

Iraq: On Whose Behalf?

Human Rights and the Economic Reconstruction Process in Iraq

In the wake of the recent conflict in Iraq, there is a scramble among outside interests to secure contracts to rebuild Iraq's shattered infrastructure and to invest in the reconstruction process. So far the occupying powers in Iraq – the United States of America (USA) and the United Kingdom (UK) – other governments and foreign companies involved in the process have shown insufficient regard to human rights issues. The process itself should be more transparent and should involve more consultation with the Iraqi people.

On 22 May 2003 the UN Security Council adopted resolution 1483, lifting the long-standing sanctions regime and providing an international framework for the reconstruction process. However, the resolution places insufficient independent oversight on the occupying powers and contains inadequate mechanisms of accountability to ensure that the reconstruction process delivers better protection of human rights.

There is an obligation on the international community, and in particular on the USA and UK governments as occupying powers, to ensure that the reconstruction efforts are carried out for the benefit of the Iraqi people. The goal of reconstruction should be to ensure the effective protection and realization of *all* human rights for *all* Iraqis. Iraqis themselves, ideally through representative institutions, ought to make decisions on rebuilding, on foreign investment, and on the selling of state assets.

To ensure the protection of human rights, Iraq will need considerable resources – to reform and reconstruct the justice system, to provide redress for the victims of war and repression, and to provide health care and relief supplies until the country is self-sufficient. The international community should take urgent measures to ensure Iraq receives the resources it needs to feed its people, to provide social benefits to those in need, and to initiate reconstruction.

Amnesty International (AI) is concerned that the dynamics of economic investment in the Iraqi reconstruction process may exacerbate human rights abuses. The extraction of resources, notably oil, in insecure environments has contributed to conflict and human rights abuse in many parts of the world. Experience has shown that the lack of transparency in the awarding of major reconstruction projects often leads to corruption. That, in turn could undermine

efforts to build the rule of law in Iraq, as well as diverting resources that might be used to benefit the Iraqi people. In addition, specific corporate practices – in employment, for example, or in relation to security for their operations – may lead to human rights abuses. The occupying powers, foreign government and companies must do all in their power to avoid such a scenario in Iraq.

The Iraqi people have suffered for decades under a repressive regime. Their situation has been made worse by the years of conflict and sanctions. Many lost their lives in the recent conflict and are at risk of human rights abuses in the insecure environment which has followed it. Iraq has been largely closed to outside economic interests for years. This is now changing, rapidly. Foreign economic actors will play a powerful role in Iraq – there is a pressing need to ensure that this is a force that does not further exacerbate human rights abuses in that country.

With this aim in mind, AI is addressing a number of recommendations to the occupying powers, the UN and also to companies entering or investing in Iraq. These recommendations are limited to the human rights issues emerging from the economic reconstruction process. Other AI documents have been released, or are in preparation, addressing other human rights concerns in Iraq.¹

Security Council resolution 1483

Security Council resolution 1483 (2003) provides the international framework for the reconstruction process. The human rights provisions of the resolution are weak and fail to address adequately a number of key human rights concerns. In particular, the resolution makes no effective provision to ensure that those responsible for war crimes and crimes against humanity in Iraq are brought to justice, nor does it ensure effective human rights monitoring by the UN in the current situation.² There is, nevertheless, a clear basis in the resolution for maintaining that the protection of *all* human rights for *all* Iraqis ought to be a key purpose of the reconstruction process and for insisting that the occupying powers in Iraq must respect and protect human rights.

The resolution obliges the occupying powers to “promote the welfare of the Iraqi people”, and funds for reconstruction are to be disbursed for purposes “benefiting the people of Iraq”. The protection of human rights ought to be a key part of achieving these purposes. Paragraph 5 of the resolution “Calls upon all concerned to comply fully *with their obligations under international law* including in particular the Geneva Conventions of 1949 and the Hague regulations of 1907” (emphasis added). The obligations referred to in this paragraph

¹ See Amnesty International’s *Iraq: Ensuring Justice for Human Rights Abuses*, AI INDEX: MDE 14/080/2003; AI’s *Iraq: Responsibilities of the Occupying Powers*, AI INDEX: MDE 14/089/2003; AI’s 10 point appeal to Occupying Powers, *People Come First*, AI INDEX: MDE 14/093/2003. Also see AI’s *Iraq: Justice and Security*, soon to be released.

² See AI’s *Iraq: Security Council misses opportunity, must focus on human rights now*, AI INDEX: MDE 14/123/2003

are clearly not limited to the treaties cited but include other, though unspecified, international legal obligations. In AI's view, the obligations of the occupying powers under international law include their clear duty to respect, protect and fulfil the human rights of the Iraqi people as long as they continue to exercise effective control over the territory of Iraq. Such obligations arise for two reasons. First, because both the USA and UK are parties to several international human rights treaties, and their obligations under these treaties extend to territory they occupy. Second, the previous Iraqi government signed and ratified a number of human rights treaties that apply to all within Iraqi territory and that remain binding on both a future Iraqi government and any interim authority, including those occupying powers exercising effective control in the country.

In relation to the reconstruction process, resolution 1483 includes some positive aspects. The resolution lifts the UN sanctions on Iraq, an essential first step for economic reconstruction; the sanctions had a very negative impact on the human rights situation in Iraq. It also supports efforts to find a solution to Iraq's enormous external debt. In addition, there are provisions aimed at transparency in the reconstruction process, and at making funds available for this process.

The resolution draws attention to the creation of a Development Fund for Iraq; this Fund is not established by the Security Council, but presumably by the occupying powers, referred to in the resolution as the Authority. All future proceeds from oil sales – and some funds held by the UN from previous oil sales under the oil-for-food program – will be paid into the Fund. The Fund will be “audited by independent public accountants” overseen by an International Advisory and Monitoring Board (IAMB). Like the Fund, the IAMB is not established by the Security Council, but presumably by the Authority. The IAMB will include members from international financial institutions, such as the World Bank and International Monetary Fund, and the UN, and it is required to ensure that disbursements from the Fund are used “in a transparent manner”.

It is worrying, however, that neither the Development Fund nor the IAMB is a proper international body with clear international accountability. Resolution 1483 does make provision in relation to some of their purposes, membership and operations, but neither body need report to the Security Council. Although the UN Secretary-General is required to report on the work of the IAMB, real power – and the accountability of the two agencies – rests with the Authority, that is, with the US and UK governments, whom the resolution merely “... encourages ... to inform the Council at regular intervals of their efforts under this resolution.” According to resolution 1483, the funds held “shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration”. This provision would appear to override existing international law which prohibits occupying powers from selling or transferring the natural resources of the territory they occupy.³

³ Article 55 of the Hague Regulations state that occupying powers “shall be regarded only as administrator[s]” of publicly owned buildings and of natural resources, meaning that they cannot appropriate or dispose of such resources.

AI believes that disbursements under the Development Fund should be prioritized to protect and fulfil the human rights of the Iraqi people. If the UN had effective control and oversight of the Fund, this would have followed naturally from the UN's own purposes under the UN Charter. As the occupying powers control the Fund, they ought to make a commitment to use it in ways that respect, protect and fulfil human rights in Iraq. Although they may control the process, they cannot evade the human rights guarantees that would normally be present were the UN in control.

Similarly, the occupying powers must commit to maximum transparency in the disbursement of funds. It is regrettable that the Development Fund and the IAMB are not properly accountable at the international level, but ultimately subject to the direction of the Authority. Perceptions of corruption or bias in the reconstruction process will do grave damage to efforts to establish the rule of law in Iraq, and thereby undermine efforts to build respect for human rights.

Recommendations to the Occupying Powers, other governments, any future interim Iraqi administration and the UN

Human rights should be at the centre of reconstruction efforts; indeed the protection and realization of all human rights for all Iraqis ought to be the primary purpose of the process. AI urges the occupying powers, any future interim Iraqi administration, other governments with influence, and the UN Special Representative for Iraq⁴ to implement the following recommendations.

- **Make human rights paramount in the reconstruction process**

All parties involved in the reconstruction process should prioritize projects that relate directly to the protection or realization of human rights, concentrating in particular on projects related to enhancing personal security and ensuring access to food, health, education, and housing, and reform of the justice system.

The IAMB should state publicly that it believes that the protection of human rights in Iraq is clearly a purpose "benefiting the people of Iraq" and therefore a proper priority to received financial support from the Development Fund.

The IAMB should further make clear that reconstruction projects must be carried out in a manner that strengthens respect for human rights. Clear guidelines should be adopted to ensure projects financed by the Development Fund do not lead or contribute to human rights abuses.

⁴ Resolution 1483 establishes a UN Special Representative for Iraq and assigns to the post a number of functions related to the reconstruction process, including promoting the protection of human rights.

- **Involve Iraqis in decision-making**

Iraqis have a right to participate in decisions that affect them, and this will include most aspects of the reconstruction process. The active participation of Iraqis in this process is, moreover, an essential condition for its success. This process of participation must be inclusive and non-discriminatory.

The occupying powers should make an explicit commitment to involve Iraqis in decision-making related to reconstruction and should include in reports to the Security Council detailed information on steps they are taking to fulfill this commitment.

- **Involve women in the reconstruction process and protect women's rights**

The particular needs of women must be fully integrated into the process of change. Their full participation is a necessary condition for the successful and peaceful rebuilding of Iraq, and is the best guarantee that the reconstruction process will achieve better protection for women's rights in Iraq.⁵

- **Award contracts in a transparent manner and through open bidding**

Closed or secretive tendering or bidding processes for reconstruction projects may encourage corruption, and undermine the establishment of the rule of law in Iraq. Fair and transparent procedures for the awarding of large infrastructure contracts are always desirable as a matter of good business practice. They are essential when such contracts relate to matters that affect human rights – not least to ensure that the right of Iraqis to participate is not undermined.⁶

⁵This has been called for by the UN Security Council in resolution 1325, which deals with the role of women in conflict and post-conflict situations. The resolution calls for the adoption of a gender perspective that takes into account "(t)he special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction." Similarly the UN Secretary General, in his report on women, peace and security, calls for the incorporation of gender perspectives in rehabilitation and reconstruction programs.

⁶ See, for example, the World Bank's concerns covering international and national competitive bidding, as well as principles governing limited international bidding, in times of urgency and disaster relief. These can be found at <http://www.worldbank.org/html/opr/procure/propage.html>. These include:

- Ensuring that the project is carried out with economy and efficiency;
- Ensuring that the project is necessary for the needs of the people;
- Providing all qualified bidders and equal opportunity to compete for the project;
- Encouraging and developing local businesses, contractors and manufacturers, as appropriate; and,
- Ensuring that the process is transparent.

- **Manage oil revenues in a transparent and accountable manner**

Experience from several countries shows the risk of oil revenues being misused, and how such misuse can impact negatively on the protection of human rights.⁷ Decisions regarding the most appropriate way to exploit Iraq's oil resources should be made with a view to achieving the protection and fulfilment of the rights of the Iraqi people. Iraq's oil revenue must be managed in a transparent and accountable manner for the benefit of the Iraqi people.⁸

Resolution 1483 does put in place some mechanisms of accountability, and includes a commitment to transparency in relation to the disbursement of funds from the sale of oil. Greater transparency and clearer accountability would be achieved if the IAMB's reports and those of the auditors it approves are made public, and if the occupying powers include in reports to the Security Council information on how disbursements made by the Development Fund contribute to the protection and fulfilment of human rights in Iraq.⁹

Recommendations to companies

Foreign companies entering or investing in Iraq will have enormous influence. It is vital that they do not undermine efforts to establish the rule of law and a truly accountable government in Iraq, pursue policies that contribute to human rights abuses, or carry out such abuses themselves. AI is asking companies, therefore, to commit themselves to respect for the following principles if they intend to do business in Iraq.

1. Observe UN human rights rules

Companies should commit themselves to observe the UN's draft Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. The draft Norms pull together a range of existing UN human rights standards relevant to business. Though not yet formally agreed, they provide a very useful benchmark for company practice in relation to human rights.¹⁰

⁷ See, for example, AI's report, *Sudan: The human price of oil*, AI Index: AFR 54/001/2000 ERR which reveals the role played by oil exploration in contributing to a climate of human rights violations in Sudan.

⁸ See *Considerations For the Management Of Oil In Iraq: A Background Briefing* Human Rights Watch, 18 April 2003.

⁹ A governance model exists in Norway, where the State Petroleum Fund, established in 1990, was set up to help "avoid excessive spending of petroleum revenues and promote a gradual transformation of oil wealth into foreign financial assets." While Norway's aim is macroeconomic stability and sustainable returns, and post-conflict Iraq has different immediate priorities, the IAMB can be structured along such transparent lines guaranteeing accountability.

¹⁰ The draft Norms on Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (E/CN.4/Sub.2/2002/13) are being developed at the UN Sub-Commission on the Promotion and Protection of Human Rights, and which are likely to be adopted in the near future. An electronic version can be found at www1.umn.edu/humanrts/links/NormsApril2003.html

Companies should make clear to all their managers and employees working in Iraq that they must respect fundamental human rights, as set out in the draft Norms, within the firm's operations and in relation to surrounding communities and broader Iraqi society.

In particular AI calls on companies to take steps to avoid the following abuses in accordance with the draft Norms.

- **Arbitrary displacement**

Large infrastructure projects often lead to the displacement of people. The reconstruction of Iraq will involve such large projects. Companies should refuse to participate in projects where such displacement is forced and arbitrary, (for example where clear rules are not in place allowing the views of those affected to be heard), where it is discriminatory, or where there is no provision for adequate compensation.

- **Discrimination in employment**

Iraq is made up of diverse religious and ethnic groups which have faced discriminatory practices under the former government. Women too have faced discrimination in law and practice. In their employment practices, companies must not discriminate on any grounds, including religion, ethnic origin, race, or gender.

- **Acquiring arbitrarily expropriated property**

Companies must, as far as possible, ensure that they do not exacerbate past abuses by purchasing or occupying property that was unlawfully or arbitrarily expropriated in the past.

2. Observe internationally recognized security norms

In their security arrangements, and in particular in employment of security personnel (for example, to guard their installations), companies should ensure adherence to the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹¹

Mining and oil companies should follow the Voluntary Principles for Security and Human Rights, developed by the US and UK governments, in conjunction with several companies.¹²

¹¹ See the UN Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These specify that security personnel must respect the fundamental rights of individuals, and may use force only when strictly necessary and only to an extent proportional to the threat. See http://www.unhchr.ch/html/menu3/b/h_comp42.htm and http://www.unhchr.ch/html/menu3/b/h_comp43.htm

¹² See the Voluntary Principles for Security and Human Rights, available at http://www.state.gov/www/global/human_rights/001220_fsdr principles.html. The principles apply to companies in the extractive sector from the USA, the UK, the Netherlands and Norway. These principles require investigation of allegations of human rights abuses, greater dialogue with local communities, and standards for the use of private security firms. While the principles are not legally binding, they provide a basis for monitoring corporate action, and some companies have incorporated

Companies should make their security arrangements consistent with human rights standards, including by ensuring that security personnel are properly trained and, where feasible, make these arrangements publicly available.

Companies should avoid appointing suspected perpetrators of human rights abuses to posts related to the security of their operations.

3. Consult local communities and solicit women's views

Companies must consult with the local community where they operate and others affected by their operations or investments. Such consultations should ensure that the views of women are heard, as well as those of marginalized communities or groups facing discrimination.¹³

4. Provide essential services in a non-discriminatory manner

Where companies take over the provision of essential services (for example, in relation to health, education, or access to water) whether through a formal privatization process, or because of the temporary inability of the state to meet its obligations, they must accept the obligation to ensure provision of such services on a non-discriminatory basis. In any privatisation process involving essential services, provision must be made so that the poor have access to such services.

5. Do not profiteer

There should be no profiteering from war-time scarcities. Essential products or services should be priced in a manner that takes into account the exceptional circumstances surrounding civilians in a post-conflict environment.

6. Respect the environment

Environmental damage and pollution can have a serious impact on human rights (including rights to life and health). Companies should carry out their activities in accordance with international environmental and public health standards, and provide full and public information on the environmental impact of their operations.

7. Do not perpetuate social divisions

Companies involved in the provision of relief goods, or goods indispensable to the survival of civilians, such as food, water, basic health care or shelter, must ensure that in providing these

the principles in their investment agreements, giving them quasi-legal authority. While the principles apply to companies that have endorsed the principles and are from the four countries named, nothing prevents other companies from these or other countries from accepting them and AI encourages such companies to do so. A number of non-governmental organizations, including AI, participated in the process leading to the adoption of the principles.

¹³ For a detailed explanation on gender-sensitive consultation and development, see *Learning and Information Pack* produced by the Gender in Development Program of the UN Development Program, Vol. 1 (October 2001) offers the overview, and Vol. 2 (January 2001) offers gender analysis tools.

services they do not contribute to the perpetuation of social divisions, long-standing animosities or entrench inequalities.¹⁴

8. Do not offer bribes or encourage corruption

Corruption undermines the rule of law and hampers the establishment of an accountable government. Companies should therefore commit to countering bribery, and to making a positive contribution to improving standards of integrity, transparency and accountability in business.

In their operations in Iraq, companies must make clear to their staff that they prohibit bribery in any form, whether direct or indirect. The company must not allow direct or indirect contributions to political parties, organizations or individuals engaged in politics to be used as a way of obtaining advantage in business transactions.

9. Be transparent

Companies should operate in a transparent manner, revealing any financial or other resources they provide to the government or authorities in Iraq, including in particular revenue-sharing and royalty payments arising from oil exploration or production contracts.¹⁵

10. Support the rule of law and the establishment of a fair justice system

Companies should support the establishment of a fair and effective justice system in line with international human rights standards in Iraq as soon as practicable. The building of such a system is essential to the long-term protection of human rights in Iraq. In the absence of such a system companies will face uncertainties regarding the legality and security of their investments.

Iraq has suffered widespread and serious human rights violations for many years. No society could hope to rebuild itself without addressing such abuses and ensuring justice for the victims. It is in the interest of companies to make clear their support for the early establishment of a UN commission of experts that would, in close contact with Iraqi civil society, make recommendations for a fair, independent and effective means of ensuring accountability for past human rights abuses in Iraq.¹⁶

¹⁴ See Mary Anderson, *Do No Harm: How Aid can Support Peace – or War*, Lynne Rienner Publishers, USA, 1999.

¹⁵ The *Publish What You Pay* (www.publishwhatyoupay.org) campaign, launched by international non-governmental organizations, asks oil companies to make public the revenues they are providing to host governments, through royalty payments, production sharing agreements, taxes, or other means. The campaign has been endorsed, and expanded, by an initiative from the UK government, called the Extractive Industries Transparency Initiative. Several companies and industry associations have supported that initiative, though with qualifications, such as including host governments, and requiring host governments to be transparent about how they spend these revenues. Please see http://www.dfid.gov.uk/News/News/files/eiti_core_script.htm.

¹⁶ For further details see AI's *Iraq: Justice not impunity*, AI Index: MDE 14/007/2003.

11. Support the deployment of human rights monitors

As a means of ensuring that human rights are respected throughout Iraq, companies should support the rapid deployment of UN human rights monitors.¹⁷

Background

The recommendations made above are based on AI's past experience of monitoring human rights abuses in Iraq and on its assessment of the current human rights situation in that country. The recommendations draw additionally on experience in other countries in relation to the links between oil extraction, corruption and human rights abuses, and on AI's work examining the responsibilities of companies for human rights abuses. The following sections provide some of this background, and also describe some of the context for the reconstruction process.

1. Legacy of past human rights abuses in Iraq

The history of human rights abuses in Iraq provides an essential reference point for foreign companies entering the country. Over the years, AI's reports have noted widespread violations of human rights in Iraq. Tens of thousands of people "disappeared", and only now are bodies being found in mass graves. Thousands of people were executed for their opposition to the regime. Thousands of others were detained and imprisoned after unfair trials. Torture and ill-treatment of political prisoners and detainees has been systematic.

In 2001, the UN Commission on Human Rights adopted a resolution strongly condemning "the systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror."¹⁸

Political, ethnic and religious persecution

Within Iraq there are ethnic, religious, and cultural differences, which, according to a recent report, could become "fault-lines".¹⁹

Between 75 per cent and 80 per cent of Iraq's population of 25 million people are ethnic Arabs. Kurds make up some 15-20 per cent of the population. The remaining five percent are from Turkmen, Assyrian or other ethnic groups. Approximately 97 per cent of Iraqis are Muslims of whom, some 60-65 per cent are Shi'a; the rest are Sunni. The Kurdish population lives mainly in the north of the country, while the Shi'a population lives largely in Baghdad and the south.

¹⁷ See AI's *Iraq: The need to deploy human rights monitors*, AI Index MDE 14/012/2003; *Iraq: People come first – protect human rights during the current unrest first*, Amnesty International's 10-point appeal, AI Index: MDE 14/093/2003.

¹⁸ See Resolution L.19, The Situation of Human Rights in Iraq, passed by the UN Commission on Human Rights, 18 April 2001.

¹⁹ See *What Lies Beneath*, the International Crisis Group, Brussels, October 2002.

Under the Ba'athist government widespread human rights violations were committed against the Kurd and Shi'a Muslim communities. Shi'a Muslims, including Feily Kurds, were targeted for forcible expulsion to Iran and "disappearances" after the start of the Iran-Iraq war (1980-1988). In the 1980s the Iraqi authorities expelled tens of thousands of Iraqi families, whom they considered to be of Iranian descent, to Iran and confiscated their properties. Confiscation of property or house destruction has also been used as a punishment against political opponents.

Over a 100,000 Kurds "disappeared" in 1988 (in Operation Anfal) and 5,000 civilians were killed when chemical weapons were used in an attack on the Kurdish town of Halabja. In 1991, after the Gulf War (Operation Desert Storm) ended, Shi'a Muslims and Kurds were the victims of killings and "disappearances" as the government put down the uprisings in northern and southern Iraq. Following these uprisings, hundreds, probably thousands, of people "disappeared" or were extrajudicially executed.²⁰

Forced displacements and 'Arabization'

Since mid-1997 many non-Arab people, including Kurds, Turkmen and Assyrians, have been forcibly expelled from Khanaqin and the oil-rich Kirkuk region. They were sent to the Kurdish provinces in the north controlled by the two Kurdish groups, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), and replaced by Arab families from southern Iraq. In the expulsion process property, ration cards provided under the UN oil-for-food program, and membership cards to government agencies were confiscated. The majority of those expelled were resettled in camps. The policy of forcible expulsion continued until the onset of the US-led military action against Iraq in March 2003. As of May 1999 at least 15,000 families comprising at least 91,000 people had reportedly been deported to the northern provinces. Today, this number may well have exceeded 100,000 people.

This policy of "Arabization" has also included discriminatory measures, such as mechanisms and policies that effectively forced people to use Arab names or to misrepresent their ethnic identity in official documents.

Marsh Arabs in the south have had to relocate frequently and often forcibly, as their plains were drained in order to divert resources to the regions favourably disposed towards the former President, Saddam Hussein.

The issue of mass movement of people is far from over. In the aftermath of the recent war, the International Organization for Migration (IOM) in an initial assessment based on findings

²⁰ See AI reports, *Iraq: "Disappearances": unresolved cases since the early 1980s*, AI Index: MDE 14/005/1997; *Iraq: Human rights violations since the uprising, a summary of Amnesty International's concerns*, AI Index: MDE 14/005/1991; *Iraq: Victims of systematic repression*, AI Index: MDE 14/010/1999.

from some of its partner non-governmental organizations (NGOs), reported on 13 May 2003 that at least 280,000 people had been internally displaced; some were living in abandoned public buildings, others were living with host families, in tents or even in the open.

Human rights violations against women

Women have for many years been subjected to serious human rights violations including torture and extrajudicial execution. Methods of torture included beatings on the soles of the feet and rape. In one well-documented case the rape of a woman was videotaped and sent to a relative abroad in order to put pressure on him to cease all anti-government activities. In October 2002 dozens of women suspected of prostitution were beheaded without any judicial process in Baghdad and other cities. Members of the paramilitary group *Feda'iyye Saddam* used swords to carry out the executions in public. Some women were also beheaded for political reasons.

During the 1980s, and particularly as a result of Operation *Anfal* of 1988 against the Kurdish population in northern Iraq, tens of thousands of Kurdish women were left widowed or without any male relative in a male-dominated society. Many others had suffered the loss of a husband, son or brother during the Iran-Iraq war or as a result of political persecution by the authorities.

Over many years economic difficulties, including a decrease in available employment, changed the roles of women in Iraq. Many who had previously worked outside the home have taken on an increasingly domestic role, or menial jobs that do not use their skills and education. Some reports indicate a large increase in the number of women in prostitution, during this period. Women and children have formed the majority of refugees and the internally displaced. Such changes and the breakdown of many local support networks and initiatives left many women isolated and vulnerable to violence, including domestic violence. Rising divorce rates and the effect of wars have led to an increase in the number of female-headed households.

Women have also been the victims of family killings, known as “honour” killings. The UN Special Rapporteur on violence against women reported in 2002 that more than 4,000 women had been victims of such killings in Iraq, since 1991.²¹

This legacy of abuse will be a major factor in post-conflict Iraq. There is an urgent need to address past violations, investigate and bring to justice those found responsible for committing crimes against humanity, genocide and war crimes, and provide compensation and restitution to victims.²²

²¹ *Integration of the human rights of women and the gender perspective, Violence against women*, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49 (E/CN.4/2002/83), 31 January 2002.

²² See AI's *Iraq: Ensuring Justice for Human Rights Abuses*, AI Index: MDE 14/080/2003.

In the current post-conflict situation in Iraq there is concern that women are not being consulted or taking part fully in the debate on the future of their country.

Economic and social rights – discrimination and the impact of sanctions

Contributing to this legacy of abuse of civil and political rights, Iraqis have also suffered violations of their economic, social and cultural rights. In 1997, the official UN body monitoring these rights noted its concern at discriminatory measures in relation to these rights particularly in regard to women, Kurds and the Marsh Arabs, and expressed concern too about the prohibition on independent trade unions, the use of child labour, and forced evictions, including of squatters. It also expressed concern over "... the non-availability of food, medicines and safe drinking water in many rural areas, and the increasing illiteracy rate and the right to primary education in general terms."²³ The Committee for Economic and Social Rights, like many other observers, also noted the negative impact of UN sanctions on the enjoyment of economic, social and cultural rights. In 2002, citing the "disastrous situation" caused by the embargo on Iraqi population over the last 12 years, the UN Sub-Commission on the Promotion and Protection of Human Rights decided that the embargo should be lifted "even if the objectives of the measures have not yet been attained."²⁴

According to the Office of the High Commissioner of Human Rights,²⁵ the impact of sanctions included an increase in maternal mortality between 1989 and 1997 from 50 to 117 deaths for every 100,000 live births. Between 1990 and 1995 infant mortality rose from 64 to 129 for every 1,000 births.²⁶ In addition hospitals and healthcare institutions were without maintenance; there were widespread shortages of water; communicable diseases had returned; adult and female literacy figures had regressed to mid-1980 levels; and primary school enrolment had fallen.

But the Office of the High Commissioner also noted other factors which contributed to Iraq's inability to meet its obligations. These included the Iran-Iraq war; the invasion of Kuwait; Iraqi dependence on the export of oil; delay by the Iraqi government in accepting the oil-for-food program;²⁷ the failure of the government to make full use of what was permissible under

²³ The Committee for Economic and Social Rights specifically pointed out Iraq's poor performance in eliminating discrimination against women in general and specifically regarding education. The Committee also expressed its displeasure over Iraq's performance regarding preserving cultural monuments and providing access to minority languages in radio broadcasts. See the report of the 17th session of the Committee on Economic, Social and Cultural Rights, November to December 1997.

²⁴ See E/CN.4/Sub.2/Dec/2002/109, Commission on Human Rights, Economic and Social Council, the United Nations. Also see Decision 2000/112, regarding the "Humanitarian situation of the Iraqi population," passed on 18 August 2000 at the Sub-Commission on Human Rights.

²⁵ See: Report of the Second Panel established pursuant to the note by the President of the Security Council of 30 January 1999 (S/1999/100), concerning the current humanitarian situation in Iraq (S/1999/356, Annexe II).

²⁶ See: "Iraq Child and Maternal Mortality Surveys", UNICEF, 1999.

²⁷ Under that program, due to end in November, 72 per cent of Iraqi oil export proceeds must fund the humanitarian program. Of this amount, 59 per cent is designated for the contracting and supplies of

the program; inefficiency in distributing medical supplies; and denial of access to impartial observers to monitor the situation in Iraq. The UN Special Rapporteur on the human rights situation in Iraq has similarly drawn attention to the Iraqi government's responsibility for violations of economic and social rights arising as a result of the sanctions regime.²⁸

Iraq has ratified seven of the eight core conventions of the International Labour Organisation. The one it has not ratified is Convention 87, regarding freedom of association and protection of the right to organize. Both the International Confederation of Free Trade Unions (ICFTU)²⁹ and the ILO were critical of the previous government's trade union and employment practices.³⁰

2. Post-conflict human rights issues

During the recent conflict hundreds of civilians were killed. Some were victims of cluster bombs, others were killed in attacks in disputed circumstances. Unexploded bomblets from cluster bombs used during the conflict continue to pose a threat to civilians, especially to children. Iraqi forces used unlawful tactics that endangered civilians. These reportedly included the citing of military forces and weaponry in close proximity to civilians and the wearing of civilian clothing by combatants in order to launch surprise attacks.

equipment by the government for 15 central and southern governorates. The remaining 13 per cent is designated for three northern governorates. The balance of funds is designated as follows: 25 per cent for the Compensation Fund for war reparation payments (the UN Compensation Commission); 2.2 per cent for UN administrative and operational costs of the program; and 0.8 per cent for the weapons inspection program.

²⁸ The former Special Rapporteur on the human rights situation in Iraq, established by the Commission on Human Rights, has stressed that if the government of Iraq had not waited five years before accepting the oil-for-food agreement, millions "of innocent people would have avoided serious and prolonged suffering." He further reported that, while the it had failed to use its existing resources well or to cooperate fully to take advantage of other available resources, the government of Iraq had used some resources to enrich itself. The Special Rapporteur also reported that the Iraqi government had ignored the recommendations of both the UN Office of the Iraq Program and UNICEF to give priority to child nutrition and maternal health programs. It had been slow to distribute medicines and medical supplies to warehouses and its system of distribution of foodstuffs and medicaments was allegedly susceptible to manipulation against opponents.

²⁹ A 1987 law establishes the General Federation of Trade Unions (GFTU) as the sole trade union organization. It was closely linked to the Ba'ath Party and was used to promote party policy among workers. The ICFTU has stated "Public sector workers and workers in state enterprises cannot form or join trade unions or bargain collectively. The state sets their wages. There is no collective bargaining in the private sector. The law does not protect workers against anti-union discrimination. Striking can be punished by imprisonment including compulsory prison labour. There are no reports of strikes taking place. In September 2002 it was reported that hundreds of members of the Iraqi Union of Journalists were fired because they had not praised Saddam Hussein and his regime as much or as frequently as they should have done."

³⁰ The ICFTU has, in particular, noted the restrictions Iraq imposes on employees wishing to leave service. Some can be punished with imprisonment.

Although large scale fighting appears to have ended in Iraq, the immediate “post-conflict” phase remains turbulent. There has been a general break-down of security, widespread looting of public and private buildings, high crime rates and sporadic clashes between armed individuals and US/UK forces. Security remains the main issue of concern for the Iraqi population because of the lack of appropriate policing and the wide availability of weapons

Since 23 April, AI has conducted field research in Basra and the surrounding areas, Nassiriya, al-’Amara and Baghdad. In Basra, testimonies were collected from Iraqi former detainees alleging that they had been tortured or ill-treated by British soldiers³¹. In some cases the use of excessive force has led to the killing of unarmed individuals including young boys. One issue of major concern is the targeting of former Ba’ath Party members or anyone associated with the previous government. These “revenge killings” have been reported throughout Iraq and hundreds are said to have taken place in the Shi’a dominated district of al-Sadr City (formerly Saddam City) of Baghdad.

In northern Iraq, particularly in the cities of Mosul and Kirkuk, clashes have been reported between the Kurdish, Arab and Turkmen ethnic groups. Arab families in some surrounding villages were said to have been forcibly removed from their homes in retaliation for the policy of forcible expulsion of Kurds and other non-Arabs by the previous government. Women have been targeted for serious violations, including kidnapping, murder and rape. The perpetrators are believed to be members of criminal gangs. However, threats and intimidation against women by radical Islamist groups have also been reported.

The transition to peace will not be simple or swift, as the international community has learned through experiences in the former Yugoslavia, East Timor and Afghanistan, to name just a few.³² Political, ethnic and religious disputes are already apparent, and it will take time to establish the institutions and laws in which these can be peacefully mediated.

Some foreign companies may be tempted to take advantage of the current, unstable situation, before the setting up of a representative Iraqi government that is able to establish and maintain the rule of law. Others will be left trying to resolve numerous difficult situations in the absence of a clear national legal framework. If there is internal resentment against the US and UK presence in Iraq, companies associated with these occupying powers might well find themselves targets of attack. In an unstable or “lawless” environment or where conflict persists, companies will take steps to ensure the safety of their personnel and the security of their installations, goods and other property. In similar situations in other countries, security

³¹ AI has submitted these allegations to the UK authorities, who have indicated they will investigate them.

³² Frederick D. Barton and Bathsheba N. Crocker, *A Wiser Peace: An Action Strategy for a Post-Conflict Iraq*, “Winning peace is harder than fighting a war”, the Center for Strategic and International Studies, Washington DC, January 2003.

forces guarding companies have sometimes resorted to using arms in a disproportionate manner, for example against peaceful demonstrators.

Justice – accounting for past human rights abuses

Another issue that will arise quickly is the need to deal with the past, grim record of human rights abuse in Iraq. Ensuring accountability for these abuses, that may amount in many cases to crimes against humanity, war crimes or genocide, is essential if future abuses are to be prevented. Companies may have to confront this issue, as they could, intentionally or not, end up employing or contracting people associated with the previous government who are implicated in such crimes. Companies too, therefore, have a strong interest in seeing the early establishment of a satisfactory means of identifying, investigating and bringing to justice the individuals and groups who may have acted with impunity in the past.

A large majority of companies say they have an interest in stability, peace and the rule of law. They ought to do everything they can to ensure their investments in a post-conflict environment promote these ends. Research from multilateral development banks shows that foreign and domestic investment can boost confidence in an economy and assist in the intricate reconstruction process, but only if the investment responds to local needs.³³ Adhering to international standards for the protection of human rights is a necessary condition in this regard.

3. Resource extraction and human rights abuses

Recent research at the World Bank³⁴ and elsewhere demonstrates that there is a strong link between natural resources and conflict. The World Bank study found that countries with economies heavily dependent on primary commodity exports are at a greater risk of war than countries that are not. This is especially the case when countries lack transparent, legitimate, and capable institutions to regulate the large amounts of revenue flows generated in a short time by states or corporations. Under such conditions state officials, politicians, and military personnel have unusually high incentives and opportunities to control revenues for personal profit or to translate them into political and military gain, and low incentives to channel revenues towards sustainable and equitable development. This kind of corruption, of course, directly undermines the rule of law.

³³ See J-P. Azam, D. Bevan, P. Collier, S. Dercon, J. Gunning, and S. Pradhan, *Some Economic Consequences of Transition from Civil War to Peace*, World Bank, 1994. Also see subsequent research from the World Bank's Development Research Group, notably the work of Paul Collier.

³⁴ See Paul Collier, *Breaking the Conflict Trap: Civil War and Development Policy*, World Bank, June 2003. The full text is accessible at <http://econ.worldbank.org/pr/CivilWarPRR/text-26671/>. There is more material available at <http://lnweb18.worldbank.org/essd/essd.nsf/CPR/Resources-All> in The Conflict Prevention and Reconstruction Unit of the World Bank. Also see Paul Collier and Anke Hoefler, *Greed and Grievance in Civil Wars*, World Bank's Development Research Group. The revised version of the paper is available at the following website: http://www.worldbank.org/research/conflict/papers/greedgrievance_23oct.pdf.

Reports, surveys and academic research suggest numerous problems related to the extractive industries: the extraction of the resource can result in armed conflict over issues related to control of the resource; communities are often not consulted and face enormous problems as a result of social and environmental impacts; human rights abuses arise from the means used by the company to secure its assets and personnel. The extractive sector may, intentionally or not, finance armed conflict, benefit from such conflict, be targeted, or be a supplier to those who wage or benefit from conflict.³⁵

4. Iraqi dependence on oil – cash-cow or curse?

The Iraqi economy is overwhelmingly dependent on oil.³⁶ In 1989, the last full year prior to Iraq's invasion of Kuwait, Iraqi oil revenues totalled US\$14.5 billion and constituted 99 per cent of export earnings. The UN sanctions on Iraq changed this dynamic, and in 1996, oil exports (US\$269 million) accounted for only a third of Iraq's exports of US\$950 million. By 2001, with the effect of the oil-for-food program in full swing, oil exports once again dominated Iraqi exports, accounting for US\$15.14 billion out of total exports of US\$15.94 billion, revealing a decline in the export earning potential of other industries.³⁷

Iraq's oil reserves have already contributed to human rights abuses. The former Iraqi President, Saddam Hussein, controlled the industry and allocated and distributed the proceeds. As the state sector was dominant in Iraq's economy, the President was in a position to garner a broad base of support for his government. By the early 1980s, a quarter of all those employed in Iraq worked for the state bureaucracy, and a new class of entrepreneurs, contractors and managers of state-owned enterprises reaped much of the benefits from Iraq's oil wealth. This alternate power centre helped the President consolidate his rule, which was increasingly arbitrary and repressive.

Iraq's proven oil reserves are about 112 billion barrels, giving it the world's second largest known reservoir of oil. Before Iraq's invasion of Kuwait in 1990, Iraq produced about 3 million barrels of oil daily, of which it exported 2.8 million barrels through pipelines via Turkey to the Mediterranean and via Saudi Arabia to the Red Sea.³⁸ Production then declined because of the damage caused during Operation Desert Storm and the sanctions that followed. The sanctions prohibited export of Iraqi oil, until April 1995 when the UN Security Council passed resolution 986 which permitted limited exports of Iraqi crude to finance humanitarian aid and war reparations, the so-called oil-for-food program. Sanctions have now been lifted, and oil exports will resume free of any constraints; the oil-for-food program will end in November 2003.

³⁵ For a detailed discussion, see Jason Switzer, *Armed Conflict and Natural Resources: The Case of the Minerals Sector*, the International Institute for Sustainable Development (IISD), August 2001.

³⁶ States that depend on natural resources are considered particularly vulnerable to conflict because for their survival they do not need to create strong institutions through taxation. See Macartan Humphreys, *Economics and Violent Conflict*, Harvard University, February 2003.

³⁷ World Bank's fact-sheet on Iraq. Available at www.worldbank.org.

³⁸ See Edward D. Porter, *U.S. Energy policy, economic sanctions, and world oil supply*, the American Petroleum Institute, June 2001.

Iraq's oil potential is enormous. Of its 74 discovered and evaluated oil fields, only 15 have been developed, according to oil industry analysts. Iraq's western desert is considered to be highly prospective but has yet to be explored. However, the perception that Iraq's oil wealth will be enough in the short term to cover its post-conflict needs is misplaced. Even developed and operational oil fields will need a good deal of investment and repair before full production can resume. It may take Iraq between 18 months and three years to return to its pre-1990 production level of 3.5 million barrels per day. It will cost an estimated US\$5 billion to repair and restore previously used facilities, in addition to an estimated US\$3 billion in annual operating expenses.³⁹

5. Oil-for-good? The Development Fund

Iraq is fortunate to have the possibility to build a self-sustaining economy. Though it will need assistance in the short term, the country's proven oil reserves give it the chance to return quickly to the ranks of middle-income countries. Security Council Resolution 1483 provides that oil revenues (as well as money held by the UN in the oil-for-food program) should be paid into a Development Fund, and that this fund should be used to pay for reconstruction. The resolution sets down a number of worthwhile objectives for the fund, including to

“... meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the Iraqi people.”

As indicated above, there are a number of reasons for asserting that such purposes also include the protection and fulfilment of the human rights of the Iraqi people. Indeed, the reconstruction process – and therefore disbursements from the Fund – should prioritize projects that relate directly to the protection or realization of human rights.

The Development Fund will be overseen by an International Advisory and Monitoring Board (IAMB), which will include representatives of the international financial institutions and the UN. The IAMB should state publicly that it believes that the protection of human rights in Iraq is clearly a purpose “benefiting the people of Iraq” and therefore a proper priority consideration for disbursements under the Development Fund.

The IAMB should further make clear that reconstruction projects must be carried out in a manner that strengthens respect for human rights. Clear guidelines should be adopted to ensure projects financed by the Fund do not lead or contribute to human rights abuses. Resolution 1483 provides that the Development Fund should operate in a transparent manner. As noted earlier, transparent and accountable management of oil revenues is relatively rare,

³⁹ For a detailed description of Iraq's oil potential, see *Iraq: The Day After*, the report of an Independent Task Force on Post-Conflict Iraq sponsored by the Council on Foreign Relations, New York.

and it will be crucial in the Iraqi context to avoid corruption and for the credibility of any transitional administration and future Iraqi government.

It is unclear at this point whether the Iraqi managers of the Iraqi National Oil Co. will have sufficient autonomy to manage the country's oil production. The occupying powers – including the USA, the world's leading oil importer – are going to have considerable influence over Iraq's oil industry, even if day-to-day operations remain with the Iraqi National Oil Co. Irrespective of who manages oil production and revenues, from the perspective of human rights, transparency in the administration of Iraq's resources remains a matter of paramount concern. Whatever solution is found to the management of oil production and revenues, AI believes that it is essential that all efforts be made to ensure that such management is in accordance with the highest possible standards of transparency and rigorous accounting. Revenues from oil should be used for the public good, and efforts must be made to guard against their diversion for improper uses.

6. Reconstruction contracts

In recent weeks the US Agency for International Development (USAID) awarded contracts to US consortia for projects worth US\$1.7 billion. The projects range from building schools and roads, to managing the oil sector and advising the Iraqi central bank. Energy industry analysts are openly speculating that some oil companies would like the occupying powers to tear up existing contracts between Iraq and other companies so that they can explore in one of the world's largest oil reservoirs.⁴⁰ The process of awarding initial contracts has been criticized as arbitrary, and there is no guarantee that due process will be followed in awarding oil concessions.

Disbursements from the Development Fund are controlled by the occupying powers, and Resolution 1483 directs that the needs of Iraqi people ought to guide such decisions. There is no provision made, however, to allow a complaint mechanism or some such procedure so that Iraqis might contest particular projects or how contracts are awarded. The former head of the US-affiliate of the Anglo-Dutch Shell Group has been appointed to run the Iraqi National Oil Co.,⁴¹ with an advisory board made up of Iraqis and foreigner nationals, assisting him. A senior Iraqi professional has been named as the equivalent of a chief executive officer.

Since the announcement of the USAID contracts, companies from the UK have lobbied their government to represent their business interests. In late May, Bechtel Corporation, a US company which won the main reconstruction contract, organized meetings in the USA, the UK and the Middle East with potential subcontracting bidders from a number of countries.

⁴⁰ The former government of Saddam Hussein had existing contracts and memoranda of understanding regarding exploration of oil in Iraq with companies from France, the Russian Federation, the People's Republic of China, the Republic of Korea, Malaysia, Canada, Viet Nam, India, Indonesia, Algeria, and Tunisia. In addition, companies from Italy, Spain, Australia, Turkey, the UK and the Netherlands held preliminary discussions with the former Iraqi government.

⁴¹ *The Wall Street Journal*, 25 April 2003.

Given the devastation in Iraq – as a result of war, as well as the lack of investment owing to sanctions – there is much work to be done to rebuild the country. The US government has drawn up an agenda that includes ambitious targets to be achieved within a year of the war's end. In addition to large infrastructure projects, such as opening ports, building roads and power plants, other targets include ensuring 100 per cent school enrollment, providing maternity care to all who need it, ensuring hospital care in all 21 major cities, and building 20,000 homes.⁴² These projects, of course, impact directly on the economic and social rights of the Iraqi people.

The USAID has awarded its initial contracts. The US Defence Department has set up the Office of Reconstruction and Humanitarian Assistance, and initial contracts awarded include projects to cover local government,⁴³ health care,⁴⁴ economy,⁴⁵ oil facilities,⁴⁶ education,⁴⁷ shipping,⁴⁸ food⁴⁹ and logistical support.⁵⁰

⁴² The full list of targets is to open the port of Umm Qasr; repair and reopen all major roads; rebuild 10 power plants; restore electricity to 75 per cent of pre-1991 levels, with repairs to 15 per cent of the high-voltage electricity grid and the supply of 550 emergency generators within two months; restore commercial air links; referral hospitals to be functioning in 21 major cities; maternity care available to 100 per cent of Iraq's population; 100 per cent school enrolment; 25,000 functioning schools; school supplies distributed to 4.2 million children; fully-operative central bank and ministry of finance; establish a legal framework "hospitable to private business"; and rebuild 20,000 houses. **Bechtel Inc.** has been selected by USAID through its Iraq Infrastructure Reconstruction Program to participate in the design, rehabilitation, upgrading, reconstruction, and construction of Iraq's infrastructure, initially including: one seaport, five airports, miscellaneous electric power systems, road networks, rail systems, municipal water and sanitation services, school and health facilities, select government buildings, and irrigation systems. Information about Bechtel's contracting process can be found at <http://www.bechtel.com/iraq.html>.

⁴³ The **Research Triangle Institute** has secured a one-year contract worth US\$7.9 million to help restore local governments in Iraq. The Institute is an independent, non-profit making organization which will create programs to educate local officials on specifics of managing water supplies, health care, and public sanitation. Bechtel, under the infrastructure contract, will lead repairs for government buildings, at a cost yet to be determined.

⁴⁴ The USAID has awarded a one-year grant worth US\$10 million to the **World Health Organization** (WHO) to strengthen the overall health system in Iraq. This grant will build upon the WHO's efforts in the country. A separate USAID contract designed to restore public-health services has yet to be costed or awarded. The International Committee of the Red Cross, as well as the Spanish and Jordanian government, have contributed medical supplies recently. Bechtel, operating under the infrastructure contract, will be involved in repairing and rebuilding hospitals.

⁴⁵ The *Wall Street Journal* reported on 2 May 2003 that the US administration's draft plans include tax reform and privatization. "Execution of the plan will fall largely to private American contractors working with a smaller team of U.S. officials," the newspaper said. Consultancy fees could add up to US\$70 million. The USAID plans to award part of the work to **BearingPoint**, a firm formerly known as KPMG Consulting. Other likely bidders for similar projects include **Booz Allen Hamilton**, **Deloitte Touche Tohmatsu** and **PriceWaterhouseCoopers**, a unit of the **IBM group**.

⁴⁶ **Kellogg Brown & Root**, a subsidiary of the **Halliburton Group** holds a pre-war contract to fight oil-well fires in Iraq. It could be worth US\$7 billion, but only a small fraction – US\$50 million – has

Concern has been expressed that the competition for the contract to rebuild the infrastructure was restricted to a few U.S. companies⁵¹ (some of which have secured contracts, others may

been spent, because US and UK forces seized oil wells before they could be set on fire. A new contract, to restore and rebuild the oil infrastructure is likely to attract bids from Halliburton, Fluor and Bechtel corporations.

⁴⁷ A one-year contract worth US\$62 million to rehabilitate Iraqi schools was awarded to **Creative Associates International**, a small, privately held company. Creative Associates, which has done similar projects over the last 25 years, will work with the new Iraqi government to plan new coursework and request appropriate textbooks. In addition, the country needs at least 5,000 new primary schools, while 8,000 existing ones need substantial rehabilitation, according to UNICEF. Building them, at a cost yet to be determined, will probably be handled by Bechtel, winner of the overall infrastructure contract.

⁴⁸ A US\$4.8-million contract to operate the southern port of Umm Qasr for a year has gone to **Stevedoring Services of America**, a terminal operator from Seattle. The port will be dredged and upgraded by Bechtel under its infrastructure contract. A separate contract to assess the nation's airports and return them to service has yet to be awarded. No cost estimate has been made.

⁴⁹ In recent years, Australian farmers working through a UN food-for-oil program sold wheat worth US\$500 million annually to Iraq. Resumption of US grain shipments to Iraq would benefit grain exporters such as **Cargill** and **Archer-Daniels-Midland** which sell crops to the UN food program and the USAID's food aid program.

⁵⁰ **International Resources Group**, a privately-held government contractor will operate a 90-day contract worth US\$7 million to help USAID plan and manage reconstruction. A contract for logistical support, to arrange warehousing, customs clearance, routing, trucking and provision of bottled water, has yet to be priced and awarded.

⁵¹ These companies, some of which have secured contracts, and some of which are considered likely to secure contracts in future, include:

- **Bechtel Inc.** an international engineering and construction firm. It is one of the largest infrastructure development companies in the world. Its past performance includes extinguishing Kuwait's burning oil wells. The firm has some 47,000 employees. Its 2001 revenue was about US\$13 billion. Bechtel board member George Shultz has been a Secretary of State during Republican administrations.
Bechtel, as noted above, has won the lead contract from USAID. It has already awarded its first sub-contract, to Al-Bunnia Trading Company, a 93-year-old Baghdad-based Iraqi construction firm, which will work with Bechtel supervisors to provide field engineering services and construct the bypass on Highway 10 near the war-damaged Al Mat Bridge which is located about 300 km west of Baghdad and 180 km from the Jordanian border.
Some of its projects have been controversial. Bechtel was the lead developer in a privatisation contract in Cochabamba (pop.800,000), Bolivia, where its subsidiary privatised the water supply and subsequently raised prices. The resulting unrest in what was called *la Guerra del agua* (the water war) turned violent (one protestor died), and the Bolivian authorities were forced to cancel the contract. Bechtel and the partners in the consortium are now suing the Bolivian authorities for non-performance of contract, asking for at least \$25 million as compensation.
- **Fluor Corp.** is a construction and engineering firm that specializes in power plants and the oil and gas industry. Its 2002 revenues were US\$9.96 billion, and it has 21,140 employees.
- **Parsons Corp.** is a planning, engineering, and construction services firm. It has operated in the rebuilding of the former Yugoslavia and it has dismantled outmoded weapons in the Russian

bid for future contracts). Other countries have protested, arguing that, for example, French, Russian or other European firms should not be left out of the process. Concern has been expressed too that major beneficiaries of the contracts have close ties with officials of the current US administration, although the companies have a history of performing in difficult environments. There have been criticisms expressed about some of the companies who have been awarded contracts, including in relation to their human rights record.⁵² There will, inevitably, be questions raised about the awarding of contracts by occupying powers to their own national companies.

The process of reconstruction should have as a central purpose to respect, protect and fulfil the human rights of Iraqi people. The Iraqi people, furthermore, have the right to full participation in the reconstruction process – they must be consulted in a meaningful manner about their legitimate needs. Contracts that are awarded through non-transparent bidding procedures, and so do not conform to internationally agreed best practice, will inevitably lead to disputes, which will be further exacerbated by political tensions if these contracts go to companies associated with the occupying power(s). This in turn could undermine the reconstruction process, or support for the establishment of the rule of law in Iraq.

7. The costs of reconstruction

The US government has asked the Congress for US\$2 billion for reconstruction efforts in Iraq. The US administration would also like to complete the reconstruction work in a year. This is an unrealistic deadline for such an ambitious agenda, and the amount sought is grossly insufficient.⁵³ The UNDP estimates initial costs of reconstruction to be at least US\$10 billion. Other experts reckon total reconstruction costs will amount to anything between US\$25

Federation. It is privately-held, and its revenues for 2002 were US\$1.5 billion. It has 9,000 employees.

- **Louis Berger Inc.** is an engineering and construction services firm, whose speciality is building highways, airports, and tunnels. It has 3,000 employees.
- **Halliburton Corp.** is regarded as world leader in oil well services and equipment supply, and its subsidiary, Kellogg, Brown and Root, is a major contractor for the US Department of Defence. The group's 2002 turnover was US\$12.57 billion and it had 85,000 employees. The group's former Chief Executive Officer, Dick Cheney, is now the US Vice-President.

⁵² See Human Rights Watch *Letter to Gen. Jay Garner on Human Rights Priorities During Iraqi Reconstruction*, where concern was expressed that a contract for providing civilian law advisers had been awarded to DynCorp. "In a November 2002 report on trafficking in Bosnia and Herzegovina, Human Rights Watch found that DynCorp's personnel had participated in human rights violations and the company has not done enough to ensure that adequate safeguards are in place to prevent such activities." Available at <http://www.hrw.org/press/2003/04/iraq42403ltr.htm>. Also see AI's *A Catalogue of Failures: G8 Arms Exports and Human Rights Violations*, AI Index: IOR 30/003/2003, in particular paragraph 2.3.1.

⁵³ The US spent US\$13.3 billion (US\$97 billion in today's terms) after World War II under the Marshall Plan to rebuild Europe, and similar amounts after the Korean War. That sort of munificence is in decline. The US contribution for reconstruction in former Yugoslavia was US\$1.01 billion.

billion and US\$100 billion.⁵⁴ Other states may hesitate to support US and UK efforts to rebuild, as they fear doing so might legitimize a war that was initiated without UN support.

In spite of projected oil revenues of between US\$10 billion and US\$14 billion a year, the country will require significant financial support from the international community. It will take time to invest in and get back on stream Iraqi oil production. If Iraq is to attain a per capita gross domestic product equal to Egypt or Iran, and if one half of the capital stock requires rebuilding, this would imply reconstruction needs of about US\$800 per capita, or a total of US\$20 billion.⁵⁵ Figures from the Balkans in the 1990s indicate that humanitarian assistance could well cost approximately US\$500 per person per year.⁵⁶

A plausible estimate would be that between one and five million people in Iraq would require assistance in the post-war environment. If the time required for assistance was between one and four years, then the total cost of humanitarian assistance *alone* would range from US\$1 billion to US\$10 billion.⁵⁷

The need for resources is further apparent when one considers Iraq's overall debt burden, which adds up to an estimated US\$383 billion, if war reparation claims and commercial debt are added to official foreign debt. Under the previous government, Iraq amassed US\$62 billion to US\$130 billion in foreign debt, about half of it in short-term loans from commercial banks but including some long-term debts owed to foreign governments. Iraq did not pay its debt throughout the period UN sanctions were in force. Iraq's debt also includes monies owed for arms purchases, including some US\$9 billion reportedly owed to the Russian Federation. Other components of the debt include commercial loans and war reparation demands. Adding up this debt, Iraq's debt-to-export ratio would place it in the World Bank's most burdened category, far surpassing the debt-servicing ratio of 3:1 considered unsustainable and forcing countries into the category of highly indebted poor countries (HIPC).

⁵⁴ For comparison, World Bank figures indicate that in the West Bank and Gaza, with a population of less than 2 million, a total of US\$3 billion of reconstruction assistance was proposed in the first two years. In Lebanon, with a population of 4 million, reconstruction assistance was in the range of US\$400 million per year for 10 years. In Bosnia, with a population of 5 million, total pledges for humanitarian relief and reconstruction were US\$5.4 billion between 1995 and 1999. East Timor, with a population of less than half a million, is receiving US\$350 million of reconstruction aid over a three-year period.

⁵⁵ The figures are based on the World Bank's estimates of post-conflict rebuilding for Lebanon, East Timor, and Bosnia-Herzegovina – each of which required about US\$1,000 per person. See *Afghanistan: World Bank Approach Paper*, World Bank, November 2001.

⁵⁶ Zarko Papic, *Normal Social Policy and International Humanitarian Assistance in Conflict Context*, the Independent Bureau for Humanitarian Issues, Sarajevo, October 2000.

⁵⁷ See Steven Kosiak, *The Cost of War and Occupation*, the Center for Strategic Budget Estimates, Washington DC. For a more detailed description of military and non-military costs, see Carl Kaysen, et al, *War with Iraq: Cost, Consequences and Alternatives*, American Academy of Arts and Sciences, 2002. In particular, see the analysis of William D. Nordhaus of Yale University, *Iraq: The Economic Consequences of War*, published in *The New York Review of Books*, 5 December 2002.