



Briefing by Amnesty International to the Security Council on Iraq
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Thank you very much for this opportunity to exchange views with Council members about the situation in Iraq. I will speak about concerns arising from the conduct of war, and make proposals for immediate and long protection of human rights.

The people of Iraq have suffered for decades gross and persistent human rights violations, involving many thousands of "disappearances", widespread torture and extrajudicial executions. The Council recognized their plight specifically in resolution 688 (1991), when it demanded an end to the repression of the Iraqi civilian population and insisted that the human rights of all Iraqi citizens be respected. Yet since then the human rights dimension has unfortunately been absent from the Council's deliberations. The Iraqi government simply ignored the Council's call and also the numerous resolutions by the Commission on Human Rights and the General Assembly urging Iraq to take a range of steps to address the grave human rights situation. The human rights violations suffered by numerous Iraqis are now compounded by reports of serious violations of international humanitarian law committed by all parties to the war.

Amnesty International welcomes the Council's mounting concern in recent years for the protection of civilians in armed conflict. It is right that the Council has repeatedly stressed that all parties to armed conflict must comply with the rules and principles of international law, in particular international humanitarian, human rights and refugee law and should refrain from targeting civilian populations or other protected persons.

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Since the war started, our organization has been deeply concerned that hundreds of Iraqi civilians have reportedly been killed and many more wounded, in circumstances suggesting that coalition forces did not fully adhere to international humanitarian law principles of proportionality and distinction. We are particularly concerned about the use of cluster bombs in heavily populated areas. I have brought copies of a brief paper, published yesterday, Iraq: Civilians under Fire, that lists a range of specific incidents that require further investigation, incidents also involving women and children as victims. The attack in al-Hilla on 1 April in which cluster bombs were reportedly used by US forces killing over 30 people, is only one such example. The attack on the television station in Baghdad and the attack on the Palestine Hotel and al-Jazeera offices yesterday are others.

Both the US and the UK concede they use several types of cluster bombs in Iraq. As inherently indiscriminate weapons, they fail to distinguish between civilians and combatants. In view of the Council's repeatedly expressed concern that civilian populations in armed conflict should not be deliberately targeted, we urge the Council to call for a moratorium on the use of cluster bombs.

On the Iraqi side, Amnesty International has condemned the officially endorsed Iraqi tactics whereby Iraqi soldiers and others have disguised themselves as civilians to carry out attacks to surprise enemy soldiers. Such attacks constitute acts of perfidy that are clearly prohibited under international humanitarian law. They also put civilians at even greater risk. We are also concerned about reported Iraqi practice, equally unlawful, to locate military forces and weaponry in close proximity to civilians to shield the former from attack.

Amnesty International welcomes the Council's reaffirmation, in resolution 1472 (2003), that all parties must strictly abide by their obligations under international law, in particular the Geneva Conventions and the Hague Regulations. We now call on the Council to take immediate, concrete steps to ensure that humanitarian law and fundamental human rights are fully observed on the ground and that civilians' rights are effectively protected, not only now, but also in a future, post-war Iraq.

What precisely happens on the ground is extremely difficult to establish given the often conflicting reports that emanate from a country at war. There has been extensive media reporting, but it has only given a very partial picture. All parties therefore have an immediate interest in creating the conditions for authoritative, unbiased reporting, which is lacking since fully independent observers of human rights and international humanitarian law are absent from the scene, with the exception of the ICRC which does not normally report publicly on its findings. In that context, we would like to remind the Council that it reaffirmed, in resolution 1265 (OP 6), the possibility of States using the services of the International Fact-Finding Commission, established under Article 90 of Protocol I to the Geneva Conventions, to investigate allegations of serious violations of international humanitarian law.

The absence of reliable information about the human rights situation on the ground illustrates the urgent need for the Council to take the necessary action now to support an effective, well-funded human rights monitoring presence throughout the country. The absence of such a presence, which the then UN Special Rapporteur of the Commission on Human Rights on Iraq, Max van der Stoep, already discussed with the Council twice in 1992, and which was subsequently endorsed by the General Assembly and the Commission on Human Rights, must in part be responsible for the grave human rights situation in Iraq. As part of a program of human rights reform, the deployment of sufficient numbers of human rights monitors will make a crucial contribution to the immediate need to authoritatively assess and address the human rights situation. It will, moreover, provide the Council and the UN with the first hand information required to define future well-informed actions on Iraq. A substantive human rights presence in Iraq will also ensure, as the current UN Special Rapporteur on Iraq recently said, that appropriate legislation, practices and institutions for implementation of human rights norms are set in place.

Another area where the UN must play the lead role is in addressing the complex question of impunity for past violations of human rights and for past and current violations of international humanitarian law. The best way forward, in our view, is for the Council to recommend a UN commission of experts to analyze the situation, consult properly with Iraqi society and formulate proposals to end impunity and provide justice for the people of Iraq. Amnesty International wishes to stress the crucial role that Iraqi civil society must be able to play in the determination of the best process. A commission of experts, as we recommend, would already be able to make pertinent recommendations within months.

It is indeed, as the Secretary-General said this week, in the crucially important area of human rights and the rule of law that the UN can make a particularly valuable contribution to the reconstruction of Iraq. But in discussing the future role of the UN in Iraq, which the UN must be able to assert with the full authority outlined in the Charter, it is important that the Council remains well aware of the distinct responsibilities carried by Occupying Powers in Iraq. They have a duty to leave the state's structures, including its legal ones, intact as much as possible. However, we argue that they should apply existing laws in accordance with the various human rights treaties to which Iraq is a party.

Of major importance is the duty of Occupying Powers to ensure that legal proceedings are conducted in accordance with the rule of law, a provision that must be applied without any discrimination and regardless of religious belief or political affiliation, including, for example, membership of the Baath party. Where they exercise effective control, occupying powers must also respect their duty to protect civilians from any acts of violence and to restore and maintain public order and safety. This duty is especially pertinent given the serious risk of substantive reprisals as well as widespread reports of lawlessness now emanating from Baghdad and the city of Basra where UK forces say they are now in control.

The immediate challenge for the Council is to ensure respect for the laws of war, including accountability for violations. The broader task is to secure order and ensure that occupying powers and interim authorities respect their obligations to all 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 respects for the rights of minorities and women, and insisting that the Iraqi people themselves drive the process forward, will be of central importance.