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The review of the United States of America

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American war crimes in Iraq

"To initiate a war of aggression . . . is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole"¹

I. Background and prelude

Resolution 687, adopted by the Security Council (SC) on the 3rd of April 1991 stipulated the terms for a ceasefire following the First Gulf War. It says in § C.8: *“ it decides that Iraq shall unconditionally accept the destruction, removal and rendering harmless under international supervision of (a) all chemical and biological weapons.... (i) the forming of a special commission which will carry out on site inspections. Under point no 10 “ ... Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in § 8 and 9 ... Art 32 “... requires Iraq to inform the Security Council that it will not commit or support any act of international terrorism or allow any organisation..... to operate within its territory”* Lastly, article 34 states that...’ *(The SC) decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.’*

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

In 1998, the US Congress passed the “Iraqi liberation act”² signed into law by President Clinton which called for a change of regime in Iraq, already designating the possible replacements of president Saddam Hussein, this in blatant violation of the UN Declaration 1514 (xv) that under no 10 stipulates that **“All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”**. To be noted that President Bush, at a later date, will refer repeatedly to that document.

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

In July 2001 Scott Ritter³, former inspector of the UNSCOM, accused M. Butler of deliberately orchestrating confrontations with the Iraqi government at the behest of the US to provide justification for their bombardments of suspected weapons sites and other military targets... Ritter further argues that aggressive inspections were no longer required after 1995 when UNSCOM verified that Iraq had basically disarmed.

¹ The Nuremberg Tribunal. 1945

² Iraq Liberation Act in Wikipedia encyclopaedia

³ The film of Scott Ritter film “ In shifting sand... the truth about UNSCOM and the disarming of Iraq” presented to journalists at the United Nations

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

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

On the 14th of February 2003⁶, Mohammed El Baradei and Hans Blix both reported to the SC, where permanent members were represented at the level of ministers of foreign affairs, that good progress was made and cooperation by the Iraqi government much improved. Whilst Blix said that chemical and biological weapons were unaccounted for- possibly destroyed in 1995 without proper documentation-, El Baradei said that, so far, they had found no evidence of nuclear weapons. Both said they needed more time. The American Colin Powell made his case once more for military intervention whilst the Arab League, France, Russia, China and Germany wanted more time for a process which was now working. They all warned against the dire consequences of a war in that region and the humanitarian disaster it would be.

On the 7th of March 2003 a high level meeting was held at the Security Council⁷. Both M. Blix and M. El Baradei reported good progress and M. El Baradei stated that no evidence had been found of nuclear weapons or plans to produce them. M. Blix said that even with full cooperation from the Iraqis, which has now been obtained, it was not possible to complete the inspection before many months in view of the mammoth task. More time was needed. He also underlined that the military capacity of Iraq had been severely weakened since 1991. Colin Powell however refuted all these arguments saying that Iraq were playing delaying tactics and that in a near future a new resolution would be required to carry out the next step (i.e., the use of force). France, Russia, China and other non permanent members stated that another resolution was uncalled for and that only more time was needed to bring the matter to a peaceful closure. Furthermore the humanitarian consequences on the civilian population, already in a dire strait, were too terrible to contemplate.

⁴ Briefing. Security Council meeting 4701 on the 5th of February 2003

⁵ In his article ‘Exhaustive review find no link’ Warren P. Strobel states that the review by a federally funded think tank, the Institute of Joint Forces Command, of over 600 000 documents captured by the Americans following the invasion in 2003, failed to find any link between Saddam Hussein. Furthermore, in September 2006 the Senate Intelligence Committee concluded that ‘Saddam was distrustful of Al Qaeda and viewed Islamic extremist as a threat to his regime and refused all requests from Al Qaeda to provide material or operational support

⁶ Security Council 4707th meeting on the 14.2.03

⁷ Security Council 4714th meeting of the 7th of March 2003

The issue of legality

1. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
2. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations⁸

In a letter to Tony Blair, the Attorney general of the UK, Lord Goldsmith advised that there were three situations in which the use of force could be justified⁹

- a) Self defence (which may include collective self-defence)
- b) Exceptionally, to avert overwhelming humanitarian catastrophe and
- c) Authorisation by the Security Council under Chapter VII of the UN Charter

None of these conditions were met.

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

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

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

a. Crimes against peace:

- i. Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;
- ii. Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i)¹⁰.

II. The invasion

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

Consequently, the Americans bombed the Dora farm on the 19th of March in an attempt to get rid of him. 40 Tomahawk missiles were fired and four bunker buster

⁸ UN Charter. Chapter I Art. 2

⁹ British Attorney general's advice to Blair. 7th of march 2003 in Global Policy

¹⁰ Principles of Nuremberg adopted by the UN international Law Commission in 1950. Principle VI

bombs were dropped which missed their target and fell nearby killing one civilian and injuring 14 others, including 9 women and one child Neither Saddam was there, nor any member of his government.

Art. 25 The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited¹¹

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

This policy at the outset violates international law

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

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated¹²

Art. 22. The right of belligerents to adopt means of injuring the enemy is not unlimited.¹³

¹¹ ibidem

¹² Additional Protocol of 1977. Protection of Civilian population art 51

¹³ Law and customs of war on Land. Art. XXV.(Hague IV) 18th of October 1907

The Security Council

On the 26th of March 2003 the Secretary General Kofi Annan called on all parties to the conflict to show restraint, ... *it is essential that everything is done to protect the civilian population as well as the wounded and the prisoners of war, and to scrupulously abide by the Geneva Convention in particular by the IVth Convention on the protection of the civilian population.*,¹⁴ On the 28th of March 2003, the Security Council adopted Resolution 1472, reminding all belligerents of their obligation under **the Geneva Conventions, in particular the IVth Convention' and the Hague Regulations**

Violation of the right to truth:

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

Violations of International Humanitarian Law

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

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

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

Amnesty International (AI) reports¹⁵ that **cluster bombs have been dropped** on the residential area of Al-Hilla on the 1st of April, killing scores of people and injuring many others. **General Brooks did not deny the use of cluster bombs.** AI further reports on a number of incidents involving civilians:

- On the 23rd of March 5 Syrian nationals were killed and another 10 injured when a missile hit the bus taking them back to Syria.
- A huge explosion caused by a missile on the market place in Baghdad at al Shula neighbourhood killed 62 people.

¹⁴ Security Council Meeting 4726 of the 26th of March 2003

¹⁵ Iraq : civilians under fire. April 2003

- On the 31st of March, the US army 3rd infantry killed 7 women and children when they opened fire on a four wheel drive vehicle driving towards a checkpoint
- On the 31st of March a US Apache helicopter fired on and destroyed a pickup in the region of al-Haidariya near al Hilla killing 15 people

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

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

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled¹⁶

...
Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.
All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection¹⁷.
...

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

After the announcement of the end of major combat operation on the **1st of May, 2003**, the United States continues its major military operation in most part of Iraq. The basic infrastructure of the country has been destroyed by these operations since 2003. Several Iraqi cities have been severely destroyed under the pretext of attacking “terrorists”, while the result is always massive killing of innocent civilians. Humanitarian aid and journalists were prevented from entering these cities. More than two thirds of the population has no access to clean drinkable water, or a functioning sewage system¹⁸.

¹⁶ 1st Geneva Convention of 1949. Art. 15

¹⁷ IVth Geneva Convention of 1949. Art 59

¹⁸ - World Bank, January 2009, *ibid*,

In conclusion, until the beginning of 2010, the invasion and occupation of Iraq by the united States of America, and according to several reliable sources, left more than 1.500.000 Iraqi civilians dead, more than 2.500.000 orphans, about 3.000.000 widows, more than 5.000.000 either internally displaced persons or refugees abroad. Hundreds of thousands of Iraqis have been subjected to abuse and torture in prisons and detention centres, thousands have disappeared or have been victims to extrajudicial killing.¹⁹

According to the Humanitarian Action update of January 2009, UNICEF, found major gaps in essential social services. In several locations in Iraq visited by UNICEF, 70% of the population don't have reliable access to safe drinking water. It found also that more than 65% of them are without functional sanitary system²⁰.

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

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¹⁹ - See in this regards the Lancet reports, ORB (Opinion Research Business) reports, UNHCR reports, ICRC.

²⁰ - UNICEF Humanitarian Action update, Iraq, January 2009:
http://www.unicef.org/infobycountry/files/HAU_Iraq_19_Jan09.pdf