

Iraq and the United Nations, Post-War and Pre-Peace – The Dilemma of the Future

By H.C. Graf Sponeck* , Essex, January 2005

On 2 August 1990 Iraqi troops invaded and illegally occupied Kuwait. The United Nations Security Council reacted quickly. Four days later the most comprehensive economic and military sanctions ever pronounced against a nation were imposed on Iraq¹. The 1991 Gulf War forced the Iraq Government to withdraw its troops from Kuwait. This fulfilled the conditions of resolution 661. Economic sanctions, however, were not lifted. Instead, the Security Council changed its conditions for the lifting of economic sanctions and decided in April 1991 to pass resolution 687 which demanded of Iraq the disarmament of all of its weapons of mass destruction.²

Throughout the years the Security Council became increasingly disunited on the question whether Iraq had fulfilled the disarmament requirements of resolution 687.³ The result was that economic sanctions remained in place until the Anglo-American invasion of Iraq in March 2003.

Six weeks after the war, the UN Security Council formally lifted economic sanctions against Iraq on 23 May 2003.⁴ The human conditions at that time were appalling:

- i) one out of five children in central and southern Iraq was *chronically malnourished*;
- ii) *mortality* among children under five had plateaued after 1997 at the high level of between 100 and 120 death/ 1000;
- iii) *calories* per capita were at 65% of pre-sanctions levels;
- iv) *literacy* had declined from 81% to 74%;
- v) *water and sanitation* systems were in an extremely dilapidated state;
- vi) *unemployment* was estimated to be between 60 and 75% of the workforce;

In 1995 the United Nations and the Government of Iraq had finally agreed on what became known as the oil-for-food programme.⁵ This followed years of confrontation over the introduction of a humanitarian exemption to protect the civilian population against the full impact of economic sanctions.

It has to be asked why despite such a humanitarian programme socio-economic conditions in Iraq at the time sanctions were lifted in 2003 were so poor?

In 1999, the then Canadian Foreign Minister, Lloyd Axworthy, participating in an Iraq debate in the UN Security Council, made the important point that the Security Council had to act for the benefit of the international community and not in the interest of individual member states. During the same year, the then chairman of the US Senate Foreign Relations Committee, Jesse Helms, poignantly told the UN Security Council during a visit that the US would be ready to strengthen the UN, 'if this was in the interest of America' and not hesitate to do the opposite if the UN acted otherwise.

An influential group often referred to as neo-conservatives published in 2000 a US strategy for the 21st century⁶. Two years later US President Bush formalized this position in a national security strategy document.⁷

¹ see UN Security Council Resolution 661 of 6 August 1990

² see UN Security Council Resolution 687 of 15 April 1991

³ *ibid*, para 22

⁴ see UN Security Council Resolution 1483 of 22 May 2003

⁵ A memorandum of understanding to this effect was signed on 20 May 1986 in New York between the United Nations and the Government of Iraq

⁶ *Rebuilding America's Defenses, Strategy, Forces and Resources for a New Century, A Report of the Project for the New American Century*, September 2000

⁷ *The National Security Strategy of the United States of America*, September 2002

A review of the positions taken by the United States in the Security Council during the 13 years of economic sanctions and military embargo against Iraq reveal that US Government concerns rested first and foremost with Iraq's weapons of mass destruction (WMD) and US security interests rather than with the humanitarian implications of UN Iraq policies.⁸

US rhetoric during these years, in and outside the UN Security Council, expressing apprehension over the human conditions in Iraq can not hide this fact. Every effort was made by Washington to prevent Iraq from re-gaining authority over its finances, to maintain a complicated and seriously impeding UN bureaucracy for the import of supplies into Iraq under the oil-for-food programme and to block, permanently or temporarily, goods and services from reaching the country, allegedly for their dual-use potential.⁹

All of this had to do with US fears that Iraq may use funds or humanitarian supplies to develop its arsenal of biological, chemical and nuclear weaponry. These fears were not unjustified given the Iraqi history of WMD production. However, had the US authorities and the UN Security Council as a whole carried out their oversight mandate more consistently and adjusted UN sanctions policies accordingly and in a timely manner, socio-economic conditions in Iraq could have developed differently and more humanely.

The UN Security Council, as an institution, left political leadership largely in the hands of its most powerful member. It also often failed to act in a timely manner, e.g., in speedily raising the revenue level for the humanitarian programme when in 1997 the severe inadequacy of an allocation of \$ 113 per person per year to cover all sectors of human needs (food, health, water supply and sanitation, electricity, agriculture and education) became apparent.¹⁰ The Security Council recognized the ensuing damage of policies it had introduced or individual members had unilaterally decided to follow. The Council, however, did not have the political will or power to modify such policies. Examples include, the Council's decision to deduct 30% of Iraq's oil revenue for payment of compensation of foreign individuals, firms and governments that had allegedly been victimized by Iraq's invasion into Kuwait. The Security Council could easily have lowered or frozen such deductions at the time when death rates and malnutrition in Iraq were soaring.¹¹

The Council was aware that the bureaucratization of the oil-for-food programme had introduced long delays in the arrival of humanitarian supplies.¹² Some steps to remove such impediments were taken but only after inordinate delays.

The Security Council was well aware that the introduction of two no-fly zones in Iraq by the US, UK and French governments¹³ was without international mandate and therefore illegal.

Individual members of the Council intermittently raised the subject of the no-fly-zones in the Security Council. Yet, the Council failed to ever carry out a debate on these zones, even when in 2002/03 the violations in Iraqi airspace by the US and UK air forces had no longer even remotely to do with the protection of religious and ethnic groups such as the Shias in the south and the Kurds in the north but instead involved deliberate destabilization and preparation for war.

⁸ As an example, the then US Ambassador to the United Nations in New York, John D. Negroponte told the US Senate Foreign Relations Committee on 7 April 2004 that the humanitarian programme for Iraq was important but US pre-occupation concerned Iraq's disarmament;

⁹ In 2002, the US and the UK governments had put a record \$5.5 billion worth of humanitarian supplies on hold;

¹⁰ For the initial three phases of the oil-for-food programme in 1996/98, the total allocation per phase of six months for a population of 22.5 million was \$ 1.3 billion;

¹¹ For most phases of the oil-for food programme, the value of humanitarian supplies arriving in Iraq was little more than the amount of compensation payments Iraq had to make to the UN Compensation Commission in Geneva

¹² Procurement of humanitarian supplies involved a minimum of 23 separate steps by Iraq, the UN and the exporter

¹³ Initially, France had joined the US and the UK in establishing these zones in 1991 covering Iraqi airspace north of the 36th parallel and south of the 32nd parallel, yet left this alliance in 1996 when the US and UK decided to extend the southern zone to the 33rd parallel

Deterioration of socio-economic conditions in Iraq certainly can not be explained solely in terms of the negligence of the UN Security Council to carry out its oversight responsibilities or to act in accordance with the knowledge it had of the deteriorating conditions in Iraq. The dictatorship of the Government of Saddam Hussein made its own and distinct contribution to the misery of a people.

It may be politically convenient to leave accountability for what happened in Iraq during the period up to the March 2003 war in a nebulous state of interpretation with all the advantages this has for the stronger over the weaker party. Objective analysis, however, has to disregard a one-sided approach through which the human drama is explained by either the brutality of a regime or the failures of the international community. Much more work has to be carried out in order to fully understand the specific and separate roles the protagonists have played in bringing about the desolate conditions in Iraq.

At this stage, one can conclude that i) economic sanctions policy have played a significant role in creating these conditions, ii) the Security Council did cross the boundary between what were unavoidable and negative side-effects of legally adopted UN sanctions and the violation of international law including international covenants and the convention of the rights of the child, iii) the UN Security Council had more humane options but chose not to introduce these in a timely and decisive manner and thereby reducing the severity of the impact of sanctions.

In the context of the re-emerging demands for the reform of the United Nations, other elements must be cited to explain Iraq sanctions policies. Among these is that the five permanent members of the Security Council had the advantage of 'permanent' association with a political issue such as sanctions against a country. China, France Russia, the United Kingdom and the United States were involved in the Iraq discussion from the very beginning in 1990 and throughout the years shaped Iraq policies. Process and substance of Iraq policy were in the hands of these five countries. Elected members of the Council, for example Malaysia, Bangladesh, Syria, Mexico and Canada, as involved as they were during their two-year tenure in the Council, had little chance to make a significant impact on Council policies. For many low income members it was also an issue of lacking human and financial resources that prevented a more sustained involvement. More powerful and better endowed members of the Council used this fully to their political advantage. The United Nations became like a tool box from which the powers chose what they needed at any given time or disregarded this box when they could not find or get the preferred implements.

The international debate leading up to the March 2003 invasion of Iraq can serve as a profound example of the disregard by powerful governments represented in the Security Council for positions taken by others when these questioned sanctions policies or the justification to prepare for military confrontation. The most extreme manifestation of this approach is the unilateral decision by the Governments of the United States and the United Kingdom to mount a military offensive without a UN Security Council mandate.¹⁴

It has been argued before that the UN Security Council had options in the implementation of economic sanctions. The UN Security Council ultimately, however, had no options to prevent unilateral action by individual members of the Council to go to war. The two governments and their parliaments that had approved the invasion of Iraq, on the other hand did have the options to chose what kind of a war they wanted to fight and what kind of a peace they wanted to support afterwards. The issue which needed to be debated was not who would win this asymmetrical war. The answer was clear.

Public pronouncements showed that there was a distinct pre-occupation as early as 2002 by these two governments with the strategies and tactics of warfare, the duration and cost of the war, Iraq's military

¹⁴ The UN Security Council refused to legitimize the US/UK decision to go to war against Iraq on the basis of UN Security Council resolution 1441 of November 2002. The majority of governments represented in the Security Council in March 2003 did not accept that Iraq was in material breach of this resolution

response including the possible use of weapons of mass destruction and the likely number of casualties within the invading armies.¹⁵

Understanding Iraqi reaction to defeat, defining civilian priorities for the immediate period after the war, anticipating the response to the invasion of Shias, Sunnis and Kurds were issues either not discussed at all or considered of secondary importance. “While there may have been plans none of these ‘plans’ operationalized the problem beyond regime collapse”.¹⁶ Iraqi pride of their ancient civilization, the importance of dignity in Arab culture, local values and mores only became issues after their neglect had created an enormous backlash for the invading armies and the civil administrations that followed. At that point, the winning of the ‘hearts and minds’ of the Iraqis had become another battle and as it turned out, a losing battle.

There was a high price, first and foremost for the Iraqi people, but also for the invading armies and foreign civilian personnel of this fundamental shortsightedness. Instead of a welcome to liberators came armed and increasingly organized resistance to occupiers.

Iraqis during the years of sanctions had been deprived of all the basics of life: Lack of electricity, shortage of water, largely non-existent sanitation, life-threatening lack of medical services and poor housing facilities. Speedy and sizeable reduction of these difficulties during the initial period after the war combined with large scale employment creation programmes could have convinced many Iraqis that progress was in the making. None of this happened. As conditions worsened instead of improving, the number of angry and disillusioned citizens increased and with it instability and insecurity.

The period of looting in Baghdad and other cities across Iraq, especially the thefts of ancient artifacts from the museum of antiquities and the burning of the national library in the capital evoked a strong reaction from the population. They felt that their identity and the core of their ethos had been attacked. As pictures of US soldiers watching these thefts without intervening emerged and it became known that the invading armies had protected selected ministries such as the ministries of oil and interior but destroyed or severely damaged others such as the ministries of health, social welfare and education anger and consternation increasingly became hatred and willingness to resist ‘invaders’. Public sentiment worsened rapidly in the second half of 2003 as a result of the heavyhandedness of the US civil administrator and his staff and the fundamental errors of judgment committed by them: the entire Iraqi army was demobilized and converted into an army of unemployed able bodied men, de-ba’athification¹⁷ resulted in many civil servants and others working in the public sector losing their jobs, lucrative contracts were awarded to foreign, and primarily US companies, without possible Iraqi association, oil-for-food programme funds handed over by the United Nations to the US interim administration were not accounted for in a transparent and for the public understandable manner and their impact not felt, ‘Iraqi’ delegations to international meetings were often headed by non-Iraqis¹⁸, privatization and foreign investment regulations were unilaterally introduced to the perceived disadvantage of Iraqis, profits by non-Iraqi enterprises could be transferred abroad without any local reinvestment or taxation.

The humiliating behaviour of members of the US military in their house searches (breaking doors, entering houses with dogs, hooding male members of households, frisking females), the revelation of torture and extreme humiliation of male and female prisoners not just in Abu Ghraib but also other de-

¹⁵ On 31st July and 1 August 2002 the US Senate Foreign Affairs Committee called over 30 witnesses to Washington. This briefing dealt overwhelmingly with issues of war and its costs, military occupation and weapons of mass destruction and hardly at all with post-war issues

¹⁶ This is the conclusion of Major Isaiah Wilson, official historian of the US Army, as reported by the Washington Post, 25 December 2004

¹⁷ The Iraqi Ba’ath party consisted of a five tier structure. While it was not mandatory to belong, there was pressure to join the party, particularly civil servants. After the 2003 war, the US civil administration dismissed not just the entire Iraqi army but anyone who had been a member of the Ba’ath party at whatever level. This approach was later given up as unrealistic.

¹⁸ As examples, an Iraqi delegation negotiating possible WTO membership in Geneva was headed by a US official, at the Amman Economic Forum, Iraq was represented by US Administrator Paul Bremer

tention centres in Iraq was to Iraqis further evidence that the occupiers of their country were first and foremost concerned with their own political, economic, military and security interests and did not care much for Iraqi welfare and post-war reconstruction.

All of this created an environment of disillusionment and rejection by extreme elements of the positive efforts on the part of the interim government and US authorities to improve socio-economic conditions. The March 2003 war and the poor handling of the period after the war resulted in a life of deprivation for the average Iraqi that to-date has not been materially different from life under economic sanctions. Fear had been a latent feature of life during the years of dictatorship, the war and post-war period have created conditions under which fear has become an overt aspect of daily living.

The fertile ground for insurgency will remain as long as these conditions exist and as long as Iraqis believe that they are remote controlled and not free to decide how to conduct their lives in the post-Saddam Hussein era. The manner in which the current interim Government of Prime Minister Nuri al-Maliki has been chosen, its obvious lack of independent decision making powers in the conduct of national affairs, the Prime Minister's false and repeated portrayal of progress in Iraq have intensified the suspicion among Iraqis that their sovereignty is being squandered.

It is tempting to argue the case for the establishment of a national truth and reconciliation commission. Such a commission could come a long way to start a national healing process. Part of such a process would have to be responsible use of justice for all those in prominent positions of the Government of Saddam Hussein and the exoneration of the others. It would also have to include the immensely difficult reconciliation between the northern areas of Iraqi Kurdistan and the Arab center and south as well as between the Shi'ite clerics and secular groupings. This calls for a national leader of extraordinary qualities and competence who has yet to emerge.

As long as there is direct and indirect outside interference as distinct from international cooperation and the basic conditions of security do not prevail, there will be no chance for such an approach. The current power vacuum in which a national administration exists but is perceived as a front for foreign interests, security will not improve and therefore national reconstruction will not be possible beyond at best little clusters of physical improvements. These will not have the political ripple effect to make a fundamental difference in the psychology of the national situation.

The elections planned for end-January could set in motion a national healing process. At this point it is more than doubtful that they will take place and if they do that they will be country-wide rather than only partial elections in those areas of Iraq where enough security exists. An essential ingredient of reconciliation would be that Iraqis are left alone in the preparations for elections and the subsequent formation of government. This, too, is doubtful.

Continental Europe, countries in the Middle East, Turkey and Russia will have to get much more and visibly involved in impressing on the governments of the United States and the UK to change their approach for Iraq. This should include the withdrawal of their troops. The claim that such withdrawal would lead to civil war and the disintegration of Iraq is part of a powerful misinformation campaign. Kurds, Sunnis and Shias have co-existed for centuries. Close to a million Kurds have been living in Baghdad making it the largest 'Kurdish' city anywhere. Shias, Sunnis, Kurds and other minorities have intermarried, lived together in mixed neighbourhoods, shared workplaces, served in the Iraqi foreign service and the military and participated in politics. This does not mean that Iraq has been a country with total ethnic and religious harmony. There were and are ethnic and religious differences and political confrontations have been fueled by these differences.

The years of dictatorship witnessed the misuse of power and the victimization of Kurdish and Shia communities. Being Kurd or Shia in itself, however, was not the cause for political persecution, opposition to Saddam Hussein and his government was. Sunnis who were working against the regime were therefore equally subjected to punishment. Occupation and external meddling harbour the distinct dan-

ger that relations between these groups will be re-defined and become more and more determined by ethnic and religious identities. 'Divide et impera' is nothing new in political history. This lends urgency to the call for the withdrawal of foreign troops and an end to the massive political involvement of foreign powers in Iraq's internal affairs.

To identify such demands is not difficult, to translate these into a new agenda of relationships between Iraq and the international community is. The US and UK authorities would see this as a major political defeat, and those presently in power in Iraq as the end to their ascribed leadership. For these reasons alone there will be powerful and sustained opposition to anything that changes the present political paradigm. National and international political leaders must nevertheless have the courage and the sense of urgency to work in this direction as otherwise the Iraqi cataclysm will continue.

At the same time, the existing incapacity of the international machinery to handle complex issues such as the Iraq crisis must be addressed to avert a recurrence of similar crises elsewhere and to allow a comprehensive handling of terrorism. The pre-occupation with terrorists rather than with terrorism and its causes will ultimately do little to improve global security.

Large scale reforms of international structures and global application of norms relating to justice, tolerance and equal opportunity must become part of the international agenda. This points to the urgency of broad-based reforms of the United Nations. The reform debate will have to include clarification of many fundamental issues which have plagued the international community for a long time. Among them: i) a functional division of labour between the International Court of Justice and the UN Security Council. A Security Council holding legislative, judicial and executive responsibilities, as is presently the case, produces counterproductive conflicts of interest; ii) the enlargement of the UN Security Council. The Commission appointed by UN Secretary General Kofi Annan has recently come up with various proposals to add permanent and non-permanent members to the existing Council of fifteen members. The proposed enlargement reminds of a refined caste-structure with various layers of permanent members, some with veto rights others without and non-permanent members elected to the Council for varying periods of time. This will not be acceptable to the community of nations as it perpetuates inequality of membership. Enlargement needs to be looked at from another angle than merely more government membership. Global human security and global environment and development issues have become the top international concerns. Why could non-governmental organizations with extensive experience in these areas not become part of a reformed Security Council? The immediate and forceful rejection, especially by unilateralists of such a proposal as utopian and therefore unworthy of consideration should not be allowed to prevent a debate.

In the context of the reform debate, the question that needs an immediate answer is: what steps for reforms have to be taken, by whom and when. Before this question can be answered, the international community will have to first clarify the roles international organizations such as the United Nations should be expected to play to stay relevant, what structures are needed to play these new roles and what networks have to be created to foster peace and security.

The challenge to any reform of international structures will be the willingness of superpowers to operate within a multilateral framework and to accept international law. In the case of Iraq, it must be remembered, the United States as the dominant global power in this era decided to step outside this multilateral framework and determine its approaches on a unilateral basis. The establishment of the no-fly-zones, the December 1998 operation desert fox and the March 2003 war are straightforward examples of such unilateralism. There are less well known examples of multilateral decision making prompted by unilateral determination. The designs of the compensation machinery to handle claims from parties victimized by Iraq's invasion into Kuwait¹⁹ and the sanctions bureaucracy²⁰ to manage the oil-for-

¹⁹ It was US government pressure which created the UN Compensation Commission in Geneva. While the UN Security Council on previous occasions had recommended that countries pay compensation for damages they had caused to other

food programme must be identified in this respect. Even more difficult to gauge is the unilateral forcefulness of resolution making in the UN Security Council.

Key Iraq resolutions ²¹were seemingly ‘negotiated’ in the Council but in fact driven by individual governments and ultimately accepted on a consensus basis by the Security Council. There have been Iraq resolutions with abstentions by permanent members or dissenting votes by elected members but there has not been a single resolution which was defeated by the veto of a permanent member. This is not an example of successful diplomacy but rather an example of successful power politics. It furthermore demonstrates the weakness of the current multilateral machinery.

The international community has an opportunity to learn much from the case of Iraq. It can be said unequivocally that comprehensive economic sanctions are not just blunt instruments as they have often been called. They are tools which have inflicted significant damage to innocent civilians and therefore should not be used anymore.²² Linking economic sanctions with a military embargo is holding a population responsible for the acts of their government. Such linkage, if there is genuine concern for the welfare of people who have nothing to do with a conflict, should not be introduced in the future. Instead rigorous oversight on the part of the UN Security Council of imports into Iraq could have allowed a much more liberal inflow of goods and services needed by the population. This oversight was lacking.

The normative and structural unpreparedness of the international machinery, especially of the United Nations, to handle conflicts such as the one in Iraq, both before and after the wars of 1991 and 2003, must be fully comprehended as a first step towards remedial reforms.

Global security, a major concern for all countries, must not be seen as an issue one can handle with military might. The priority is human not military security. Of course, those who endanger international security, terrorists, have to be caught and brought to justice. However, in order to improve global and regional security, it is much more important to understand the causes of terrorism and act accordingly.

The agenda for reform of the international machinery for peace, conflict resolution and international development remains formidable but is achievable if all nations, including the most powerful, accept multilateralism as the starting point.

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countries. Iraq was the first case of a country for which the UN Security Council worked out the details of compensation, decided that Iraq provide 30% of its oil revenue for compensation and enforced this policy.

²⁰ The UN Security Council Sanctions Committee instead of overseeing policy implementation micro-managed, under US/UK pressure, the procurement of humanitarian supplies;

²¹ These includes UN Security Council resolutions 687 (1991), 1284 (1999) and 1483 (2003);

²² The UK House of Commons in a report on sanctions published on 27 January 2000 referring to the human conditions in Iraq concludes that it is hoped that there will never be another case of comprehensive sanctions