, Jordan, Egypt, Turkey, Iran and other countries outside the region.

In January 2007, UNHCR launched a \$60 million appeal to fund its programs for the year,<sup>42</sup> a significant increase from the \$29 million appeal in 2006. Yet, "even \$60 million does not go very far,"<sup>43</sup> warned Andrew Harper, Senior Manager for UNHCR's Iraq Operation Unit. He added that addressing Iraq's total humanitarian needs in the long-term would range in the "hundreds of millions, if not billions, of dollars." "This is a [humanitarian] operation that is going to have to go on for years," he said.<sup>44</sup>

## Mortality

Iraq's death rate has increased significantly since March 2003. Obviously, many Iraqis have been dying of violent causes, given the Coalition's non-stop military operations and the rising tide of sectarian violence. But a debate rages over how many Iraqis have died and how the statistics should be interpreted. Washington insists that the lowest numbers are the most accurate, while refusing to publish its own official statistics. The Iraqi government also prefers to downplay the situation. Still, all serious studies show that the death toll has been high and growing. Iraq's people have paid a steep price in loss of life.

## Studies

The US and the UK governments have publicly insisted that they "don't do body counts," and thus have no reliable estimates of Iraqi civilian or military deaths.<sup>45</sup> Several studies have nonethe-

less sought to measure Iraq's mortality during the occupation:

- Iraq's Ministry of Health provides figures for bodies brought to morgues and hospitals;<sup>46</sup>
- UNAMI publishes periodic human rights reports, which provide figures based on "the number of casualties compiled by the Iraqi Ministry of Health from hospitals throughout the country and the Medico-Legal Institute in Baghdad";<sup>47</sup>
- Iraq Body Count, an independent and public database, tracks civilian deaths reported in English-language news sources;<sup>48</sup>
- The UN Development Programme carried out the "Iraq Living Conditions Survey" (ILCS),<sup>49</sup> measuring living conditions in Iraq between April 2002 and April 2004, including a section on mortality;
- Johns Hopkins University's Bloomberg School of Public Health has sponsored two studies on Iraq mortality that have been published in *The Lancet*, Britain's most respected medical journal. The first study<sup>50</sup> appeared in 2004 and estimated excess deaths between March 2003 and September 2004. The second study<sup>51</sup> was published in October 2006 and covered the much longer period from March 2003 to June 2006.

The 2004 and 2006 Hopkins surveys are the only studies designed exclusively to

assess mortality in Iraq since the invasion.<sup>52</sup> By contrast, the ILCS study analyzed general living conditions<sup>53</sup> and UNAMI reports cover a wide range of human rights issues.

The Hopkins studies have aroused controversy because their estimates were high, and because they identified Coalition violence as responsible for a large proportion of the deaths. The first Hopkins study estimated about 98,000 “excess deaths” (deaths above the pre-2003 mortality rate) had occurred in the 18 month period from March 2003 to September 2004. The report concluded that “violence was the primary cause of death” since the invasion and “mainly attributed [it] to Coalition forces.”<sup>54</sup>

The second Hopkins study estimated that 655,000 excess deaths had occurred from March 2003 through June 2006: a shockingly high number.<sup>55</sup> The survey was based on a large sample of 1,849 households in 47 different, randomly-selected “clusters” representing all regions of the country. The survey asked respondents about deaths in the family and verified responses by asking for death certificates, which were produced in 92 percent of cases when requested.<sup>56</sup> The study’s conclusions showed an increase in violent deaths overall, and a proportional shift toward violence by actors other than Coalition forces. However, Coalition violence continued to account for the largest reported known source of violence – 31% of all deaths.<sup>57</sup>

Unsurprisingly, both Hopkins studies have been hotly contested by the White House, Downing Street and many other defenders of the war and occupation. President Bush dismissed the second study out of hand, saying: “I do not con-

sider it a credible report. Neither does General Casey and neither do Iraqi officials.”<sup>58</sup> When asked later about the report, the president stated that the number of those who had died in Iraq during the occupation had been “30,000, more or less,” giving no evidence for this figure.<sup>59</sup> White House Spokesman Scott McClellan later announced that the number quoted by the president was “not an official government estimate.”<sup>60</sup>

Other critics, including some opposed to the occupation, have questioned the plausibility and methodology of the Hopkins survey. The authors of the report have extensively defended their study and have pointed out that the US State Department has favorably used conflict mortality surveys by the same investigators, using the same methodology.<sup>61</sup> Many experts in epidemiology, public health, and statistics at leading institutions, including the UK’s Department for International Development, have stated that this survey was well-constructed and reliable, and that in spite of difficult circumstances it is highly credible.<sup>62</sup> The Chief scientific adviser of the British Ministry of Defence, Sir Roy Anderson, defended the study design as being “robust” and affirmed the survey’s methods were “close to best practice.”<sup>63</sup>

This is not the place to rehearse the debates about the Hopkins studies, but it is clear that alternative sources such as Iraq Body Count, the UNDP study, and UNAMI cannot be directly compared, as they gathered numbers of deaths in different and much more restricted ways. Iraq Body Count only tallies non-combatants killed in the fighting and reported in at least two English-language news sources.<sup>64</sup> Given the problem of



field reporting in Iraq, English news sources probably report on only a fraction of those killed and they are probably biased in favor of interpreting those killed as combatants. In spite of those limits, as of January 2007, IBC estimated that between 54,000 and 60,000 Iraqi civilians had been killed by Coalition military operations.

UNAMI figures are based on morgue counts and information provided by the Iraqi Ministry of Health. This, too, is a limited universe, since many of those who die do not make it to the morgue and are not reported to the authorities. In its November-December 2006 Human Rights Report, UNAMI estimates that over 34,000 civilians had been killed during the year 2006, bringing the yearly average of civilian deaths to 94 every day.<sup>65</sup> Such methods of “passive surveillance” are useful, but provide data that are generally incomplete, especially during conflicts, and thus probably undercount the true number of deaths, as Iraq Body Count and other passive surveillance efforts themselves insist.<sup>66</sup> In addition, UNAMI and UNDP studies have covered much shorter time periods.

Critics have used the divergent estimates to argue that the studies’ results are inconsistent. But all these estimates reflect high and rising death rates every year of the occupation. Whether the number for the 39 month period covered by the Hopkins study is 655,000 or 500,000, or another number, the overwhelming reality is that the occupying forces have failed to protect Iraqi civilians from violence under their Geneva Convention obligations.<sup>67</sup> Not a single published mortality statistic shows that the well-being of the Iraqi people has improved since the start of Operation Iraqi Freedom.

## Causes of Death

Lack of data makes it difficult to know precisely the causes of the increased deaths in occupied Iraq – including such factors as armed conflict, damaged infrastructure, limited access to food and water, disease, and internal displacement. The 2003 war destroyed vital infrastructure for water, food and sanitation, already weakened by the 1991 Gulf War and thirteen years of sanctions.<sup>68</sup> However, armed violence is clearly the leading cause of excess death since 2003, whether from the Coalition’s military operations, insurgent operations, or – especially since early 2006 – violence of armed sectarian militias, death squads and criminal gangs. UNAMI’s report for September-October 2006 notes “a large number of indiscriminate and targeted killings.”<sup>69</sup> UNAMI further reports that according to the Iraqi Ministry of Health, 7,054 civilians were violently killed [during the period] with no less than 4,984 in Baghdad, most of them as a result of gunshot wounds.”<sup>70</sup>

The disintegration of Iraq’s health system has been an aggravating factor. The Iraqi medical service, once amongst the finest in the region, has declined so far that it cannot meet the needs of the population. According to an article in the *British Journal of Medicine*, “more than half” of those who have died in Iraq’s hospitals might have been saved if trained staff were available and hospital conditions were sufficient.<sup>71</sup> Many Iraqi physicians have left the country due to the security crisis,<sup>72</sup> leaving hospitals under-staffed or staffed with doctors “who do not have the proper experience or skills to manage emergency cases.”<sup>73</sup> Hospitals and clinics also lack basic medical supplies, including equipment

and drugs.<sup>74</sup> The US announced early in the occupation that it would rebuild and re-equip Iraq's hospitals and primary care clinics. But delays, bad planning and corruption-riddled reconstruction projects have meant that Washington has failed to deliver on these promises.<sup>75</sup>

## Conclusion

Iraq faces a growing humanitarian emergency, with unprecedented death and displacement. As of April 2007, the United Nations estimated that up to 8 million people were vulnerable and in need of immediate assistance.<sup>76</sup> Hundreds of thousands of Iraqis have been forced to flee from their homes and hundreds of thousands more are casualties of the violence through death and injury.

Education has broken down.<sup>77</sup> Unemployment has reached about 60%<sup>78</sup> and the annual inflation rate peaked at about 70% in July 2006.<sup>79</sup> An estimated 54% of the Iraqi population lives on less than a dollar a day, among which 15% live in extreme poverty.<sup>80</sup> The public health system is weak and losing capacity.<sup>81</sup> Electricity is in short supply.<sup>82</sup> Only 32% of Iraqis have access to clean drinking water.<sup>83</sup> The Public Distribution System food ration has stopped functioning in certain areas of the country, leaving 4 million Iraqis acutely vulnerable due to food insecurity.<sup>84</sup> Severe malnutrition doubled between 2003 and 2005.<sup>85</sup> Iraq's humanitarian emergency has reached a crisis level that compares with some of the world's most urgent calamities.

<sup>1</sup> White House, *Remarks by the President in Address to the Nation, The Cross Hall* (March 17, 2003)

<sup>2</sup> See Chapter 6 of this report for details on the displacements.

<sup>3</sup> See for example UNHCR, *Iraq Displacement* (November 3, 2006)

<sup>4</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September-October 2006) p.3

<sup>5</sup> UNHCR, *Statistics on Displaced Iraqis around the World* (April 2007)

<sup>6</sup> UNHCR, *Press Briefing by UNHCR Spokesperson Ron Redmond* (October 13, 2006)

<sup>7</sup> UNHCR, *Iraq: A Humanitarian Crisis that Will Go for Years* (February 2, 2007) UNHCR predicts that 2.4 to 2.7 million Iraqis will be displaced by the end of 2007.

<sup>8</sup> United Nations, *Emergency Working Group -- Falluja Crisis*, "Update Note" (November 13, 2004)

<sup>9</sup> Internal Displacement Monitoring Center/Norwegian Refugee Council, *Iraq: Sectarian Violence, Military Operations Spark New Displacement, as Humanitarian Access Deteriorates* (May 23, 2006)

<sup>10</sup> Cited in: "Iraq: Fallujah Situation Improving Slowly" *UN Integrated Regional Information Networks* (March 21, 2006)

<sup>11</sup> UNHCR, *Press Briefing by UNHCR Spokesperson Ron Redmond* (March 20, 2007)

<sup>12</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September-October 2006) p.13

<sup>13</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November-December 2006) p.13

<sup>14</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September-October 2006) p.13

<sup>15</sup> UNHCR *Iraq: UNHCR Deeply Disturbed By Security Forces Raid In Palestinian Area* (March 16, 2007)

<sup>16</sup> UNHCR, *UNHCR Appeals to Countries to Provide Humanitarian Solution for Palestinians Fleeing Iraq* (December 14, 2006)

<sup>17</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September-October 2006) p.14

<sup>18</sup> UNHCR *Iraq: UNHCR Deeply Disturbed By Security Forces Raid In Palestinian Area* (March 16, 2007)

<sup>19</sup> UNHCR, *Palestinians in Iraq: More Fleeing, Statement by Jennifer Pagonis* (January 30, 2007)

<sup>20</sup> Human Rights Watch, *Nowhere to Flee: The Perilous Situation of Palestinians in Iraq* (September 2006)

<sup>21</sup> UNHCR, *UNHCR Appeals to Countries to Provide Humanitarian Solution for Palestinians Fleeing Iraq* (December 14, 2006)

<sup>22</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September-October 2006)

<sup>23</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (May-June 2006) p.6

<sup>24</sup> Brookings Institutions, *Iraq Index* (March 19, 2007) p.40

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- <sup>25</sup> UNHCR, *Press Briefing by UNHCR Spokesperson Ron Redmond* (March 20, 2007)
- <sup>26</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July-August 2006) p.13
- <sup>27</sup> International Medical Corps, *Iraqis on the Move: Sectarian Displacement in Baghdad* (January 2007)
- <sup>28</sup> Internal Displacement Monitoring Center/Norwegian Refugee Council, *op.cit.*
- <sup>29</sup> UNHCR, *Briefing Notes* (November 3, 2006)
- <sup>30</sup> Internal Displacement Monitoring Center/Norwegian Refugee Council, *op.cit.*
- <sup>31</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July-August 2006)
- <sup>32</sup> UNHCR, *Statistics on Displaced Iraqis around the World* (April 2007)
- <sup>33</sup> UNHCR, *Asylum Levels and Trends in Industrialised Countries, 2006* (March 23, 2007)
- <sup>34</sup> Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed* (December 5, 2006)
- <sup>35</sup> *Ibid.*
- <sup>36</sup> The new “G” passports are difficult to obtain, since they have only been issued since 2006 and must be picked up in Baghdad. “Jordan Tightens Iraqi Immigration” *BBC* (February 28, 2007)
- <sup>37</sup> Refugees International, *op.cit.*
- <sup>38</sup> UNHCR, *Update on the Iraq Situation* (November 2006)
- <sup>39</sup> Refugees International, *op.cit.*
- <sup>40</sup> “Iraq Faces Dire And Long-Term Humanitarian Crisis, UN Official Warns” *UN News* (February 5, 2007)
- <sup>41</sup> UNHCR, *Q&A: Iraq: A Humanitarian Operation that Will Go on for Years. Interview with Andrew Harper, Senior Operations Manager for UNHCR’s Iraq Operation Unit.* (February 2, 2007)
- <sup>42</sup> UNHCR, *Supplemental Appeal Iraq Situation Response* (January 2007)
- <sup>43</sup> UNHCR, *Q&A: Iraq op.cit.*
- <sup>44</sup> *Ibid.*
- <sup>45</sup> E.g. Written answer by Kim Howells MP, UK Foreign Office Minister, *House of Commons* (December 13, 2005); written answer by Bill Rammell MP, UK Foreign Office Minister, *House of Commons* (January 11, 2005); Pentagon officials quoted in Helen Thomas, “Who’s Counting the Dead in Iraq” *Miami Herald* (September 5, 2003). N.B. The Pentagon has released figures for the number of Iraqi civilians and soldiers killed and wounded by insurgents alone between January 2004 and October 2005 (25,902), but their source has not been given: Sabrina Tavernise, “US Military Now Quietly Tracking Iraqi Deaths” *New York Times* (October 30, 2005) It has also released rough counts of average numbers of Iraqis killed and wounded in a quarterly accounting report mandated by Congress, reporting that daily averages of dead and wounded Iraqi civilians, soldiers and police officers rose from 26 a day in 2004 to almost 120 a day in August 2006 (US Department of Defense, *Measuring Stability and Security in Iraq*).
- <sup>46</sup> The publication of official Iraqi estimates has been quite political. In April 2007, UNAMI publicly deplored the fact that the Iraqi of Health stopped providing mortality figures to the United Nations without any substantive explanation or justification. After the publication of the preceding UNAMI report, the office of Prime Minister Nour al-Maliki accused the United Nations of exaggerating the figures – an accusation strongly rejected by the United Nations which insists the figures “were in fact official figures compiled and provided by a government ministry.” See UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p. 5
- <sup>47</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September 1-October 31, 2006)
- <sup>48</sup> Iraq Body Count, <http://www.iraqbodycount.net>
- <sup>49</sup> “Iraq Living Conditions Survey” (2004). The study was carried out by Iraq’s Central Organization for Statistics and Information Technology (COSIT) with the assistance of the UN Development Programme and the Fafo Institute for Applied International Studies.
- <sup>50</sup> Roberts L, Lafta R, Garfield R, Khudhairi J, Burnham G “Mortality Before and After the 2003 Invasion of Iraq: Cluster Sample Survey” *The Lancet* - Vol. 364, Issue 9448, (November 20, 2004) Pages 1857-1864
- <sup>51</sup> Burnham G, Lafta R, Doocy S, Roberts L, “Mortality after the 2003 Invasion of Iraq: a Cross-Sectional Cluster Sample Survey” *The Lancet* - Vol. 368, Issue 9545 (October 21, 2006) Pages 1421-1428
- <sup>52</sup> Iraq Analysis Group, *Other Mortality Estimates*
- <sup>53</sup> UNDP, *Iraq Living Conditions Survey* (2004) Volume II, p. 55 The findings concluded that 24,000 war-related deaths occurred between March 2003 and April 2004.
- <sup>54</sup> Roberts L, Lafta R, Garfield R, Khudhairi J, Burnham G “Mortality Before and After the 2003 Invasion of Iraq: Cluster Sample Survey” *The Lancet* - Vol. 364, Issue 9448, (November 20, 2004) Pages 1857-1864 The survey’s results would have shown even higher mortality levels had the research team not excluded a

sample cluster in Falluja that found an exceptionally high number of violent deaths – even before the second and most lethal attack on the city in November 2004 The survey's results would have shown even higher mortality levels had the research team not excluded a sample cluster in Falluja that found an exceptionally high number of violent deaths – even before the second and most lethal attack on the city in November 2004.

<sup>55</sup> Burnham G, Lafta R, Doocy S, Roberts L, “Mortality after the 2003 Invasion of Iraq: a Cross-Sectional Cluster Sample Survey” *The Lancet* - Vol. 368, Issue 9545 (October 21, 2006) Pages 1421-1428

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> White House, *Press Conference by the President* (October 11, 2006)

<sup>59</sup> Peter Baker, “Bush Estimates Iraqi Death Toll in War at 30,000” *Washington Post* (December 12, 2005)

<sup>60</sup> Cited in “Bush: Iraqi Democracy Making Progress” *CNN* (December 12, 2005)

<sup>61</sup> Medialens, *Burying the Lancet – Part 2* (September 6, 2005)

<sup>62</sup> Iraq Analysis Group, *Reactions to the Study: What have scientific experts said about the study?*

<sup>63</sup> Cited in Owen Bennett-Jones, “Iraqi Deaths Survey Was Robust” *BBC* (March 26, 2007)

<sup>64</sup> Iraq Body Count

<sup>65</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November – December 2006)

<sup>66</sup> Iraq Body Count states that “What we are attempting to provide is a credible compilation of civilian deaths that have been reported by recognized sources. Our maximum therefore refers to reported deaths - which can only be a sample of true deaths unless one assumes that every civilian death has been reported. It is likely that many if not most civilian casualties will go unreported by the media.”

See also the statement by Iraq Coalition Casualty Count and Iraq Analysis Group, *Why Is the Number of Deaths Found By the Lancet so much Larger than Other Estimates Commonly Quoted?*

<sup>67</sup> *Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War* (August 12, 1949) Article 27: “Protected persons...shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof”

<sup>68</sup> Burnham G, Lafta R, Doocy S, Roberts L, “Mortality after the 2003 Invasion of Iraq: a Cross-Sectional Cluster Sample Survey” *The Lancet* - Vol. 368, Issue 9545 (October 21, 2006) Appendix E: Health in Iraq

<sup>69</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (September – October 2006)

<sup>70</sup> *Ibid.*

<sup>71</sup> Bassim Irheim Mohammed Al Sheibani, Najah R Hadi and Tariq Hasoon, “Iraq Lacks Facilities and Expertise in Emergency Medicine” *British Medical Journal* (October 21, 2006)

<sup>72</sup> See Medact, *Iraq Health Update* (Spring 2006)

<sup>73</sup> Bassim Irheim Mohammed Al Sheibani, Najah R Hadi and Tariq Hasoon, *op.cit.*

<sup>74</sup> Medact, *Iraq Health Update* (Spring 2006)

<sup>75</sup> See Chapter 9 on Corruption

<sup>76</sup> UN Country Team, cited in UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.20

<sup>77</sup> International Federation of the Red Cross and Red Crescent Societies, *Iraq: Response to Humanitarian Crisis* (February 12, 2007)

<sup>78</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.21. Also see James A. Baker III and Lee H. Hamilton et al. “The Iraq Study Group Report” *Vintage Books, New York* (December 2006) p. 23

<sup>79</sup> Iraq’s Central Office for Statistics (COASIT) (August 2006), as cited in UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.21

<sup>80</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.20

<sup>81</sup> Medact, *Iraq Health Update* (Spring 2006); UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.20; International Federation of the Red Cross and Red Crescent Societies, *Iraq: Response to Humanitarian Crisis* (April 2, 2007)

<sup>82</sup> According to US Department of State’s *Weekly Iraq Status* (January 17, 2007), “during the week of January 11-17 electricity availability averaged 4.4 hours per day in Baghdad and 7.7 hours nationwide.”

<sup>83</sup> Government of Iraq/UNICEF, *2007-2010 Country Program Action Plan*, as cited in UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.21. Also see International Federa-

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tion of the Red Cross and Red Crescent Societies, *Iraq: Response to Humanitarian Crisis* (February 12, 2007)

<sup>84</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.20. Also see World Food Programme, *Food Security and Vulnerability Analysis in Iraq* (May 11, 2006) and UNAMI, *Cluster 6: Food Security*

<sup>85</sup> UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January – March 2007) p.20. Also see World Food Programme, *Food Security and Vulnerability Analysis in Iraq* (May 11, 2006) and UNAMI, *Cluster 6: Food Security*

## Chapter 9

### Corruption, Fraud and Gross Malfeasance

*“Everything imaginable has been undertaken in every sector.”*

– US Major General William McCoy<sup>1</sup>

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.<sup>2</sup>

#### The Development Fund for Iraq

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 Author-

ity (CPA), but the Council required that it be “managed in a transparent manner” so as “to meet the humanitarian needs of the Iraqi people.”<sup>3</sup> 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.<sup>4</sup> In just thirteen months, CPA officials disbursed or obligated \$19.6 billion – more than 90% of all DFI resources then available.<sup>5</sup> 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.<sup>6</sup> Financial records were sloppy or non-existent.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup> At every phase, US advisors 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.<sup>10</sup> Yet corruption and financial malfeasance in Iraq steadily worsened.<sup>11</sup>

### **Blocking and Weakening the Security Council’s Oversight Board**

The International Advisory and Monitoring Board, set up by the Security Council, seemed a potential instrument for accountability. But the United States did everything possible to block and weaken the Board’s authority. Members of the Board – the World Bank, the IMF, the Arab Development Bank and the United Nations – had to negotiate “terms of reference” with the CPA. Washington’s demands caused months of diplomatic wrangling and delays.<sup>12</sup> Though the parties finally agreed on the ground rules in October 2003, the Board did not hold its first meeting until December and it did not sign an audit contract until April 2004. Ten months had passed and oversight had not even begun.<sup>13</sup>

Due to US insistence, the Board lacked mandatory access to financial documents. It had only limited powers to investigate and no enforcement or prosecutorial powers.<sup>14</sup> Further, the Board has had no regular, full-time staff, and its budget was so inadequate it could do little more than hire accountants.<sup>15</sup> The Board “monitors” oil sales and the inflow and outflow of money from the DFI, but it cannot ensure accountability. “We have no authority to require actions arising from our work,” admitted IAMB Chairman Jean-Pierre Halbwachs at a press conference in late 2005.<sup>16</sup> Another member acknowledged that the Board was not set up to discover fraud and in fact had not found a single case of it.<sup>17</sup>

When the IAMB audit team finally arrived in Baghdad in the spring of 2004, it got a frosty reception. Auditors spent weeks trying to get passes to the “Green Zone” where all CPA records were held. They had even more difficulty gaining access to CPA and Ministry records. When audits and accounts were eventually turned over, they were heavily censored and nearly unusable.<sup>18</sup> The Board could not issue its first audit report until mid-July – fourteen months after the oversight process had first been authorized. By then, the CPA was already dissolved.

The Board has complained repeatedly that US and Iraqi authorities have not kept adequate records, that basic fund transfers cannot be reconciled, and that the authorities have been uncooperative. It has also complained about faulty bidding procedures, dubious employment records, and especially oil sales without metering.<sup>19</sup> Iraq Revenue Watch, a US-based NGO, has kept an eye on the process and given it visibility with the press. But the Security Council has turned a blind eye and it has taken no corrective action to protect “the humanitarian needs of the Iraqi people.”

### **Reconstruction Funds from the United States**

The United States government has spent large sums for “reconstruction” in Iraq. In 2003, the Congress voted appropriations of about \$21 billion to create the Iraq Reconstruction and Rehabilitation Fund (IRRF).<sup>20</sup> The US also set up the Iraq Security Forces Fund (ISFF), financed through the Department of Defense, totaling \$11 billion.<sup>21</sup> Programs including the Commanders’ Emergency Response Program (CERP) have added

\$6 billion more, bringing the overall figure to \$38 billion.<sup>22</sup> From the beginning, US authorities blurred the distinction between spending for the reconstruction of Iraq's infrastructure and spending for military programs. Most of the monies originally authorized have now been spent and little more outside the security sector is likely to be appropriated.<sup>23</sup>

Stuart Bowen, the Special Inspector General for Iraq Reconstruction (SIGIR), has monitored the IRRF since October 2004 (before that, he served as Inspector General of the CPA). Bowen has enjoyed compulsory access to financial records and a mandate for rooting out corruption. A protégé of President Bush, Bowen has grown steadily more critical and embarrassing to the White House. With a staff of 55 auditors, inspectors and investigators (2006), he has revealed contract scandals, given repeated testimony to Congress and referred cases for criminal prosecution. The Bush administration tried (unsuccessfully) to shut down Bowen's office in the fall of 2006.<sup>24</sup> It is tempting to see the Inspector General as a fearless advocate of honest government. But in fact, Bowen has had to work within a carefully-limited mandate and under heavy political pressure. Despite many accomplishments, he has not brought the biggest contractors to account. Nor has he investigated the role of high officials in the Bush administration or uncovered the scandals hidden in the shadowy "security sector" spending.

### **Disappearing Oil and the Meter Mystery**

Billions of dollars in Iraq's vital oil production have been stolen and smuggled out of the country since March 2003,

with astonishingly little action by Coalition authorities or the Iraqi government.<sup>25</sup> Smugglers have also re-exported or sold stolen refined products like gasoline and diesel fuel. The government imports these products to make up for refinery shortages and sells them at highly-subsidized rates. Though insurgent attacks take their toll, most oil loss is apparently due to corrupt officials who control the oil system. US officials could possibly be involved alongside the more obvious Iraqis. The smugglers' job has been simplified by the absence of meters – measuring devices to measure oil flows. Usually, oil operations are extensively metered, from well head to refineries to export terminals. But Iraq has had no working meters, making it virtually impossible to monitor the flow of crude or refined products or to trace the location of smuggling operations and corrupt practices.

"It's like a supermarket without a cashier," comments Mike Morris, an oil industry expert who used to work for the State Department in Baghdad.<sup>26</sup> "There is no metering [at the export terminal]. And there's no metering at the well heads either. There is no metering at any of the major pipeline junctions."<sup>27</sup> Morris estimates that "between 200,000 and 500,000 barrels a day" are unaccounted for.<sup>28</sup>

The CPA could have installed metering promptly, but strangely did not. Bremer and his team were advised of the metering problem, but they repeatedly postponed action.<sup>29</sup> When the IAMB pointed to the lapse, neither the Iraqi State Oil Marketing Organization nor US authorities could give a satisfactory explanation.<sup>30</sup> IAMB accountants noted that there were not even working meters on



the export loading platforms in the Persian Gulf, making it impossible to know the volume or value of Iraq's crude exports.<sup>31</sup> Officials have apparently been getting kickbacks from loading of tankers with hundreds of thousands of barrels of oil not included in the bill of lading.

Iraq's Oil Ministry reports that hundreds of small ships sail from the Shatt al-Arab with smuggled Iraqi crude or refined product.<sup>32</sup> These smugglers operate right under the nose of the US Navy and directly within the operational zone of the UK forces. The Oil Ministry suggests that in 2005, the smuggling of refined product, including gasoline and diesel fuel, cost the government \$800 million.<sup>33</sup> But the loss of crude is far more expensive. *Platt's Oilgram*, an industry newsletter, estimates the loss at \$3 billion per year.<sup>34</sup> The Iraq Study Group suggested that in 2006 the rate of theft might have run as high as 180 million barrels, but a more recent report by the US Government Accountability Office suggests a high-end figure of 110 million barrels annually, with a financial loss that can be calculated at about \$5.5 billion.<sup>35</sup>

The metering contract story remains mysterious. IAMB Chairman Halbwachs told the Security Council in July 2004 that meters would soon be installed in the loading platforms. Contracts went first to Halliburton and then to Parsons. Work did not finally begin until March 2006,<sup>36</sup> but Parsons was later responsible for serious contract delays.<sup>37</sup> The Corps of Engineers insists that the Basra Oil Terminal may finally get meters in mid-2007,<sup>38</sup> but the rest of Iraq's vast oil production, transport, refining and storage system remains meterless and with no immediate plans to install them.<sup>39</sup>

## Airlift of Banknotes

Occupation authorities have been similarly lax in their management and oversight of Iraq's oil revenues. Using a highly irregular and corruption-prone method, Bremer and the CPA withdrew a total of \$12 billion in the form of US banknotes from the DFI account in the New York Federal Reserve Bank. The cash was then flown to Baghdad aboard US air force C-130 Hercules cargo planes, for spending on reconstruction as well as administration and services.<sup>40</sup>

Cash outlays on this scale are notoriously difficult to verify and they make proper audit controls virtually impossible. In the very first days of the occupation, extensive use of cash was perhaps inevitable. But as the months passed, the CPA could have established proper banking channels, oversight systems, and audit controls. Instead, the CPA steadily *increased* its currency disbursements. In the final week of CPA authority, officials ordered more than \$4 billion in banknotes to be shipped from New York to Baghdad to meet a last-minute burst of spending.<sup>41</sup> On June 24, 2004, a currency airlift worth \$2.4 billion was the largest cash disbursement in the history of the US Federal Reserve.<sup>42</sup>

Over the course of thirteen months between May 2003 and June 2004, these currency shipments totaled 363 tons of newly-printed banknotes, with 281 million individual bills.<sup>43</sup> Frank Willis, a former senior official with the CPA commented that: "Iraq was awash in cash – in dollar bills. Piles and piles of money. We played football with some of the bricks of \$100 bills before delivery. It was a wild-west crazy atmosphere, the

likes of which none of us had ever experienced.”<sup>44</sup>

After the currency arrived in Baghdad, the CPA kept scant records of who got paid, still less for what purpose. Though the CPA’s own regulations called for a public accounting firm to “ensure that the Fund [DFI] is administered and used in a transparent manner,” investigations later discovered that the small San Diego firm hired for this purpose was not in the accounting business and never reviewed the CPA’s financial records or controls.<sup>45</sup>

The CPA had to store huge sums in cash, an invitation to pilferage in the absence of secure vaults and without well-established procedures for handling the money. Paul Bremer, the senior US official, kept a cash fund of nearly \$600 million for which there was little or no paperwork. \$200 million was reportedly kept in a single room in Saddam’s former Republican Palace inside the Green Zone where Bremer’s office was located.<sup>46</sup>

Audits revealed that a “contracting officer kept approximately \$2 million in cash in a safe in his office bathroom” and “a paying agent kept approximately \$678,000 in cash in an unlocked footlocker.”<sup>47</sup> An IAMB report notes that in one case \$774,300 was stolen from a division’s vault.<sup>48</sup> One contractor received a \$2 million payment in a duffel bag stuffed with shrink-wrapped bundles of US bills and one official was given \$6.75 million in cash and ordered to spend it in one week, before the interim Iraqi government took control.<sup>49</sup>

US authorities handed out millions of dollars in cash in local communities

across the country.<sup>50</sup> CPA officials handed stacks of \$100 bills to leaders whose support they wanted and whose intelligence they needed.<sup>51</sup> \$100,000 in cash, nominally for a women’s center in al-Hillah, was handed over to a local dignitary who used it to finance his election campaign.<sup>52</sup> In addition to the unaccounted direct spending, the CPA handed over \$8.8 billion to Iraqi ministries during this period, a sum that now cannot be properly accounted for.<sup>53</sup>

Congressman Henry Waxman’s investigation into the currency transfers ends in June 2004 with the closure of the CPA.<sup>54</sup> After that time, no one with knowledge is ready to divulge how funds have been transferred from New York to Baghdad. When asked whether planeloads of dollar bills still cross the Atlantic, a spokesperson for the IAMB asserted in early 2007 that the Board “does not know” whether currency or funds wires (or a combination) were in use.<sup>55</sup> It appears that some shipments of US currency have continued. A SIGIR audit in March 2006 found \$7.2 million in cash – mostly in \$100 bills – in a US military command post in Falluja.<sup>56</sup>

### **Gross Performance Failures by the Giant Construction Firms**

The US government awarded many early contracts without competitive bidding (“no-bid”) and without specified costs (“cost-plus”). Contractors had a strong incentive to run up their expenses so as to maximize profits.<sup>57</sup> Most contracts went to a few giant firms that had close political ties in Washington. Halliburton, the company that garnered the largest share of contracts, was closely identified with Vice-President Dick Cheney, who had been the firm’s chief executive be-

fore taking office. The US Army Corps of Engineers secretly awarded Halliburton a multi-billion-dollar contract to rehabilitate Iraq's oil sector, on a no-bid basis, to specifications the company had itself written. The senior Pentagon procurement officer responsible for the contract tried to object but was overruled.<sup>58</sup>

Even when bidding took place, competition remained a charade. The consulting firm BearingPoint was paid to write the specifications for a contract and then allowed to bid on it. Competitors had only a week to submit their own bids.<sup>59</sup> Generally, the US government abandoned its contracting rules. US agencies exercised little or no oversight. Among the chief beneficiaries, in addition to Halliburton (and its KBR subsidiary), were Bechtel, Fluor, Parsons and a handful of other large US-based engineering companies with longstanding Pentagon ties and strong networks of friends within the administration. Some examples will illustrate the results:

- *Primary Healthcare Centers* were to be a key element of the health sector program, bringing medical services to Iraq's towns and urban neighborhoods. In March 2004, the Parsons Corporation was awarded a \$253 million contract to build 150 local clinics. Two years later, only five of the clinics had been completed while \$186 million of the budget had already been spent.<sup>60</sup> The Army Corps of Engineers, responsible for oversight, had been aware of the shortfalls and done nothing.<sup>61</sup>
- *Basra Children's Hospital*, a flagship project, enjoyed patron-

age from First Lady Laura Bush and Secretary of State Condoleezza Rice.<sup>62</sup> Bechtel Corporation was awarded a \$50 million contract by USAID in August 2004 with completion set for December 2005.<sup>63</sup> In July 2006, auditors discovered that the project was hopelessly behind schedule and that it would eventually cost \$150-170 million.<sup>64</sup> The US Army Corps of Engineers removed Parsons as contractor, since a dozen other Parsons projects were also flawed, including prisons, fire stations . . . and meters at Basra Oil Terminal.<sup>65</sup>

- *Oil Sector Reconstruction* addressed Iraq's key money-maker, badly run-down after 13 years of sanctions and three wars. Halliburton won a no-bid \$2.4 billion contract to upgrade oilfield facilities, so as to boost exports and gain more revenue. But the company failed to deliver. At a water injection plant at Qarmat Ali, near Basra, powerful new pumps burst aging pipes and the pumps themselves shortly broke down. The ailing plant worked so badly that Iraq's southern oilfields were seriously harmed.<sup>66</sup>
- *Al-Fatah pipeline crossing* was another Halliburton oil project. North of Baghdad, the pipeline crossed the Tigris River on a bridge that had been badly damaged during US bombing in 2003. Halliburton subsidiary KBR was tasked to repair it. But instead of repairing the bridge, estimated to be a \$5 million job,

the company insisted on drilling a tunnel under the river, requiring a \$75 million budget. Company engineers ignored warnings of unstable subsoil and rock formations. After wasting the entire budget, the company halted its work and abandoned the project.<sup>67</sup>

A large number of the most important contracts suffered from gross performance failures. Judging from end-results, the work has produced astoundingly little of lasting benefit to Iraqis.<sup>68</sup>

### **Fraud, Theft and Bribery**

As Paul Bremer and his CPA team doled out hundreds of millions of dollars in cash, smaller companies and individuals saw opportunities for rapid enrichment. Many of these small-timers, sensing that accountability was lax, cash plentiful and rules easy to bend, engaged in fraud, theft, bribery, and other kinds of corruption. "It's like a huge pot of honey that's attracting a lot of flies," said John McCain, Republican senator from Arizona in fall 2003.<sup>69</sup>

Custer Battles, a small US firm, won early contracts for airport security and other services in Baghdad. Its rapid rise ended less than a year later when company principals left behind a computer spreadsheet after a meeting with US government contracting personnel. The spreadsheet revealed that the company was vastly inflating costs in its cost-plus contracts and bilking the US government of at least \$6.5 million.<sup>70</sup> In a March 2006 legal judgment, Custer Battles was found guilty of 37 counts of fraud. The company was found to have set up dummy firms in offshore locations for

false billing. It had stolen equipment in Iraq and it had failed to comply with basic contract requirements.<sup>71</sup>

British firm Zeroline won a contract of \$8.48 million in late 2003 for 51 armored vehicles to be used by the Iraqi government. Two other firms, APTx and Alchemie Technology, were also involved. The vehicles were subcontracted to be built in Russia. Though the main contract was paid in full in late 2004, using DFI funds, the vehicles were never delivered.<sup>72</sup>

A number of individuals have been guilty of conspiracy, money laundering, bribery, and other criminal acts. Robert J. Stein, the CPA's Comptroller and Funding Officer for the South Central Region of Iraq was responsible for \$82 million in cash and he handed it out to friendly contractors in exchange for cash, goods and other favors. Little, if any, contract work was done while Stein stole at least \$2 million, took \$1 million in cash bribes and took an additional \$683,000 in jewelry, automobiles, cash and other favors.<sup>73</sup> He was sentenced to nine years in prison in January, 2007.<sup>74</sup> Philip Bloom, a businessman who worked with Stein, bribed a number of US officials, both civilian and military, providing cash payments, jewelry, automobiles, and more. He was sentenced to prison in early 2007.<sup>75</sup>

In a related case, US Army Lieutenant Colonel Bruce D. Hopfengardner admitted to a conspiracy to steal from the reconstruction funds, involving kickbacks, smuggling and sexual favors. On August 25, 2006, he pled guilty to wire fraud and money laundering. Hopfengardner received \$175,000 from Bloom, as well as a fancy automobile, motorcycle, cam-

era, Breitling watch and computer.<sup>76</sup> Three military officers have also been charged with granting contracts in exchange for cash bribes and luxury goods. Colonel Curtis Whiteford, Lieutenant-Colonel Debra Harrison and Lieutenant-Colonel Michael Wheeler were all working as senior contract officers for the CPA in Baghdad. They have also been accused of taking cash directly from CPA funds.<sup>77</sup>

We will never know how many military and civilian personnel were involved in these corrupt acts and how much altogether was stolen, but it is clear that malfeasance was widespread. Cynicism was nearly universal and many felt justified in taking what they could. Colonel Harrison told arresting officers she felt it was her right to take the money.<sup>78</sup> The welfare of ordinary Iraqis clearly counted for very little.

### **“Security” Costs**

Further billions of reconstruction funds were lost through diversions to “security.” As the insurgency grew, contractors budgeted for heavy security costs, devouring millions of dollars in the high-cost protection of building sites, bodyguards for key personnel, protection of building materials en route to the site, expensive armored vehicles and other means to deal with a violent and unstable environment.<sup>79</sup> Private security guards cost as much as \$1,000 per day and security subcontracting firms charge heavy premiums for this kind of work. The Special Inspector General surveyed nine major contractors, finding that their average security outlays were 12.5% of total contract costs, inevitably eating into the sums available for actual project end-results.<sup>80</sup>

Beginning in the fall of 2004, Washington decided to shift the basic spending priorities of the reconstruction effort. More than \$5 billion of the total \$21 billion was “reprogrammed” into security.<sup>81</sup> Nearly \$2 billion was deducted from the water and sanitation sector, cutting this program in half, while more than \$1 billion was sliced from the faltering electricity sector.<sup>82</sup> Most of those monies flowed into Iraq’s new military, commando and police units through programs of training, weaponry, and other kinds of direct support, as well as programs for prisons, training camps, and logistics.<sup>83</sup>

Some of these reprogrammed budgets paid for buildings and other construction in the security sector, with predictable results. A \$75 million Parsons contract to construct a new Baghdad Police College was to be “the most essential civil security project in the country” according to SIGIR,<sup>84</sup> but after new recruits arrived in May 2006, cadets protested intolerable conditions. Inspectors discovered that toilets overflowed into living quarters, foundations sank, and floors heaved.<sup>85</sup> Engineers eventually decided that the work was so seriously flawed that several of the newly-constructed buildings would have to be torn down and completely re-built.<sup>86</sup> Dozens of other “security” projects for police stations, prisons, border forts, and army barracks likewise failed spectacularly.<sup>87</sup>

As “security” programs ramped up, Iraqi politicians and government ministers demanded DFI funds for projects of their own. A consortium affiliated with Pentagon favorite Ahmed Chalabi initially garnered a \$327 million contract in January 2004 for supply of weapons,

trucks, uniforms and other equipment, but the items were apparently never delivered.<sup>88</sup> General Hazem Shaalan, Defense Minister in the Interim Government, got \$1.3 billion for new tanks, helicopters and armored vehicles as well as rifles, body armor and helmets. Later investigations showed extensive corruption.<sup>89</sup> Funds had been transferred through intermediaries and secret accounts. Few records had been kept.

On May 16, 2005, Iraqi warrants were issued for the arrest of former Defense Minister Shaalan, chief of procurement Ziad Cattani, and several others in the Defense Ministry, based on findings by the Iraqi Supreme Board of Audit.<sup>90</sup> But Shaalan was by then settled in exile in London and Amman. A number of other ministers, similarly accused, had also left the country.<sup>91</sup> Ali Allawi, the former Finance Minister, estimated that \$800 million had been stolen outright and \$400 million spent on dangerously inferior equipment.<sup>92</sup> As Judge Radhi al-Radhi, the official investigating the corruption, told a journalist “We have American experts in the Defense Ministry. When they saw such violations, why didn’t they do something?”<sup>93</sup>

Still more seriously, “security sector” spending funneled money into irregular security forces and abusive Iraqi prisons. When Washington reallocated US reconstruction program funds, the largest sum – \$1.4 billion – went to projects under the Ministry of the Interior, notorious for its shadowy counter-insurgency work and its stark neglect of human rights.<sup>94</sup> These monies paid for equipment, transportation, training, operations, and “sustainment” of unspecified ministry forces. Reports have suggested that these funds, as well as parallel UK aid money, sup-

ported units involved in abusive activities, such as the Special Police Commandos, an outfit within the ministry implicated in torture and atrocities.<sup>95</sup> The US Institute for Peace has issued a report concluding that the Interior Ministry’s National Police is “a patchwork organization of commando-style, counter-insurgency units that harbors sectarian death squads.”<sup>96</sup> Reconstruction funds in the amount of \$73 million were also allocated to “detainee operations” of the ministry, even though the ministry has been responsible for notorious cases of prisoner abuse.<sup>97</sup> SIGIR has scarcely investigated these contracts, nor has there been effective public oversight or evaluation by anyone else.

### **Accountability**

After four years of massive corruption in Iraq, there has been astonishingly little accountability for the wrongdoing. The UN-established IAMB, by its own admission, has not pursued a single case of fraud, theft or corruption concerning the Development Fund for Iraq, nor has it inquired into whether the Fund, as specified by the Security Council, is functioning “to meet the humanitarian needs of the Iraqi people.” Under intense pressure from the United States and the United Kingdom, the Security Council has not addressed this serious failure or sought new and more robust means to enforce the Council’s own mandate.<sup>98</sup>

The US Special Inspector General has been far more active. As of December 31, 2006, he had carried out 85 detailed contract inspections<sup>99</sup> as well as many audits, investigations and analyses. He has uncovered numerous cases of corruption and brought them before the public and as of May 1, 2007 he had re-

ferred 28 cases to the US Department of Justice for prosecution from which there had been 10 arrests and 5 convictions.<sup>100</sup> Considering the extent of the fraud, though, the convictions are few. Most seriously, SIGIR has failed to bring high-level government and corporate officials to account. Military and civil prosecutors have likewise acted only on relatively few cases, mostly those involving small contractors and persons relatively low in the civilian and military chain of command.

The Iraqi government has set up various anti-corruption bodies, including the Commission on Public Integrity, the Board of Supreme Audit, ministerial Inspector Generals, and the Iraqi Joint Anti-Corruption Council. But they have not been able to stem the tide of rising corruption, nor have they been able to pursue corrupt practices involving US or other foreign contractors.

No executive of a major contractor like Halliburton or Parsons has been convicted, tried, indicted or even investigated by any oversight body and no serious fine, disgorgement order, or other meaningful penalty has been imposed on any of the companies, even though their contract failures, false statement of costs, and general malfeasance have been massive, flagrant and systematic.<sup>101</sup>

No high-level US military or civilian official has been charged with a criminal act for any of the flagrantly negligent oversight, and all the other acts that led to the massive corruption. Nor has anyone been brought to account for failure to ensure proper oversight in the Iraqi ministries – despite hundreds of advisors working in the ministries and millions of dollars in US-funded programs suppos-

edly designed to promote accountability, honesty, good governance, proper contracting procedures, and the like. SIGIR has approached US policy on corruption in Iraq with ineffective credulity, and SIGIR's oversight of these "good governance" contracts has failed to give them the scrutiny they so badly require.<sup>102</sup>

Washington has acted at every turn to minimize accountability for theft and fraud. Paul Bremer's "Order Number 17" (2004) gives sweeping exemption from Iraqi law to Coalition forces and contractors.<sup>103</sup> US Presidential Executive Order 13003 (2003) gives oil companies virtually total exemption from legal claims concerning their operations in Iraq.<sup>104</sup> The US and the UK shaped the IAMB to have scarcely any capacity and SIGIR's mandate placed many of the most important issues out of bounds. Little wonder, then, that so few have been brought to account and that Iraq under the occupation is now second only to Haiti in the list of the world's most corrupt nations.<sup>105</sup>

## Conclusion

From the first days, the US and its occupation partners built a wasteful, unaccountable and corrupt system in Iraq. Massive theft, fraud, bribery, and malfeasance of every kind have infected the reconstruction, procurement and governance process. There are hundreds of fraudulent, incomplete, failed or useless projects that have drained Iraq's revenues of tens of billions of dollars. Judging from end-results, the projects have produced astoundingly little of lasting benefit to Iraqis. These corrupt acts are in clear violation of the occupiers' responsibilities under the Geneva Conven-

tions, the UN Convention Against Corruption (2003) and Security Council Resolutions. The Council and the international community should take action – to recover the billions of dollars of mis-

spent and stolen funds and to bring to justice those fundamentally responsible for such serious violations of international law.

<sup>1</sup> Iraq Operational Update, *Briefing by Major General William McCoy, Commander, Gulf Regional Division of the US Army Corps of Engineers* (July 10, 2006)

<sup>2</sup> Among the extensive sources for these scandals are the reports of the US Special Inspector General for Iraq Reconstruction, the US Government Accounting Office, Iraq Revenue Watch, the International Advisory and Monitoring Board, the US Congressional Research Service, and the US General Accounting Office, as well as court cases, media reports, and hearings and reports of committees of the US Congress.

<sup>3</sup> UN Security Council Resolution S/RES/1483 (2003) operative paragraphs 12 and 14

<sup>4</sup> The Programme Review Board established by the CPA to manage the Development Fund for Iraq was composed of CPA officials; US military; USAID staff; representatives of the Australian and UK governments, the IMF, the UN and the World Bank; and representatives of several Iraqi ministries. Voting Iraqi members were always in the early period far outnumbered by voting US members.

<sup>5</sup> Development Fund for Iraq, *Financial Reporting Matrix* (June 26, 2004) Although Washington had its own pot of reconstruction funds, the CPA spent DFI monies almost exclusively, since Iraqi monies were not subject to Congressionally-mandated rules for open bidding, nor covered by criminal liability under US or Iraqi law.

<sup>6</sup> Iraq Revenue Watch, Report No. 7, *Disorder, Negligence and Mismanagement: How the CPA Handled Iraq Reconstruction Funds* (September, 2004) p. 2. The contracts at issue were those over \$5 million in value.

<sup>7</sup> The problem of CPA financial records is discussed at length below, based on reports of the IAMB, the Special Inspector General for Iraq Reconstruction (SIGIR) and the General Accounting Office in particular.

<sup>8</sup> Special Inspector General for Iraq Reconstruction, Quarterly Report to Congress (January 30, 2005)

<sup>9</sup> See KPMG Iraq, *Development Fund for Iraq - Statement of Cash Receipts and Payments For the period from 1 January 2005 to 30 June 2005* (September 28, 2005) note 3 ; KPMG Iraq, *Development Fund for Iraq – Management Report on Internal Controls for the period from 1 Jan 2005 to 30 June 2005* (September 29, 2005) p.3 ; Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (January 2007)

<sup>10</sup> Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (January 2007) esp. p. 91

<sup>11</sup> See, for example Transparency International, *Corruption Perceptions Index for the years 2003-2006*. During those years, Iraq declines from 113<sup>th</sup> to 160<sup>th</sup> position in the index.

<sup>12</sup> Iraq Revenue Watch, Report No. 6, *Racing the Deadline: the Rush to Account for Iraq's Public Funds* (April, 2004) p. 1

<sup>13</sup> *Ibid.* pp. 2-3

<sup>14</sup> *Ibid.* p. 3. Iraq Revenue Watch says among other things that the IAMB had “no power to sanction the CPA for financial mismanagement, nor compel it to cooperate in the IAMB’s investigations.”

<sup>15</sup> Member representatives, apparently, had many other, separate responsibilities within their organizations. The IAMB is said to have a “virtual secretariat.” (Conversation with Mary Hoare, IMF staffer and spokesperson for the IAMB (January, 2007)

<sup>16</sup> International Advisory and Monitoring Board, *Press Conference*, New York (December 28, 2005)

<sup>17</sup> *Ibid.*

<sup>18</sup> See reports of Iraq Revenue Watch, notably Report No. 7, *op.cit.* and Briefing No. 8, *Auditors Find Poor Practices in Management of Iraqi Oil Revenue* (June, 2004). See also Gareth Smyth and Thomas Catan, “UN Auditors Attack US Occupiers over Spending of Iraq’s Oil Revenues” *Financial Times* (June 22, 2004)

<sup>19</sup> See for example, International Advisory and Monitoring Board on the Development Fund for Iraq, *Press Release* (December 18, 2006)

<sup>20</sup> Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (January 2007) pp. 113-



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114

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

<sup>22</sup> *Ibid.* The official US total, which includes so much “security” spending, conveys an exaggerated idea of the real “reconstruction” spending.

<sup>23</sup> *Ibid.*, p. 5

<sup>24</sup> James Glanz, “Congress Tells Auditor in Iraq to Close Office” *New York Times* (November 3, 2006). The termination of the SIGIR office was buried in the military finance authorization bill, where it was inserted by Republican leaders. The office was given a new mandate by PL109-440, The Iraq Reconstruction Accountability Act, signed into law on December 20, 2006, due to public pressure following the November Congressional elections.

<sup>25</sup> Oil is central to Iraq’s economy, accounting for 70% of the country’s GDP and more than 95% of the government revenues. James A. Baker III and Lee H. Hamilton et al. “The Iraq Study Group Report” *Vintage Books, New York* (December 2006) p. 22

<sup>26</sup> Robert Riggs, “Meters Cost Iraq Billions in Stolen Oil” *CBS News* (February 8, 2007)

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> See, for example, Rob Collier, “Black Market Drains Iraq Oil: Pentagon Out to Stop Ships Plying Booming Trade” *San Francisco Chronicle* (October 22, 2003). Christian Aid, *Fuelling Suspicion: The Coalition and Iraq’s Oil Billions* (June 2004)

<sup>30</sup> See first round of IAMB audit reports (July 15, 2004). The issue is noted by Ed Harriman, “Where Has All The Money Gone?” *London Review of Books* (July 7, 2005). See also Iraq Revenue Watch, Briefing No. 9, *Audit Finds More Irregularities and Mismanagement of Iraq’s Revenues* (December 2004)

<sup>31</sup> Colum Lynch, “US Won’t Turn Over Data for Iraq Audits” *Washington Post* (July 16, 2004)

<sup>32</sup> The Iraqi Oil Ministry report notes that enforcement operations led to the seizure of 166 ships in 2006 alone. Iraq Oil Ministry, Office of the Inspector General, *Smuggling Crude Oil and Oil Products: Second Transparency Report* (2006) p. 5

<sup>33</sup> *Ibid.* p. 42. See also “Iraq Oil Hit by Graft and Attacks” *BBC* (April 25 2006)

<sup>34</sup> As cited by Pratap Chatterjee, “Mystery of the Missing Meters” *CorpWatch* (March 22, 2007) For information on a further type of crude oil loss, see Philip Shishkin, “Pipeline Thefts Cripple Iraqi Oil Production,” *Wall Street Journal* (May 25, 2007)

<sup>35</sup> Iraq Study Group, *op.cit.* p. 22. The Study Group made its upper range estimate as 500,000 barrels daily, information on a further type of crude oil loss, see Philip Shishkin, “Pipeline Thefts Cripple Iraqi Oil Production,” *Wall Street Journal* (May 25, 2007) which, based on revenue of \$50 per barrel, would produce a loss of about \$9 billion annually. SIGIR, in its January 2007 report estimates losses from all causes during the period 2004 through 2006 at \$15 billion (*op.cit.* p. 44). For the GAO Report, see James Glanz, “Billions in Oil Missing in Iraq, U.S. Study Finds” *New York Times* (May 12, 2007)

<sup>36</sup> “Iraq Oil Metering System Mysteriously Delayed” *Reuters* (February 9, 2006); Irwin Arieff, “Work Set on Oil Metering System” *Reuters* (March 25, 2006)

<sup>37</sup> Chatterjee, *op. cit.* SIGIR is expected to issue a report on the metering in mid-2007.

<sup>38</sup> US Army Corps of Engineers, *ABOT Isolation Spools Installed Ahead of Time* (January 20, 2007). The article says that there will be 14 new meters and 10 rebuilt meters on the site as part of a \$55 million project.

<sup>39</sup> The Iraqi government has said in 2007 that it is in discussions with Shell to do this work.

<sup>40</sup> US House of Representatives, Committee on Government Reform, *Minority Staff, Rebuilding Iraq: U.S. Mismanagement of Iraqi Funds* (June, 2005) p. 10

<sup>41</sup> *Ibid.* p. 12

<sup>42</sup> *Ibid.* p. 13. The previous record had also been set by an earlier CPA withdrawal.

<sup>43</sup> *Ibid.* p. 10

<sup>44</sup> Callum Macrae and Ali Fadhil, “Iraq Was Awash in Cash. We Played Football with Bricks of \$100 Bills” *Guardian* (March 20, 2006)

<sup>45</sup> US House of Representatives, *op.cit.*, p. 16

<sup>46</sup> Harriman, “Where Has All The Money Gone?” *op. cit.*

<sup>47</sup> Tim Reid, “How US Lost Billions in Wild West Gamble to Rebuild Iraq” *Times, London* (January 26, 2006)

<sup>48</sup> Iraq Revenue Watch, Briefing No. 9, *Audits Find More Irregularities and Mismanagement of Iraq’s*

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*Revenues* (December, 2004)

<sup>49</sup> Robert L. Borosage, Eric Lotke and Robert Gerson, "War Profiteers: Profits Over Patriotism in Iraq" *Campaign for America's Future* (September 2006)

<sup>50</sup> Harriman, "Where Has All The Money Gone?" *op.cit.*

<sup>51</sup> Ed Harriman, "Cronyism and Kickbacks: The Economics of Reconstruction in Iraq" *London Review of Books* (January 26, 2006)

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> Until early 2007, when the balance in the Congress changed, Waxman was acting as senior minority member of the House Committee on Oversight and Government Reform, thereafter as Chairman.

<sup>55</sup> Phone conversation with Mary Hoare of the IMF, IAMB Spokesperson (January 5, 2007). SIGIR has reported that likewise he does not know this very important fact.

<sup>56</sup> The SIGIR audit report of March, 2006 looked into the management of cash funds from the DFI under the control of the US military. Special Inspector General for Iraq Reconstruction, *Development Fund for Iraq Cash Accountability Review: Joint Area Support Group – Central/Falluja* (April 28, 2006)

<sup>57</sup> In a cost-plus contract, there is no price fixed in advance. The project is agreed and payments are eventually based on costs submitted by the contractor, plus a profit markup that is commonly 15%. This is a method that is common in Pentagon contracting, but obviously open to much abuse and cost-padding. See the discussion in T. Christian Miller, *Blood Money* (New York, 2006).

<sup>58</sup> *Ibid.* pp. 84-91. Soon thereafter, the procurement officer lost her job.

<sup>59</sup> Seth Borenstein, "Sweetheart Deal of Iraq Contract" *Knight Ridder* (March 27, 2004)

<sup>60</sup> Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction, *Statement before the U.S. House Committee on Governmental Reform, Oversight Hearing on: "Reconstruction Contracting in Iraq"* (September 28, 2006) p. 3. See also Special Inspector General for Iraq Reconstruction, *Audit Report on Management of the Primary Healthcare Centers Construction Projects* (April 29, 2006). SIGIR reported in April 2007 that only 8 PHCs were open.

<sup>61</sup> Statement by Stuart W. Bowen, Jr. (September 28, 2006), *op.cit.* pp. 3-4. A further problem arose in this case, because \$43 million dollars in medical equipment, furniture and medical supplies were also purchased under parallel contracts to be used in these facilities. These items could not be used in the short term, had to be stored, and were subject to theft and deterioration.

<sup>62</sup> T. Christian Miller, *Blood Money* (New York, 2006) pp. 46-51

<sup>63</sup> Statement by Stuart W. Bowen, Jr. (September 28, 2006), *op.cit.* p. 5 and the related special report dated July 31, 2006.

<sup>64</sup> *Ibid.*

<sup>65</sup> James Glanz, "Series of Woes Mar Iraq Project Hailed as Model" *New York Times* (July 28, 2006)

<sup>66</sup> Miller, *op.cit.* pp. 100-103.

<sup>67</sup> Special Inspector General for Iraq Reconstruction, *Al Fatah Pipe River Crossing, Al Fatah, Iraq* (March 7, 2006). See also James Glanz, "Rebuilding of Iraqi Pipeline as Disaster Waiting to Happen," *New York Times* (April 25, 2006)

<sup>68</sup> See James Glanz, "U.S. Agency Finds New Waste and Fraud in Iraqi Rebuilding Projects" *New York Times* (February 1, 2007) and Ian Austin, "Iraq Reconstruction Is Doomed Ex-Chief of Global Fund Says" *New York Times* (May 3, 2007)

<sup>69</sup> As quoted in Thomas B. Edsall and Juliet Eilperin, "Lobbyists Set Sights On Money-Making Opportunities in Iraq" *Washington Post* (October 2, 2003)

<sup>70</sup> Charles R. Babcock, "Contractor Fraud Trial to Begin Tomorrow" *Washington Post* (February 13, 2006)

<sup>71</sup> Laura Parker, "Jury Fines Defense Contractor in Iraq \$10M" *USA Today* (March 10, 2006). In a very significant move, the judge overturned the jury's decision, ruling that Custer Battles could not be legally prosecuted because it was paid with Iraqi funds and thus not working for the US government, even though the contracts had been signed by the US-controlled CPA. The judge's ruling was upheld on appeal, so Custer Battles and its principals have suffered no punishment.

<sup>72</sup> Nick Fielding and Ian Cobain, "British Firms Face Fraud Allegations over 'Phantom' Armoured Vehicles" *Guardian* (March 20, 2007). Zeroline was headed by retired UK army and police officials. The case only came to light in 2007.

<sup>73</sup> *Ibid.*

<sup>74</sup> US Department of Justice, Press Release, *Former DoD Contractor Sentenced in Case Involving Bribery*,

*Fraud and Money-Laundering Scheme in al-Hillah, Iraq* (January 29, 2006)

<sup>75</sup> Bloom was sentenced on February 16, 2007. See “Contractor gets 46 Months for Iraq Bribery” *Associated Press* (February 17, 2007)

<sup>76</sup> Department of Justice, Press Release, *Army Reserve Officer Pleads Guilty to Money Laundering Conspiracy Involving Stolen Currency and Fraud in Iraq* (August 25, 2006). See also Griff Witte, “Reservist Pleads Guilty in Iraq Bribery Scheme” *Washington Post* (August 26, 2006).

<sup>77</sup> “US Army Officers Accused of Reconstruction Scam in Iraq” *Evening News* (February 8, 2007); Miller, *Blood Money*, *op.cit.*, p. 200.

<sup>78</sup> Miller, *Blood Money*, *op.cit.*, p. 200.

<sup>79</sup> Peter Grier, “Funds for Iraq Run Low” *Christian Science Monitor* (June 15, 2006)

<sup>80</sup> Special Inspector General for Iraq Reconstruction, *Fact Sheet on Major U.S. Contractors’ Security Costs Related to Iraq Relief and Reconstruction Fund Contracting Activities* (January 30, 2007)

<sup>81</sup> The reprogramming affected the Iraq Reconstruction and Redevelopment Fund. See SIGIR (January, 2007), *op.cit.*, p. 6; Charles J. Hanley, “Can Iraq Fill the Reconstruction Gap?” *Associated Press* (October 15, 2006)

<sup>82</sup> The final tally of the shifts was \$1.32 billion in electricity and \$2.20 billion in water/sanitation [Special Inspector General for Iraq Reconstruction, *Quarterly Report to Congress* (April 2007), pp. 18 and 36]

<sup>83</sup> SIGIR (January, 2007), *op.cit.*, p. 6

<sup>84</sup> Special Inspector General for Iraq Reconstruction, *Quick Reaction Report on the Baghdad Police Academy, Baghdad, Iraq* (September 27, 2006). See also Amit Paley, “Heralded Iraq Police Academy a ‘Disaster’” *Washington Post* (September 28, 2006) and Griff Witte, “Iraq Contractor’s Work is Further Criticized” *Washington Post* (September 29, 2006)

<sup>85</sup> Special Inspector General for Iraq Reconstruction, “Baghdad Police Academy,” *op. cit.*

<sup>86</sup> *Ibid.*

<sup>87</sup> Parsons was responsible for many of these projects, as detailed in SIGIR Reports.

<sup>88</sup> Knut Royce, “Start-Up Company with Connections” *Newsday* (February 15, 2004). According to some reports, the non-delivery was due to cancellation of the contract, as Iraqi factions battled over access to these lucrative contracts.

<sup>89</sup> Miller, *op.cit.*, pp. 236-237. Harriman, “Cronyism” *op.cit.*

<sup>90</sup> Harriman, “Cronyism” *op.cit.*

<sup>91</sup> *Ibid.*

<sup>92</sup> “Iraqi Officials ‘Stole Millions’” *BBC* (October 24, 2006)

<sup>93</sup> Miller, *op.cit.*, p. 241. Finance Minister Ali Allawi has noted that the US and the UK have done little to recover the stolen money or to catch the suspects. (“Iraqi officials” *BBC op.cit.*).

<sup>94</sup> Special Inspector General for Iraq Reconstruction (January 2007) *op.cit.* For the Interior Ministry’s flaws, see Robert Perito “Reforming the Iraqi Interior Ministry, Police and Facilities Protection” *US Institute for Peace* (February 2007). See also the chapter of this report on Prisoner Abuse and Torture for details on this ministry and its secret prisons.

<sup>95</sup> Peter Beaumont and Martin Bright, “UK Air Funds Iraqi torture Unit” *Observer* (July 3, 2005). For information on the Special Police Commandos, see Peter Maas, “The Way of the Commandos” *New York Times* (May 1, 2005).

<sup>96</sup> Robert Perito, “Reforming the Iraqi Interior Ministry, Police and Facilities Protection Service” *US Institute of Peace* (February, 2007)

<sup>97</sup> On November 13 and December 8, 2005, raids in Baghdad revealed Interior Ministry prisons with large numbers of seriously abused detainees, some whom reported that they had been subject to electric shock or had their nails pulled out. See Ellen Knickmeyer, “Abuse Cited in 2<sup>nd</sup> Jail Operated by Iraqi Ministry” *Washington Post* (December 12, 2005)

<sup>98</sup> Private discussions by the authors with Council delegates reveal that this pressure has been intense and unremitting and includes arm-twisting with heads of government and foreign ministers.

<sup>99</sup> Special Inspector General for Iraq Reconstruction (January 2007) *op.cit.*, Appendix J, pp. 1-4

<sup>100</sup> SIGIR communication to the authors (May 1, 2007)

<sup>101</sup> Debarment or suspension from future contracts has been the only penalty so far imposed by the US government and this only to smaller companies and (mostly) individuals. SIGIR reports that as of the end of the first quarter of 2007, the US Army Criminal Investigation Division had suspended 19 individuals or companies and 9 have been debarred. For a list of those affected, see Special Inspector General for Iraq

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Reconstruction (April, 2007), Appendix K.

<sup>102</sup> See Special Inspector General for Iraq Reconstruction, *Joint Survey of the U.S. Embassy-Iraq's Anti-Corruption Program* (July 28, 2006)

<sup>103</sup> Coalition Provisional Authority, Order 17: *Status of the CPA, MNFI, Certain Missions and Personnel in Iraq with Annex Revised* (June 27, 2004)

<sup>104</sup> White House, George W. Bush, *Executive Order: Protecting the Development Fund for Iraq and Certain Other Property in Which Iraq has an Interest* (May 22, 2003)

<sup>105</sup> See Transparency International, *Corruption Perceptions Index* (2006). Iraq was tied with Myanmar and Guinea for 160<sup>th</sup> position, just above last-place Haiti among 163 countries studied.

## Chapter 10

### Long-Term Bases and the New Embassy Compound

*“I have never, that I can recall, heard the subject of a permanent base in Iraq discussed in any meeting.”*

– US Secretary of Defense Donald Rumsfeld<sup>1</sup>

**T**he United States has been building large, expensive and long-lasting military bases in Iraq as well as an enormous new embassy compound 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 the spending of funds on “permanent” bases in Iraq. The bases and the embassy are widely seen as symbols that the US plans to wield exceptional military and political influence in Iraq – and in the region – for many years to come.

#### The Base Facilities

US forces initially established more than a hundred bases of different sizes in Iraq, including air bases, detention centers, ground force headquarters, logistical depots, and many smaller “forward operating bases” close to the theater of combat.<sup>2</sup> A year into the occupation, the Pentagon had already developed as many as fourteen bases beyond the level of temporary encampment.<sup>3</sup> Tents or trailers had begun to give way to more permanent living accommodations and construction crews were building roadways, headquarters buildings and facilities for aircraft.

As of late 2006, the US had closed many facilities and turned over others to Iraq government forces. There still remain 55 US bases in the country,<sup>4</sup> among which commanders have chosen a small number for long-term or “enduring” development. The base-building process is now far along, with construction of major concrete runways, communications, utilities, and extensive amenities for troops.

These enduring bases are located in different areas of the country, permitting military control over each sector of Iraq. The bases are centered on major military airfields, rebuilt from the Saddam era, which allow resident ground forces to protect US air strike capabilities. The airfields give the bases some degree of independence from vulnerable land-based re-supply and they enable close coordination between ground forces and tactical air operations.

Though Pentagon budgets have made it impossible to determine precisely the sums devoted to Iraq base construction, considerably more than a billion dollars has been spent on these special bases.<sup>5</sup> In the 2006 supplemental budget, \$348 million was allocated for further construction.<sup>6</sup>

The key facilities are:

- **al-Balad**, also known as Camp Anaconda, 68 miles north of Baghdad; all Coalition air activity in Iraq is coordinated at this base
- **al-Talil**, 14 miles southwest of Nasiriya, in the south
- **al-Asad**, about 120 miles west of Baghdad, near the Euphrates town of Khan al-Baghdadi
- **al-Qayyara**, about 50 miles southeast of Mosul, in the north.<sup>7</sup>
- **Camp Victory/Camp Liberty**, a complex near the Baghdad International Airport, where the US military command has its headquarters.

Other major upgraded facilities include Camp Marez, near Mosul Airport, Camp Cook, north of Baghdad, and a new base near Irbil in Kurdistan. Planning documents initially referred to these bases as “enduring bases,” but the Pentagon changed the term to “contingency operating bases” in February 2005.<sup>8</sup>

Planners reportedly see the bases as playing a political role in Iraq, particularly a capability to “influence” the areas around them and to intervene in local, national or Middle East conflicts. As a senior general involved in the planning told the *Washington Post*, “We don’t want to pick places that are too near Iraqi population centers, but we did want ones that would still allow us to influence an area and give us some power projection capacity.”<sup>9</sup> The term “power projection capacity” apparently refers to potential military strikes against other countries, such as Syria and Iran.

These key US bases are enormous. Al-Balad/Anaconda is spread over fifteen

square miles<sup>10</sup> while al-Asad and al-Talil bases total nearly twenty square miles each.<sup>11</sup> Even in the vicinity of Baghdad, the US base complex Victory/Liberty is so big that it accommodates a 140 mile triathlon course.<sup>12</sup> A large number of US service personnel are stationed at these facilities, as well as private construction crews and other contract workers. For military personnel alone, al-Balad/Anaconda counts 20,000,<sup>13</sup> al-Asad 17,000<sup>14</sup> and Victory/Liberty 14,000.<sup>15</sup> Construction and contract crews number thousands more.

At the center of these bases are large and sophisticated military airfields, with double runways of 10-12,000 feet, that can accommodate many aircraft, including fighters, drones, helicopters and large transport planes.<sup>16</sup> Al-Balad hosts a total of 250 such aircraft, including 120 helicopters and numerous Predator drones, parked on vast fields of concrete aprons and runways.<sup>17</sup> Newly-budgeted construction at the base includes a parking ramp for the air force’s huge C-5A Galaxy cargo plane, as well as upgraded lighting for round-the-clock operations. Balad’s air traffic is said to be among the world’s busiest, with 24/7 operations, comparable to Chicago’s O’Hare Airport.<sup>18</sup> Al-Asad base airfield is also installing new lighting as well as a sophisticated air traffic control system.<sup>19</sup>

The bases are largely self-sufficient in terms of utilities, including power, phone systems, heating/cooling and hospital facilities.<sup>20</sup> While clean water, electricity or quality medical care are in short supply in the country, the bases are islands of fully-functioning amenities – a long and expensive way from military tents or temporary huts set up hurriedly in the countryside. Ironically, the base

projects proceed swiftly towards completion, while construction projects for Iraqis' benefit such as water treatment plants, electricity generating stations, and health care facilities have been plagued by delays, shortfalls and failures.

Highly fortified perimeters protect the bases from their outside environment, and the Pentagon is further upgrading the perimeter security systems. At al-Talil, contractors are building a \$22 million double perimeter security fence with high-tech gate controls, guard towers and a moat-like protective ditch, while at al-Balad perimeter fences are being upgraded and the no-man's land widened.<sup>21</sup>

The bases have reinforced concrete buildings, hardened protective bunkers, and elaborate electronic systems that are rarely, if ever, installed in temporary facilities. The bases also have extensive concrete barracks for troops and large internal road systems. And they have major logistics centers, enabling them to provide food, fuel, ammunition and other supplies to troops stationed in their sector of the country.

The bases provide elaborate amenities to bring a US life style to the troops. In addition to four mess halls and a big sports facility, Balad boasts two huge "post exchange" department stores and several fast food restaurants including a 24-hour Burger King, a Pizza Hut, a Starbucks knockoff called "Green Beans," and Baskin Robbins ice cream outlets as well as a miniature golf course.<sup>22</sup> Al-Asad has a football field, a Hertz Rent-a-Car office, an internet café, an indoor swimming pool, a movie theater showing the latest releases and even an automobile dealership. It also has a Burger King, a

Pizza Hut and other fast food stores.<sup>23</sup> Victory/Liberty likewise has fast-food outlets, an elaborate gymnasium/sports facility, and Iraq's largest "post exchange" department store.<sup>24</sup> Troops at these bases are provided with air-conditioning, satellite internet access, cable television and international phone service.

These bases represent vast construction projects costing hundreds of millions of dollars each. Military engineers told one journalist visiting al-Balad that 31,000 truckloads of sand and gravel had fed nine concrete mixing plants to build the base in the period prior to March 2006.<sup>25</sup> In addition to airstrips, control towers, roads, buildings and perimeter fortifications, the bases have complex underground networks of water pipes and communications cables.

Due to the opaque Pentagon budgets and the vague "supplemental" budgets, the full cost of each base and the grand total of the long-term facilities may never be known.<sup>26</sup> Base construction is spread among many budgets and includes uncoded work by military construction crews as well as contracts with big engineering firms like Halliburton's KBR subsidiary. Al-Balad base is said to have cost at least \$230 million in "emergency funds" through December of 2005 and at least \$50 million more since then.<sup>27</sup> Al-Talil is currently budgeted for \$110 million in new spending,<sup>28</sup> while al-Asad is spending \$46 million in improvements like perimeter security, lighting and air traffic control upgrades.<sup>29</sup>

### **A Perpetual Military Presence?**

The question of new US bases in the Persian Gulf region arose in the late

1990s in the Washington debates stirred by the rising conservative tide. The Project for a New American Century assembled a powerful group of neo-conservatives to press for a more aggressive international US military posture.<sup>30</sup> Among its members were Dick Cheney and Donald Rumsfeld, who would later become respectively Vice President and Secretary of Defense in the George W. Bush administration. In a report issued in 2000, the Project insisted on the need for a “substantial US force presence in the Gulf” to protect oil supplies and deter potential adversaries.<sup>31</sup> At a time when the United States was abandoning major bases in Saudi Arabia, it was clear that the authors of the report were proposing new basing arrangements in other countries. But the location remained unspecified. By 2002, as the invasion of Iraq loomed, key members of the Project were holding high office.

Long-term US bases in Iraq are said to offer important advantages, according to US political and military strategists. On April 19, 2003, soon after US troops took control of Baghdad, reporters Thom Shanker and Eric Schmitt wrote a front-page article for the *New York Times* pointing to Pentagon plans to “maintain” four bases in Iraq for the long haul.<sup>32</sup> Rather than speak of “permanent bases,” the military preferred then to talk about “permanent access” to Iraq.<sup>33</sup> At about the same time, senior administration officials told the *New York Times* that the US was planning “a long-term military relationship with the emerging government of Iraq, one that would grant the Pentagon access to military bases and project American influence into the heart of the region.”<sup>34</sup>

Defense Secretary Rumsfeld quickly denied these reports, telling the press the same month that talk of a permanent US

military presence in Iraq is “inaccurate and unfortunate.”<sup>35</sup> Both President Bush and Secretary Rumsfeld continued the denials, even though contractors were already working on these vast facilities. On February 17, 2005, Rumsfeld told the Senate Armed Services Committee: “I can assure you that we have no intention at the present time of putting permanent bases in Iraq.”<sup>36</sup> But members of Congress were beginning to wonder, since the Pentagon was asking them to authorize hundreds of millions in annual budgets to finance the base construction.

The emerging Iraqi authorities were also concerned. A November 15, 2003 agreement between the Iraqi Governing Council and the US-run Coalition Provisional Authority called for a “Status of Forces Agreement” that would regulate any future base use. The US promised to complete the agreement by February 2004, but the Pentagon evidently did not want to expose its long-term plans to public scrutiny. On several occasions, Iraqi officials were told “we’re not ready to talk about that.” More than three years later, the Pentagon still refuses to discuss the matter.<sup>37</sup>

Surprisingly, military commanders in the field have been relatively frank in talking about the bases and their eventual long term use. Army Brigadier General Robert Pollman told a reporter in 2005: “Is this a swap for the Saudi bases? I don’t know... When we talk about enduring bases here, we’re talking about the present operation ... But this makes sense. It makes a lot of logical sense.”<sup>38</sup> General John Abizaid, commanding US General in Iraq, commented to the press on March 14, 2006 that the US may want to keep a long-term military presence in Iraq to bolster pro-US “moderates” and to “protect the flow of oil in the region.”<sup>39</sup>



Larry Diamond, a Fellow at the conservative Hoover Institution at Stanford University and former adviser to Paul Bremer in Baghdad noted that the Bush administration would not declare that it is not seeking permanent bases in Iraq “because we are building permanent military bases in Iraq.” James Glanz of the *New York Times* notes that in the absence of a fully-functional Iraqi air force, the United States will be “responsible for air defenses” in Iraq “for some time to come.”<sup>40</sup> And GlobalSecurity comments that the giant new communications tower at al-Balad base is “another sign of permanency.”<sup>41</sup>

A military funding bill drawn up in the Pentagon and passed by Congress in May 2005 said directly that some base construction projects in unnamed countries would be “permanent.” It said the funding would cover “in some very limited cases, permanent facilities” that would “include barracks, administrative space, vehicle maintenance facilities, aviation facilities, mobilization-demobilization barracks, and community support facilities,” in short, just about everything that is going into the major bases now being constructed in Iraq.<sup>42</sup>

### **Congressional Concerns**

Many members of Congress have come to believe that the big bases stir up Iraqi resentment towards the United States. Congress members have also become increasingly suspicious that the construction projects are designed to be long-term. With growing pressure from constituents, Congress started to debate restrictive legislation. During 2005, legislators of both parties spoke out on the subject. In the supplemental defense budget legislation in the spring of 2006,

Congress inserted an amendment banning permanent bases.<sup>43</sup> The Pentagon responded with intense lobbying to remove the amendment, implying that the Defense Department really wanted to build and operate permanent bases.<sup>44</sup> Bowing to the lobbying pressure, both houses of Congress removed the amendment, then restored it again. Surprisingly, the language on bases was later removed by the conference committee. So it did not appear in the final bill, that approved hundreds of millions of dollars to continue the building projects, mostly at the major bases. But Congress did issue a report with the legislation, concluding that the money was “of a magnitude normally associated with permanent bases.”<sup>45</sup>

Soon afterwards, both houses of Congress voted to impose a ban on permanent bases in the 2007 regular budget appropriations and authorization bills for the Department of Defense and the Department of State.<sup>46</sup> Votes in favor of these moves were overwhelming (in the Senate 100-0). Congress also called on the Pentagon to provide a clear plan for its base construction project. Despite this progress, lawmakers have not used their full budget powers to stop the base construction. This enables the administration to continue with the base-building projects and to continue the semantic argument about the applicability of the term “permanent.”<sup>47</sup>

After the 2006 mid-term elections, the new Congress could have increased pressure on the base issue, but did not do so. In late May 2007, US officials spoke for the first time about a decades-long US troop presence in Iraq.<sup>48</sup> “I think it’s a great idea,” said Lieutenant General Raymond Odierno, operational com-

mander of US forces in Iraq.<sup>49</sup> Meanwhile the construction projects continue, contractors keep pouring more concrete, and at least three giant bases are nearing completion.

### **Iraqi Opposition to Permanent Bases**

A large majority of Iraqis oppose a long-term US presence in their country and consider bases as a key negative symbol of the occupation. Opinion polls have shown that Iraqis believe that the United States is planning to establish and keep such bases, even if the Iraqi government asks to remove them.<sup>50</sup>

Among Iraqi politicians, though a few Kurdish leaders have said they favor permanent bases,<sup>51</sup> a large number of leading figures in the parliament have strongly rejected the idea. A spokesman for the Accord Front Sunni coalition party said in September, 2006 that the front “will not allow permanent military bases on Iraqi soil under the pretext of protecting Iraq,”<sup>52</sup> and a spokesman for the National Dialogue Front denounced such bases as “striking at Iraqi sovereignty.”<sup>53</sup> The Sunni Muslim Scholars Association said flatly: “we condemn these irresponsible proposals.”<sup>54</sup>

The issue of long-term bases is likely to become a flash point in the Iraqi political system, if Washington insists on retaining the major bases – and thousands of personnel to operate them – long into the future. Broad political opposition will surely confront any Iraqi government that agrees to such an idea.

### **The New Embassy Compound**

The US “New Embassy Compound,” under construction in the Green Zone in

the center of Baghdad, will occupy 104 acres – ten times the size of the average US embassy and six times the size of the UN compound in New York.<sup>55</sup> It will be composed of 21 major buildings and many smaller ones.

Cost estimates, including all the perimeter security, self-contained utilities and other amenities, come to over \$1 billion.<sup>56</sup> The primary contract, totaling \$592 million, was funded by Congress in the spring of 2005.<sup>57</sup> The Congressional Research Service has complained that the real cost of the construction program cannot be accurately known, because of opaque budgets that prevent effective Congressional oversight.<sup>58</sup>

The fortress-like complex that is rising in a park along the Tigris River is located inside the four square mile, high-security Green Zone enclave where the Iraqi government and US officials now have offices and residences. The Green Zone is itself ringed by miles of concrete blast walls, razor-wire, guard towers and elaborate security entrances. But within the Green Zone, the new US embassy will have an even more elaborate security system and an even stronger walled perimeter with blast walls up to 15-foot thick. Buildings will be reinforced to 2.5 times the usual specifications – “hardened” to withstand direct mortar attacks and even aerial bombardment.<sup>59</sup>

The embassy is designed with its own wastewater treatment plant, water wells and electrical generating station, enabling it to be “100 percent independent from city utilities.”<sup>60</sup>

Scheduled to open in September 2007, the complex will include two big office structures as well as six residential build-

ings, with a total of more than 600 apartments. Reportedly, more than 1,000 diplomatic and support personnel will be working in the compound. There will be a number of houses for high level staff – including a palatial residence for the ambassador – as well as a sports and recreation building that includes a gym, locker rooms and a swimming pool.<sup>61</sup> There will also be a movie theater, bowling alley, barber and beauty shops, a food court and dining area, a school, a warehouse, a power plant, a maintenance garage, storage depots, and, of course, stores and restaurants to bring US food and consumer experiences to the staff.<sup>62</sup> Nearly all food served in the complex will be brought in from the United States, including a full range of Baskin-Robbins ice cream.

More than 2,000 security and defense staff will be living and working in the compound, including a large number of private contractors serving as bodyguards and a robust force of marines for the special perimeter defense system.<sup>63</sup> The marines will be living in a large-scale barracks building. They will deploy heavy weapons, including ground-to-air missiles to guard against air attack.<sup>64</sup> There will be five high-security entrances equipped with the latest barrier devices and electronic surveillance systems.<sup>65</sup> But the compound is still very vulnerable and has come under increasing mortar and rocket attack, killing some of the construction crew. In early May 2007, US civilian personnel at the embassy were ordered to spend minimal time outdoors and to wear armored vests and helmets when moving between buildings. The swimming pool and outdoor dining areas were declared off limits.<sup>66</sup>

Reports suggest that the administration is expanding the Embassy staff still fur-

ther in 2007, making the huge complex inadequate even before it is completed.<sup>67</sup> The large staffing has posed recruitment problems and strained the US foreign service system. Recruits to these posts are reportedly offered double their usual salary, a limited one-year posting, and four trips outside Iraq during their assignment.<sup>68</sup> One diplomat commented that “Baghdad dwarfs everything else, it is becoming a monster that has to be fed every year with a new crop of volunteers.”<sup>69</sup>

Among the present professional staff of about 1,000, there are 200 career diplomats, hundreds of personnel from other US government departments and agencies (including a sizeable CIA contingent) and a large number of political appointees, described officially as technical experts but said by some diplomats to be Republican loyalists without much competence.<sup>70</sup> Some reports suggest that there are 4-5,000 people currently working in the US compound, a number that includes security personnel, service staff, and construction workers.<sup>71</sup> According to the Iraq Study Group report, only 6 of the 1000 regular embassy staff were fluent in Arabic.<sup>72</sup>

The complex has caused much comment in Baghdad, where it is called “George W. Bush’s Palace,” a reference to the elaborate structures built by Saddam Hussein. Unlike the many failed reconstruction projects, the embassy complex is said to be well-built and on target for completion as scheduled.<sup>73</sup>

The presence of a massive US embassy – the world’s largest – located in the Green Zone alongside the Iraqi government – is a powerful symbol in the center of Iraq’s capital city. Completely cut off from its surroundings, assured of full

utilities and great comforts in the midst of suffering, the embassy looms large in contrast to its neighbor, the “sovereign” Iraqi government.<sup>74</sup>

## Conclusion

In spite of growing opposition within the US Congress and within the Iraqi government, the Bush administration is pushing rapidly ahead with its construction programs for the long-term bases and the massive embassy. Those who conceived these projects clearly had little sensitivity as to how Iraqis might re-

act and little awareness of the powerful imagery and symbolism the US was creating. Such mammoth construction projects, costing billions of dollars, strongly suggest that their authors see Iraq as a US client state and as a base for US military operations in the Middle East region. As US Congress Member Ron Paul, a Republican from Texas, observed: “This [embassy] structure in Baghdad sends a message, like the military bases being built, that we expect to be in Iraq and running Iraq for a long time to come.”<sup>75</sup>

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<sup>1</sup> US Department of Defense, *News Briefing: Remarks by Secretary of Defense Donald Rumsfeld* (April 21, 2003)

<sup>2</sup> GlobalSecurity.org, *Iraq facilities*

According to the Washington Post, as of May 2005, there were still over 100 US bases in the country. See Bradley Graham, “Commanders Plan Eventual Consolidation of U.S. Bases in Iraq” *Washington Post* (May 22, 2005)

<sup>3</sup> Christine Spolar, “14 ‘Enduring Bases’ Set in Iraq” *Chicago Tribune* (March 23, 2004)

<sup>4</sup> A. Baker III and Lee H. Hamilton et al. “The Iraq Study Group Report” *Vintage Books, New York* (December 2006)

<sup>5</sup> Peter Spiegel, “Bush’s Request for Iraqi Base Funding Make Some Wary of Extended Stay” *Los Angeles Times* (March 24, 2006) For a more detailed discussion of the spending and the problem of base construction items hidden or classified, see Congressional Research Service, *Military Construction in Support of Afghanistan and Iraq* (April 11, 2005).

<sup>6</sup> *Ibid.*

<sup>7</sup> Graham, *op. cit.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Dahr Jamail, “Permanent US Colony” *truthout* (March 14, 2006).

<sup>11</sup> “Extended Presence of US in Iraq Looms Large” *Associated Press* (March 21, 2006); GlobalSecurity.org, *al-Talil base*

<sup>12</sup> Sgt Andrew Miller, “Ironman Soldier Races Through Iraq” *DefendAmerica* (November 7, 2005)

<sup>13</sup> Thomas E. Ricks, “Biggest Base in Iraq Has Small-Town Feel” *Washington Post* (February 4, 2006)

<sup>14</sup> Charles J. Hanley, “Iraqis Think US in Their Nation to Stay” *Associated Press* (March 20, 2006)

<sup>15</sup> Joshua Hammer, “Digging In” *Mother Jones* (March/April 2005 Issue)

<sup>16</sup> Victory/Liberty is the exception to this rule, since it is located near Baghdad International Airport and mainly relies on this facility.

<sup>17</sup> Hanley *op. cit.*

<sup>18</sup> Ricks, *op. cit.*

<sup>19</sup> Hanley, *op cit*

<sup>20</sup> Thomas Ricks reported in early 2006 that the Balad base hospital performed 400 surgeries a month on the wounded (Ricks, *op cit*).

<sup>21</sup> “Extended Presence of US in Iraq Looms Large” *Associated Press* (March 21, 2006)

<sup>22</sup> Ricks *op cit*

<sup>23</sup> Oliver Poole, “Football and Pizza Point to US Staying for Long Haul” *Independent* (November 2, 2006)

<sup>24</sup> Hammer, *op. cit.*

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<sup>25</sup> Hanley, *op. cit.*

<sup>26</sup> Congressional Research Service, *op. cit.* The Pentagon uses funds from current operations to build these bases as well as specially-budgeted construction monies. Generally, the budget requests provide little information and the supplemental budget process waives the detailed oversight process that is typical of regular budget appropriations.

<sup>27</sup> Spiegel, *op. cit.*

<sup>28</sup> Hanley, *op. cit.*

<sup>29</sup> *Ibid.*

<sup>30</sup> For instance, see Letter to President Clinton, *Project for the New American Century* (January 26, 1998)

<sup>31</sup> Project for the New American Century, *Rebuilding America's Defenses: Strategy, Forces, and Resources For a New Century* (September 2000)

<sup>32</sup> Thom Shanker and Eric Schmitt, "Pentagon Expects Long-Term Access to Four Key Bases in Iraq" *New York Times* (April 19, 2003)

<sup>33</sup> *Ibid.*

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

<sup>35</sup> "Enduring Bases in Iraq" *Iraq News Net* (October 1, 2004)

<sup>36</sup> Sam Graham-Felsen, "Operation: Enduring Presence" *AlterNet* (July 28, 2005)

<sup>37</sup> Private communication by a former US government official.

<sup>38</sup> *Ibid.*

<sup>39</sup> Vicki Allen, "Abizaid Says US May Want to Keep Bases in Iraq" *Reuters* (March 15, 2006)

<sup>40</sup> James Glanz, "Rebuilding Iraq's Air Force a Challenge for US Trainers" *New York Times* (February 5, 2007)

<sup>41</sup> Larry Diamond, "What Went Wrong in Iraq and Prospects for Democracy and Stability" Speech at UCLA Law School (February 3, 2005) ; James Glanz, "Hindered by Delays and Corruption, the Iraqi Air Force is Flying Again, But Barely" *New York Times* (February 5, 2007); and GlobalSecurity.org, *al-Balad*

<sup>42</sup> Graham-Felsen, *op. cit.*

<sup>43</sup> Joseph R. Biden Jr., *Press Release: "Biden Asks Congress to Go on Record: No Permanent Bases in Iraq"* (April 27, 2006)

<sup>44</sup> Friends Committee on National Legislation, *Iraq, Conferees Eliminate Ban on Permanent Bases* (June 9, 2006)

<sup>45</sup> Becky Branford, "Iraq Bases Spur Questions over US Plans" *BBC* (March 30, 2006)

<sup>46</sup> The State bill prohibits funds from being spent to negotiate permanent basing rights in Iraq, while the Defense bill (H.R. 5631) prohibits funds from being spent to "establish" such facilities for the permanent basing of US forces.

<sup>47</sup> For a time line on the Congressional actions, see the web site of the Friends Committee on National Legislation at [www.fcnl.org](http://www.fcnl.org). See also Spiegel, *op. cit.* ; David R. Francis, "US Bases in Iraq: a costly legacy" *Christian Science Monitor* (April 3, 2006); and "Congress Heads off Permanent Iraq Bases" *Reuters* (September 30, 2006)

<sup>48</sup> White House Press Secretary Tony Snow first raised the issue on May 30, 2007 and Defense Secretary Robert Gates talked about it to reporters on May 31. See Ann Scott Tyson, "Gates, US Generals Back Long Iraq Stay" *Washington Post* (June 1, 2007)

<sup>49</sup> *Ibid.*

<sup>50</sup> World Public Opinion Poll, conducted by the Program on International Policy Attitudes, University of Maryland, *The Iraqi Public on the US Presence and the Future of Iraq* (September 27, 2006) p.9

<sup>51</sup> "Iraq is not in Chaos" *Washington Post* (September 25, 2006)

<sup>52</sup> Cited in "Iraqi MPs Condemn Talabani for Welcoming American Military Bases" *al-Hayat* (September 26, 2006) as translated by Mideast Wire.

<sup>53</sup> Cited in *ibid.*

<sup>54</sup> Cited in *ibid.*

<sup>55</sup> Charles Hanley, "US Building Massive Embassy in Baghdad" *Associated Press* (April 14, 2006)

<sup>56</sup> "New US Embassy in Iraq Cloaked in Mystery" *Associated Press* (April 14, 2006)

<sup>57</sup> The item was part of the emergency supplemental appropriation bill and signed into law May 11, 2005.

<sup>58</sup> Susan B. Epstein, "US Embassy in Iraq" *Congressional Research Service* (revised October 24, 2006)

<sup>59</sup> Tom Engelhardt, "A Permanent Basis for Withdrawal?" *Tom Dispatch* (February 14, 2006)

<sup>60</sup> As quoted in Hanley, *op. cit.*

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<sup>61</sup> Reportedly, the ambassador's residence will be 16,000 square feet and the deputy's residence will be 9,500 square feet. See Ed Pilkington, "One Building That's Been Built on Time and on Budget in Iraq: America's Fortress Embassy," *Guardian* (May 21, 2007)

<sup>62</sup> Engelhardt, *op. cit.* See also Hanley, *op. cit.* and Paul McGeough, "Bush 'Palace' Shielded from Iraqi Storm" *Age* (August 28, 2006)

<sup>63</sup> Guy Dinmore, "US Twists Civilian Arms to Fill Fortress Baghdad" *Financial Times* (January 8, 2007)

<sup>64</sup> McGeough, *op. cit.*; "Bush 'Palace' Shielded from Iraqi Storm" *Age* (August 28, 2006)

<sup>65</sup> Hanley, *op. cit.*

<sup>66</sup> Embassy personnel not working in "hardened" buildings must wear flak jackets all the time, it seems.

See Robert H. Reid, "US Embassy: Wear Flak Jackets, Helmets" *Associated Press* (May 9, 2007)

According to recent reports, the elaborate supply chain that brings fresh food from the United States to the embassy compound in Baghdad was disrupted by insurgent attacks on convoys in May, 2007, suggesting that it may not be possible in future to keep fresh ice cream supplies in stock. See Karen DeYoung, "Taste of Home Runs Low in Iraq" *Washington Post* (May 24, 2007)

<sup>67</sup> Dinmore, *op. cit.*; Hanley, *op. cit.*

<sup>68</sup> Dinmore, *op. cit.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> Hanley, *op. cit.* State Department spokesman Justin Higgins told Fox News in May 2006 that the embassy then had an "employee roster" of 5,747. Kelley Beaucar Vlahos, "US Embassy in Iraq a Fortress City Inside a War Zone" *Fox News* (May 11, 2006)

<sup>72</sup> Baker and Hamilton, *op.cit.* p. 92. The number in the embassy who speak Arabic at any level is reported to be just 33.

<sup>73</sup> McGeough, *op. cit.*

<sup>74</sup> Hanley, *op. cit.*

<sup>75</sup> Rep. Ron Paul (R-Texas), Speech before the US House of Representatives, "*Why We Fight*" (September 8, 2005)

## Chapter 11

### Other Issues

#### **Iraqi Public Opinion and the Occupation**

Polling organizations have carried out many opinion surveys in Iraq since March 2003. The results of these polls, including those sponsored by the US<sup>1</sup> and UK<sup>2</sup> governments, show clearly that Iraqis are very critical of the foreign presence in their country.

A poll, carried out in mid-2006 for the US Department of State and reported by the *Washington Post*, found that “a strong majority of Iraqis want the US-led Coalition forces to immediately withdraw from the country, saying that their swift departure would make Iraq more secure and decrease sectarian violence.”<sup>3</sup> The results in Baghdad, according to the *Post*, showed that nearly three-quarters of residents polled said “they would feel safer if US and other foreign forces left Iraq,” with 65 percent in favor of an immediate pullout.<sup>4</sup>

In September 2006, a World Public Opinion poll conducted by the Program on International Policy Attitudes (PIPA) at the University of Maryland confirmed the conclusions of the State Department poll.<sup>5</sup> According to the poll, 71 percent of Iraqis wanted their government to ask for the withdrawal of foreign forces within a year or less.<sup>6</sup> Compared to previous polls, Iraqis’ urgency for withdrawal had grown and support for an open-ended presence had dropped considerably.<sup>7</sup>

Polls have consistently shown that a sub-

stantial majority believe that the presence of US troops has increased violence in Iraq. PIPA’s September 2006 poll found that Iraqis believe, by an overwhelming margin of 78 to 21 percent, that the US military presence is “provoking more conflict than it is preventing.”<sup>8</sup> A survey conducted by the Iraq Centre for Research and Strategic Studies in November 2006 produced similar results, showing that nearly 66 percent of respondents thought the security situation would improve and violence would decrease if US forces were to leave.<sup>9</sup> Such findings were confirmed by British research firm Opinion Research Business, according to which, a majority of Iraqis feels “the security situation in Iraq will get better in the immediate weeks following a withdrawal of the MNF.”<sup>10</sup>

A common theory heard in the streets of Baghdad is that the US military is deliberately creating a civil war in Iraq to have an excuse to stay.<sup>11</sup> In addition, a very large majority believes that the US will remain in the country, even if the Iraqi government asks it to withdraw, and that the US government plans to maintain permanent bases in the country – a view shared by all ethnic groups in Iraq.<sup>12</sup>

In 2005, a secret military poll by the British Ministry of Defence revealed that a large proportion of Iraqis (45 percent) believed attacks against US and UK troops were justified.<sup>13</sup> After January 2006, the support for attacks against US forces increased substantially and as of September 2006 had reached 61 percent,

with strong majorities in support of attacks amongst both Shia and Sunni respondents.<sup>14</sup> Approval for such attacks is highly correlated with the belief that the US plans to have permanent bases in Iraq.<sup>15</sup> PIPA points out that “if the US were to make a commitment to withdraw according to a timetable, support for attacks would diminish.”<sup>16</sup>

It is interesting to compare these poll results with the widespread view, expressed by the US and Western media, that a Coalition withdrawal would lead to a great increase in chaos, bloodshed and misery in Iraq.<sup>17</sup> The majority of Iraqis evidently do not agree.

Poll results also reflect Iraqis’ broad discontent with conditions in the country under the occupation. In 2006, PIPA estimated that 79 percent of Iraqis say that the US is having a negative influence on the overall situation in Iraq.<sup>18</sup> A 2007 poll conducted by D3 Systems for the BBC, ABC News, ARD German TV and USA Today shows that, in addition to violence and the lack of security, Iraqis deplore their poor living conditions, including the lack of availability of jobs, clean water, electricity and medical care, and have low expectations that things will improve in the future.<sup>19</sup> According to a British study in 2005, 71 percent of Iraqis say they rarely get safe clean water, 47 percent say they never have enough electricity, 70 percent say their sewage system rarely works and 40 percent of southern Iraqis say they are unemployed.<sup>20</sup>

## Cost of the War and Occupation

Iraq has sustained enormous costs during the conflict, yet economists have made little effort to estimate what those costs

might be. Colin Rowat of the University of Birmingham has made a preliminary effort. He has used data from the International Monetary Fund and the Iraq Central Bank to study Iraq’s economic shortfall from expectable peacetime levels of GDP.<sup>21</sup> Drawing on Rowat’s calculations, Anna Bernasek of the *New York Times* estimates Iraq’s economic losses in 2006 at roughly \$24 billion.<sup>22</sup> During the four years of conflict, loss on this scale might have totaled \$100 billion or more. But the real cost for Iraqis is much higher than foregone GDP. It must also include the economic costs of the premature deaths, long-term injuries, brain drain, destruction of cities and infrastructure, massive displacement and relocation of people and many other factors. There is much more work to be done by economists on this subject, but in the end these tragedies cannot be measured in purely economic terms.

For the United States, the conflict has been extremely expensive – far more so than policymakers first estimated. Office of Management and Budget Director Mitch Daniels announced prior to the war that the cost would be around \$50 billion,<sup>23</sup> but as of December 2006 Washington had actually had spent approximately \$400 billion in direct government appropriations for the conflict. These budget costs are rising rapidly in 2007 and are likely to rise much further in the period beyond.<sup>24</sup>

US federal war costs are buried in complex Pentagon budgets, but we know that they have risen from about \$4 billion per month in 2003 to more than \$8 billion per month in late 2006.<sup>25</sup> In fiscal year 2006 alone, Iraq war spending may have been as high as \$120 billion and estimates suggest that 2007 spending could



reach \$170 billion.<sup>26</sup> To these costs must be added the budgets for Iraq reconstruction grants, the costs of building up Iraq's military forces, the cost of secret intelligence operations, and more.

Future costs of the Iraq conflict will depend on the number of troops deployed, the nature of the military operations and the length of the conflict. With Washington sending 20,000 or more additional troops in the first half of 2007, spending will certainly increase substantially and could rise beyond \$12 billion per month in 2007. So the budgetary cost may approach \$600 billion by the end of 2007 and could eventually approach \$1 trillion.

The US Federal budget figures, large as they are, greatly under-estimate the true cost of the war. Economists Linda Bilmes and Joseph Stiglitz point out that the budgeted costs do not account for the economic effect of military deaths and injuries (over 3,000 US soldiers have died and more than 23,000 have been wounded<sup>27</sup>) for which death benefits, life insurance and medical treatment will be paid for long into the future.<sup>28</sup> Nor does it include the increased costs of armed forces recruitment, or demobilization. A real assessment of the costs, Bilmes and Stiglitz argue, should also take into account a wide array of other costs, ranging from the replacement and depreciation of military equipment<sup>29</sup> to macro-economic costs such as higher costs of oil, interest paid on the national debt<sup>30</sup> and other long term negative impacts on the economy.<sup>31</sup> Bilmes and Stiglitz put the estimated total cost in a range from \$1-2.2 trillion, an estimate they made prior to delivering the paper in January 2006.<sup>32</sup> But in a subsequent version of the paper, published about nine months

later, they concluded that the costs were running much higher and that a \$2 trillion estimate was "low."<sup>33</sup> The Iraq Study Group report, released in November 2006, used a \$2 trillion figure as definitive.<sup>34</sup>

The costs incurred by other Coalition members for their contingents should also be taken into account, but the calculation exercise is exceedingly difficult, given the many small contingents and the hidden budget numbers for many participant governments. The biggest of Washington's partners, the UK, offers some glimpse of other Coalition costs. Though the UK government has hidden its Iraq expenditures and did not make them available to Parliament or the public, researchers using the Freedom of Information Act discovered that the UK had spent about £4.5 billion (about \$9 billion) for its military involvement in Iraq as of late 2005.<sup>35</sup> According to some estimates, and in spite of substantial draw-down of forces, each additional year in Iraq will cost the UK treasury an extra £1 billion.<sup>36</sup> So UK costs as of late 2006 would total about \$11 billion. Such budgeted figures do not take into account costs such as refurbishment or replacement of military equipment that the British Ministry of Defence will eventually have to cover.<sup>37</sup> Nor does it take account of the many other long-term costs including death benefits and health care costs for veterans.

These enormous and upwardly-spiraling war costs soak up precious national resources that could be spent on schools, hospitals, transport, alternative energy and many other citizen priorities. Since the US war costs are financed by Federal budget deficits, future generations will eventually be required to pay the bill.

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- <sup>1</sup> US Department of State, *Iraq Civil War Fears Remain High in Sunni and Mixed Areas* (June-July 2006) The report has not been made public. The Washington Post obtained the report and described some of its findings in: Amit R. Paley, "Most Iraqis Favor Immediate US Pullout, Polls Show" *Washington Post* (September 27, 2006)
- <sup>2</sup> British Ministry of Defence, *Secret Military Poll* (October 2005) The report has not been made public. The Sunday Telegraph obtained the report and described some of its findings in: Sean Rayment, "Secret MoD Poll: Iraqis Supports Attacks on British Troops" *Telegraph* (October 23, 2005)
- <sup>3</sup> Amit R. Paley, *op.cit.*
- <sup>4</sup> *Ibid.*
- <sup>5</sup> World Public Opinion Poll, conducted by the Program on International Policy Attitudes, University of Maryland, *The Iraqi Public on the US Presence and the Future of Iraq* (September 27, 2006)
- <sup>6</sup> *Ibid.* p.4
- <sup>7</sup> "Support for an open-ended commitment has dropped from 29 percent to 9 percent." See "Most Iraqis Want US Troops Out Within a Year" *WorldPublicOpinion.org* (September 27, 2006)
- <sup>8</sup> World Public Opinion Poll, *op.cit.* p.5
- <sup>9</sup> Iraq Centre for Research and Strategic Studies, *Public Opinion Survey in Iraq: Security & Political Situations* (November 2006) p.13
- <sup>10</sup> Opinion Research Business, *Public Attitudes In Iraq: Four Years On* (March 2007)
- <sup>11</sup> Paley, *op.cit.*
- <sup>12</sup> World Public Opinion Poll, *op.cit.* p.9
- <sup>13</sup> British Ministry of Defence, *op.cit.*
- <sup>14</sup> Most Kurdish respondents (85%) disapprove. See World Public Opinion Poll, *op.cit.* p.8
- <sup>15</sup> World Public Opinion Poll, *op.cit.* p.9
- <sup>16</sup> *Ibid.*
- <sup>17</sup> See, for example, Michael R. Gordonj and Alissa J. Rubin, "Chaos Is Seen in Iraq Exit, But Experts Split on Degree" *New York Times* (May 27, 2007)
- <sup>18</sup> *Ibid.*
- <sup>19</sup> D3 Systems, *Iraq Poll 2007* conducted for the BBC, ABC News, ARD German TV and USA Today (March 2007)
- <sup>20</sup> British Ministry of Defence, *op.cit.*
- <sup>21</sup> "Iraqi GDP Since 2003: Some Simple Calculations", draft text provided by the author dated March 30, 2007
- <sup>22</sup> Anna Bernasek, "An Early Calculation of Iraq's Cost of War" *New York Times* (October 22, 2006) This article was based on an earlier version of Rowat's paper.
- <sup>23</sup> Cited in: US Department of Defense, *Donald Rumsfeld Media Stakeout* (January 19, 2003)
- <sup>24</sup> James A. Baker III and Lee H. Hamilton et al. "The Iraq Study Group Report" *Vintage Books, New York* (December 2006)
- <sup>25</sup> *Ibid.* p. 32
- <sup>26</sup> Caren Bohan, "Costs for the Iraq War Approach Record – US Official" *Reuters* (December 19, 2006)
- <sup>27</sup> US Department of Defense, *Personnel and Military Casualties Statistics* (February 2007)
- <sup>28</sup> Linda Bilmes and Joseph Stiglitz, "The Economic Cost of the Iraq War: An Appraisal Three Years After the Beginning of the Conflict" Paper delivered at the *American Social Science Association* meeting, (January, 2006)
- <sup>29</sup> According to the Washington Post, about 40 percent of US military equipment has been destroyed, amounting to a value of about \$17 billion. See Ann Scott Tyson, "US Army Battling to Save Equipment" *Washington Post* (December 5, 2006)
- <sup>30</sup> Ironically, the US government pays for the war by deficit financing, which is covered by borrowing from international lenders and investors. Because of a lack of savings within the United States, the US government must borrow from such sources, deepening the net foreign debt of the country in a way that many economists see as potentially destabilizing.
- <sup>31</sup> Bilmes and Stiglitz, *op. cit.*
- <sup>32</sup> *Ibid.*, p. 30.
- <sup>33</sup> Linda Bilmes and Joseph E. Stiglitz, "Encore" *Melkin Institute Review*, Fourth Quarter (2006)

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<sup>34</sup> Baker and Hamilton, *op.cit.* p. 32

<sup>35</sup> Cited in: Iraq Analysis Group, *The Rising Costs of the Iraq War* (March 2006)

<sup>36</sup> House of Commons, *Defence Select Committee, Sixth Report: Chapter 4, Challenges in Southern Iraq* (March 16, 2005)

<sup>37</sup> Iraq Analysis Group, *Rising Costs*

## Chapter 12

### Conclusion & Recommendations

**T**his report has shown how Washington and London presented exaggerated, misleading and clearly false information to the public and to the United Nations and how they launched a war without Security Council authorization, in violation of the UN Charter. In military operations, the US used indiscriminate and especially injurious weapons. Early on, the Coalition destroyed the Iraqi state and allowed looting, arson and violence to demolish Iraq's hospitals, universities, libraries, museums and virtually all national institutions. A "reconstruction" program has squandered billions of dollars through corruption, fraud and gross malfeasance.

The report has also shown how the Coalition used massive military might that largely destroyed a dozen of Iraq's cities. Coalition forces have held thousands of Iraqis in unlimited detention without charge or trial, subjecting many to abusive interrogation and torture. Coalition troops routinely kill Iraqi civilians at checkpoints, during house searches, and during military operations of all kinds. Coalition troops have also committed murder and atrocities. And they have set up Iraqi militias, commando units and death squads that bring violence and mayhem to the country.

Hundreds of thousands of Iraqis have died and large numbers have been wounded and maimed. More than four million have been displaced, including over two million that have fled the country. Poverty is widespread, illness and

mortality of children exceptionally high, and food insecurity rising steadily.

Iraqis vigorously oppose the long-term bases that the US is constructing and the enormous embassy complex that symbolizes long-term US hegemony in the country. By an overwhelming majority, Iraqis want the Coalition to withdraw, as repeated public opinion polls show. A growing majority of the public in the United States favors withdrawal as well, as does the public in the United Kingdom. Coalition governments must recognize reality. It is time for them to accede to the will of their people and to desist from a process that daily violates the law.

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, Security Council Resolution 1546, and other official acts, shield Coalition personnel from arrest, detention, prosecution or punishment. While the US and its allies have applied limited legal reckoning in a few flagrant cases, punishment has been light. Those with command responsibility have remained beyond the law. Such impunity cannot be allowed to continue. The international community

must enforce the laws and insure that justice is served.

The road ahead is very 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 they must 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. And courts worldwide must act to promote justice and accountability.

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.