

# Iraq

## Responsibilities of the occupying powers

### INTRODUCTION

At the time of writing, the situation in Iraq is one of great uncertainty. Sporadic fighting is continuing. The Iraqi government and governmental agencies have collapsed, looting and violence has been widespread, and in some areas people have been forcibly displaced, further adding to the hardship of the Iraqi population. The forces of the United States of America (USA) and United Kingdom (UK) have yet to restore order and ensure the provision of humanitarian assistance in the areas they control. Beyond these immediate concerns, the duration of the military presence of the USA and UK is unknown, and prospects for an effective Iraqi transitional authority are unclear.

Despite appearances, the present situation is not a “legal vacuum”. The forces of the USA and UK, as occupying powers under international law, have clear obligations to protect the Iraqi population. These obligations derive from international humanitarian law, which has long defined the rules on belligerent occupation, complemented by human rights law, which binds any state exercising jurisdiction or control over a territory. The USA and UK must fulfil their obligations and continue to do so for as long as they exercise military authority over Iraq.

By definition, however, the authority of the occupying powers is transitional and limited to providing protection and assistance to the occupied population in the emergency created by war. The USA and UK cannot, for example, change the legal system or introduce the radical reforms in the Iraqi criminal justice system that are needed to ensure respect for human rights. Only a newly established Iraqi government, or a United Nations (UN) transitional administration set up by the Security Council, would have such authority under international law.

At the moment, there is no clarity as to what arrangements will be in place to establish a transitional or permanent governmental authority in Iraq. There is disagreement over the role of the UN. Amnesty International believes that ensuring full respect for human rights must be central to any arrangements. In this regard the UN must play a leading role in at least two respects, beyond the provision of humanitarian assistance.

First, the UN should deploy human rights monitors throughout Iraq as soon as the security situation allows (see Amnesty International, *Iraq: The need to deploy human rights monitors*, MDE 14/012/2003, March 2003).

Second, the UN should establish a commission of experts to develop, in close consultation with Iraqi civil society, proposals for a comprehensive program to ensure justice for past and recent human rights abuses, centred on the need to reform the Iraqi criminal justice system (see Amnesty International, *Iraq: Ensuring justice for human rights abuses*, MDE 14/080/2003, April 2003).

In this paper, Amnesty International focuses on the responsibilities of the USA and the UK as occupying powers to protect the fundamental rights of the Iraqi population. The paper outlines the international legal framework and sets out in some detail those obligations that appear most relevant to protect the rights of Iraqis. Specific recommendations are addressed to the USA and the UK.

The most immediate challenge in Iraq is still to ensure respect for the laws of war by all parties in the conduct of hostilities. The broader task is to secure order and ensure that occupying powers and any interim authority respect their obligations to all of the people of Iraq. The most difficult challenge, however, lies ahead: to ensure that in the post-conflict period human rights stand at the centre of reconstruction efforts. In this regard, addressing impunity for past violations, building a fair and effective justice system, ensuring respect for the rights of all without discrimination in the grounds of religion, ethnicity or gender, and insisting that the Iraqi people themselves drive the process forward, will be of central importance.

## **I. THE INTERNATIONAL LEGAL FRAMEWORK**

Over the years international law has developed a framework which, while assigning to the occupying power the authority it needs to administer the territory it controls, at the same time codifies the rights of the occupied territory's inhabitants. One key aim of the international rules on belligerent occupation is to enable the inhabitants of an occupied territory to pursue as "normal" a way of life as possible in such circumstances.

To this effect, and recognizing the transitional nature of the occupation, the occupying power is required to administer the territory as far as possible without making far-reaching changes to the existing order, while at the same time ensuring the protection of the fundamental rights of the inhabitants.

International law on belligerent occupation does not address the question of the legality of occupation. Its rules apply to any occupying power for the sole fact that it is in control of a foreign territory, whatever the reason for this situation. Recognizing the applicability of such a law to a given situation does not constitute a judgment on the legal status of the territory concerned.

The provisions of the law on belligerent occupation are found in international humanitarian law, also known as the laws of war or the laws on armed conflict. As such, they take into account the military and security concerns of the occupying power, balancing them against the rights of those who find themselves under its authority. The sources for the obligations under international humanitarian law applicable to belligerent occupation are found in:

- The Hague Convention (IV) respecting the Laws and Customs of War on Land (Hague Convention) and its annexed Regulations respecting the Laws and Customs of War on Land (Hague Regulations) of 18 October 1907;
- The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) of 12 August 1949;
- Article 75 of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I);
- Rules of customary international law.

In fact, most of the basic rules on occupation are of a customary law character, and are universally binding. None allow for any derogation.

A key provision of international humanitarian law which outlines the obligations to respect the fundamental rights of those under occupation, such as the right to humane treatment and non-discrimination, is Article 27 of the Fourth Geneva Convention:

“Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.”

The authoritative commentary to the Fourth Geneva Convention published by the International Committee of the Red Cross (ICRC) points out (pages 200–201) that this article “proclaims the principle of respect for the human person and the inviolable character of the basic rights of individual men and women.” It continues:

“The right of respect for the person must be understood in its widest sense: it covers all the rights of the individual, that is, the rights and qualities which are inseparable from the human being by the very fact of his existence and his mental and physical powers; it includes, in particular, the right to physical, moral and intellectual integrity - an essential attribute of the human person.”

At the domestic level, the provisions of international humanitarian law have been translated into instructions for members of national armed forces in military manuals. They include manuals for the armed forces of the UK (*The Law of War on Land, Part III, 1958*) and the USA (*The Law of Land Warfare, FM 27-10, Department of the Army Field Manual, 1956*).

In line with international humanitarian law, any occupying power is also under the obligation to respect the provisions of the human rights treaties to which the country whose territory is partially or totally occupied is a party, especially when, as in the case of Iraq, such treaties are formally incorporated in the occupied country’s legal system. The Human Rights Committee, which monitors the implementation of the 1966 International Covenant on Civil and Political Rights (ICCPR), has also affirmed in 1997 that the “rights enshrined in the Covenant belong to the people living in the territory of the State party” (General Comment No. 26, Continuity of obligations, para 4).

Further, the Human Rights Committee, and other bodies monitoring the implementation by states of their human rights obligations under the treaties they have ratified, have consistently stressed that such obligations extend to any territory in which a state exercises jurisdiction or control, including territories occupied as a result of military action. In administering Iraq, the USA and UK must therefore respect their own international human rights obligations in addition to those under international humanitarian law.

International human rights law complements provisions of international humanitarian law, for example by providing content and standards of interpretation, such as on the use of force to respond to disorders outside combat situations. In some respects, for example the safeguards applicable to anyone held in detention, human rights standards offer greater protection than provisions of international humanitarian law and should be applied. The result is a protection framework firmly embedded in international obligations.

## **II. GENERAL ASPECTS OF BELLIGERENT OCCUPATION**

The definition of belligerent occupation is given in Article 42 of the Hague Regulations:

“Territory is considered occupied when it is actually placed under the authority of the hostile army.  
The occupation extends only to the territory where such authority has been established and can be exercised.”

The US manual FM 27-10 (para 351) simply refers to that definition. The UK manual (para 503) follows the same line by underscoring that invading forces must have taken the place of the national authorities in the exercise of actual control over a territory.

The sole criterion for deciding the applicability of the law on belligerent occupation is drawn from facts: the *de facto* effective control of territory by foreign armed forces coupled with the possibility to enforce their decisions, and the *de facto* absence of a national governmental authority in effective control. If these conditions are met for a given area, the law on belligerent occupation applies. Even though the objective of the military campaign may not be to control territory, the sole presence of such forces in a controlling position renders applicable the law protecting the

inhabitants. The occupying power cannot avoid its responsibilities as long as a national government is not in a position to carry out its normal tasks.

The international legal regime on belligerent occupation takes effect as soon as the armed forces of a foreign power have secured effective control over a territory that is not its own. It ends when the occupying forces have relinquished their control over that territory.

The question may arise whether the law on occupation still applies if new civilian authorities set up by the occupying power from among nationals of the occupied territories are running the occupied territory's daily affairs. The answer is affirmative, as long as the occupying forces are still present in that territory and exercise final control over the acts of the local authorities.

The responsibility of the occupying power does not mean responsibility for each and every act of the local civilian administration. But if the local administration lacks, for example, the means to provide adequate health care, it is the duty of the occupying power to take remedial action. It cannot relinquish its basic responsibility for the well-being of the territory's inhabitants by claiming that local authorities are in charge.

In the language of the Fourth Geneva Convention (Article 4), civilians in occupied territories who find themselves "in the hands of a Party to the conflict or Occupying Power of which they are not nationals" are the "protected persons" whose rights are included in the Convention. Their rights are inviolable and cannot be renounced (Article 8). Any such renunciation would be null and void, irrespective of whether the person has taken that decision of his or her own free will or under coercion by the occupying power.

The core idea of international law on belligerent occupation is that occupation is transitional. The occupying power assumes, for a limited period, responsibility for the security and well-being of the occupied territory's inhabitants. The Hague Regulations state in Article 43 that:

"The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

As a caretaker for the absent national government, the occupying power has to take over responsibility for the functions which are directly related to the administration of the territory. As such it may set up a temporary civil administration, but has no right to change the existing structures of the state. For example, it cannot engage in a major reform of the criminal justice system, even though in Iraq this is badly needed to bring it in line with international human rights law and standards. Amnesty International is calling for a UN commission of experts to start working immediately, in close consultation with Iraqi civil society, to develop proposals for reform. These proposals will have to be implemented either by a new Iraqi government or a UN transitional administration.

If several occupying powers allocate control and administration of different parts of the territory to each one of them (as in occupied Germany after 1945), each state is fully responsible for what happens under its authority. However, one fundamental obligation of international humanitarian law, reflected in Article 1 common to all four Geneva Conventions, is the undertaking not only to respect but also to “ensure respect for the present Convention in all circumstances.” On this basis the USA and UK, and all other parties to the Geneva Conventions, must take measures towards each other should there be a need to prevent or redress violations of international humanitarian law. They must also ensure that any armed group allied to them respect fully international humanitarian law.

### **III. OBLIGATIONS OF THE USA AND THE UK AS OCCUPYING POWERS**

#### **1. Duty to restore and maintain law and order**

The occupying power has the duty to restore and maintain public order and safety in the territories controlled by its forces, in accordance with Article 43 of the Hague Regulations.

In order to carry out this duty, the occupying power is entitled to “take such measures of control and security in regard to protected persons as may be necessary as a result of the war”, in the language of Article 27 of the Fourth Geneva Convention. Such measures may include the use of force. However any use of force in circumstances outside combat, whether by soldiers or police officers, must be consistent with international law enforcement standards, including the 1979 UN Code of Conduct for Law Enforcement Officials (Code of Conduct) and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles).

Article 3 of the Code of Conduct reflects the principles of necessity and proportionality: law enforcement officials “may use force only when strictly necessary and to the extent required for the performance of their duty.” The Commentary to this article specifies that the use of firearms is an extreme measure:

“ Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.”

According to the Basic Principles, law enforcement officials faced by disorders, including violent assemblies,

“shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

Combat troops do not usually have the training or the proper equipment for performing policing functions, and should not be expected to do so. However, occupying powers have a duty to plan for the breakdown of law and order in the areas where they establish military control, an all too common occurrence in armed conflict and one repeatedly predicted in the case of Iraq. Much planning and resources seem to have been devoted to securing Iraqi oilfields. However, there is scarce evidence of similar levels of planning and allocation of resources for securing public and other institutions essential for the survival and well-being of the population. The response to disorder has been shockingly inadequate.

***Amnesty International calls on the USA and the UK to deploy forces in sufficient numbers and with the right training and equipment to restore law and order, until Iraqi police forces can operate effectively. An effective and fair vetting procedure for members of the Iraqi police forces should be set up urgently, so as to reduce the chance of restoring to their duties officials who may have been involved in human rights violations. In exercising or supervising policing functions, the***

***USA and the UK must ensure that the rights of freedom of expression and assembly are not arbitrarily restricted.***

## **2. Duty to provide food, medical care and facilitate relief assistance**

The occupying power has the obligation to ensure, if necessary, the provision of food and medical supplies to the inhabitants of the occupied territories. According to Article 55 of the Fourth Geneva Convention:

“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”

With regard to medical care, Article 56 says that the occupying power:

“has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.”

More generally, under Article 59, “If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.” Such schemes may be undertaken by states or impartial humanitarian organizations such as the ICRC and “shall especially consist of foodstuffs, medical supplies and clothing.” Every effort shall be made to protect such consignments. However, relief consignments in no way relieve the occupying powers of their responsibilities (Article 60).

***Amnesty International calls on the USA and the UK to intervene to ensure the safe functioning of hospitals and other public services, as well as the prompt delivery of food and water to those in need. Every effort must be made to facilitate the work of international and other humanitarian organizations, including by assisting them in getting effective access to all those in need. In particular, the ICRC and the Iraqi Red Crescent Society must be able to pursue their activities in accordance with the principles of the International Red Cross and Red Crescent Movement.***

### 3. Penal legislation: limited scope to introduce changes

In line with the transitional nature of belligerent occupation, Article 64 of the Fourth Geneva Convention stipulates that the “penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.”

The Commentary to this Article (pages 335-336) stresses that a basic principle of the law of occupation is the “idea of continuity of the legal system” of the occupied territories, which “applies to the whole of the law (civil law and penal law)”. It explains that the reason for the express reference in the Fourth Geneva Convention “only to respect for penal law was that it had not been sufficiently observed during past conflicts; there is no reason to infer *a contrario* that the occupation authorities are not also bound to respect the civil law of the country, or even its constitution.”

There are only two exceptions to the rule of preserving existing penal laws. The first relates to the security of the occupying power, which, as the ICRC Commentary explains, “must obviously be permitted to cancel provisions such as those concerning recruiting or urging the population to resist the enemy.” The second “is in the interests of the population” and makes it possible to abrogate, for example, discriminatory measures. The occupying powers cannot abrogate or suspend the penal laws for any other reason - and not, in particular, merely to make it accord with their own legal conceptions.”

Article 68 of the Fourth Geneva Convention permits the death penalty to be imposed for particularly serious offences, but not on people who were under 18 years of age at the time of the offence. However, this provision was adopted in 1949, when the death penalty was widely used. Today more than 100 countries have abolished it in law or practice. The death penalty is ruled out as a punishment in all international and mixed courts and tribunals for the worst crimes in the world, such as genocide, war crimes and crimes against humanity. It should not be used in Iraq.

In line with these provisions of international humanitarian law and with their obligations under international human rights law, the USA and UK should not observe provisions of Iraqi domestic law which are contrary to international law. Amnesty International has long been concerned about Iraqi legislation inconsistent with international law and standards, such as numerous special decrees issued by the Revolutionary Command Council providing for the death penalty and mutilations for

a wide range of offences (see Amnesty International, *Iraq: Systematic torture of political prisoners*, MDE 14/008/2001, August 2001).

***Amnesty International calls on the USA and the UK to suspend the application of Iraqi laws or decrees which contravene international law, while respecting their restrictions regarding other legislative changes as required by the Fourth Geneva Convention. Legislation prescribing corporal punishments and the death penalty should be suspended pending its abolition.***

#### **4. Limited legislative powers of the occupying power**

An occupying power has a limited scope to enact its own legal provisions. Article 64.2 of the Fourth Geneva Convention states that the occupying power may “subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.”

The Commentary (page 337) sets out the matters in which an occupying power may exercise legislative power. They are limited to provisions “required for the application of the Convention” in areas such as child welfare, labour, food, hygiene and public health; other provisions necessary to maintain the “orderly government of the territory”; and penal provisions “for its own protection.”

Under Article 65, any “penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.”

***Amnesty International calls on the USA and the UK to limit their exercise of any legislative powers to the scope provided for by the Fourth Geneva Convention. All efforts must be made to properly inform the public of any laws or regulations enacted in this respect. In terms of the broader task of reforming the legal system, a UN commission of experts should be established to develop proposals for implementation by whatever authority replaces the USA and the UK in Iraq.***

#### **5. Criminal jurisdiction**

Under the Fourth Geneva Convention, the status of judges, like that of public officials, may not be altered by occupying powers (Article 54). Existing tribunals shall continue to function, retaining their jurisdiction over offences of domestic criminal law by inhabitants of the occupied territory (Article 64.1). However, in the absence of a functioning judicial system, the occupying power may establish its own courts to perform the functions of the ordinary judiciary, provided they apply existing laws.

Article 66 provides that in case an occupying power enacts legislative provisions, it may also establish its own “properly constituted, non-political military courts”, which shall sit in the occupied territories, while courts of appeal shall “preferably sit in the territories.” (Article 66).

Military courts set up by the occupying power must respect detailed procedural guarantees laid down in Articles 67 and 69 to 75. Moreover, under the heading *fundamental guarantees*, Article 75 (1) of Protocol I has codified all the guarantees of fair trial. The content of Article 75 is recognized, including by the USA, which has not ratified Protocol I, as reflecting customary international law. These guarantees are likewise the essence of modern international human rights law, as codified in Article 14 of the ICCPR and other international standards.

The Fourth Geneva Convention affirms the principle of individual criminal responsibility, and prohibits collective penalties (Article 33).

Persons accused or convicted of a criminal offence must be detained in humane conditions and kept in detention facilities within the occupied territory (Article 76). They have the right to receive visits by the delegates of the ICRC.

Amnesty International has long been concerned at the operation of the Iraqi criminal justice system, including the lack of independence of judges; the use of torture; and grossly unfair trials by Iraqi special and other courts. However, Amnesty International believes that tribunals established by the USA and the UK would be undesirable, since they risk being perceived as “victors’ justice”. Amnesty International believes that military courts should not be used to try civilians or to try members of armed forces for crimes under international law. In addition, certain proposals such as the use of US military commissions, which are not even courts, would be grossly unfair under international law.

**Amnesty International calls on the USA and the UK to suspend the operations of special Iraqi tribunals which have been operating in violation of international human rights law and standards. It also calls on the USA and the**

**UK to ensure that ordinary Iraqi courts do not violate international law and standards. The USA and the UK should not establish their own tribunals. They should allow a UN commission of experts to develop proposals at the earliest possible date, in close consultation with Iraqi civil society, for transitional tribunals and other judicial approaches, pending the reform of the Iraqi criminal justice system.**

## **6. Assigned residence or administrative detention (internment)**

According to Article 78 of the Fourth Geneva Convention, if the occupying power “considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.” However, in such cases Article 78 requires that:

“Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.”

Administrative detainees have the right to receive visits by the delegates of the ICRC.

*Amnesty International recognizes that temporary restrictive measures such as those allowed by the Fourth Geneva Convention may be necessary, especially in response to widespread disorders. However, it calls on the USA and the UK to hold any detained civilians for the shortest possible time and release them unless they are to be charged with a recognizably criminal offence and brought to trial.*

*Amnesty International believes that judicial review of temporary detention should be on a frequent, individualized basis. All detainees must have the ability to seek judicial – not just administrative – review at any time of the legality of their detention and to be released if the detention is unlawful, as guaranteed by Article 9 (4) of the ICCPR.*

## **7. Prohibition of coercion, torture and other forms of brutality**

“No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties” (Article 31).

Also prohibited is “any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents” (Article 32).

*Amnesty International calls on the USA and UK to ensure that civilians are protected against any coercion, torture or other forms of brutality.*

## **8. Prohibition of deportation and transfer**

Protected persons, whether detained, serving a prison sentence, or not in custody, should not be forcibly removed from occupied territories. According to Article 49 of the Fourth Geneva Convention:

“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to

that of any other country, occupied or not, are prohibited, regardless of their motive.”

Article 49.2 of the Fourth Geneva Convention also prohibits forcible transfers of the civilian population within the occupied territory unless "the security of the population or imperative military reasons so demand". According to recent reports, supporters of the Patriotic Union of Kurdistan and the Kurdistan Democratic Party, groups operating in close cooperation with US forces, have forcibly displaced Arabs from their homes. The USA and UK, as occupying powers, have the obligation to ensure that any forcible displacement happens only in the narrowly circumscribed circumstances permitted under Article 49.

*Amnesty International calls on the USA and UK not to remove any Iraqi civilians from occupied territories and take them to their own territories or to those of other countries, regardless of the reason. In particular, the USA must not transfer any protected person to Guantanamo Bay, and the UK should not hand over any protected person to the USA without guarantees that their rights under occupation law will be fully respected. The USA and UK must also ensure that*

*allied armed groups respect the rules of international humanitarian law in these and all other circumstances.*

## **9. Protection of property and natural resources**

The Hague Regulations require the USA and UK to respect “private property” (Article 46). They “shall be regarded only as administrator[s]” of publicly owned buildings and of natural resources such “forests, and agricultural estates” (Article 55). As such, the USA and the UK must not appropriate or otherwise dispose of public property or of the natural resources of Iraq.

The “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”, is a war crime, specifically a grave breach of the Fourth Geneva Convention (Article 147).

*Amnesty International calls on the USA and the UK to safeguard the property of protected persons. As caretakers of Iraqi public property and natural resources, they must not appropriate them or otherwise dispose of them.*

## **10. Role of the International Committee of the Red Cross**

A fundamental safeguard for the protection of civilians in occupied territory is constituted by the work of the ICRC. Under the Fourth Geneva Convention the occupying powers must accept the services of the ICRC (Article 143.5). Its delegates have the right to take up any matter relating to the law of occupation. They must be granted free movement throughout the entire occupied territory. In particular, they must be given free access to all detention facilities and to all categories of detainees.

*Amnesty International calls on the USA and the UK to fully cooperate with the ICRC so that it can fully exercise its mandate in Iraq.*