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THE RIGHTS OF THE IRAQIS: THE NEED TO PROTECT THE INNOCENT

Opinion of Irene Khan, published in the *International Herald Tribune* of 28th of March 2003:

LONDON: During the debate that preceded the war in Iraq, there was little talk of the threat that military action would pose to the Iraqi people. Now that threat is upon them.

We know too well from experience how ordinary civilians and conscripts pay the price of conflict. This war is no exception. Despite calls for a moratorium on such weapons, neither Britain nor the United States has agreed to desist from the use of cluster bombs, which leave unexploded "bomblets" over a wide area, nor of depleted uranium weapons, the medical effects of which are uncertain.

On my desk, I have a report on the treatment by the United States of prisoners from the Afghan war, a report that includes allegations of torture. On my desk too lies the leaked UN report detailing the nightmare scenario of millions in Iraq who might need food aid, and hundreds of thousands who might be forced to flee.

Nor should we underestimate the power of the Iraqi regime to wreak havoc on civilians. It is known to have gassed its Kurdish population, attacked civilian targets in Israel and Saudi Arabia and brutally suppressed internal rebellion. Only a week ago in Jordan I heard Iraqi exiles recount tales of how the Iraqi regime was intimidating people into remaining in their homes in an effort to use the urban population as human shields. There are real fears about reprisals and killings by the regime or of vigilante justice if the regime crumbles.

The laws of war are clear. The political and military leaders of all the states involved in the conflict - the United States, Britain and their allies as well as Iraq - are equally responsible. They are forbidden to attack civilians or civilian targets, or use indiscriminate or prohibited weapons. They are obliged to protect civilians, allow humanitarian assistance and treat humanely all combatants who are captured or civilians who are detained.

Anyone who violates these principles must be brought to justice. Responsibility is individual - and applies as much to the soldier as to the general, to the political leader as to the bomber pilot. All states have a responsibility to bring to justice those who commit grave breaches of the laws of war, wherever they are and wherever they committed their crimes.

But over and beyond the law, there is a greater moral responsibility on those who have begun the attacks to avoid a humanitarian and human rights disaster. The United States, Britain and their allies must take all possible steps to minimize the impact of the conflict on the people of Iraq. In particular, they must give unequivocal and public assurance of their readiness to adhere strictly to international humanitarian law and human rights. They must accompany their words with action, and to make that action credible, they must be ready to submit their conduct to independent, international scrutiny from the International Committee of the Red Cross and the United Nations.

The United Nations must remain a major player in protecting the human rights of the Iraqi people. The UN Security Council, which has expressed its concern for the protection of civilians in armed conflict in other situations in the world, would be abrogating its responsibility if it remains silent or inactive on Iraq now.

The Security Council should demand immediate access for international humanitarian organizations and seek assurances from all parties to the conflict that they will adhere to their obligations to protect the people of Iraq. It should reject any deals for immunity and insist on justice for past abuses as well as those that might be committed in the course of conflict. It must not condone another Kosovo or Afghanistan, where civilian targets were bombed and massacres of prisoners went uninvestigated.

The UN Security Council must lick its wounds and stand up to the next round of challenges on Iraq. It should ensure that any reconstruction plans for Iraq fully incorporates long-standing UN recommendations for the protection of human rights in Iraq. It should move urgently to deploy international human rights monitors as soon as the situation permits. They can contribute to building a fair criminal justice system and the other human rights institutions that Iraq badly needs.

Many have argued that the international rule of law has been the first casualty of this conflict. By showing a readiness to uphold the rights of the Iraqi people, the United Nations and its member states may yet help to redeem the authority of the law. The moment of truth is upon us. The human cost will be tragically high if once again those who have the responsibility do little to face up to it.

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