

TOMA HAWK TERROR

Crisis, But Whose? Iraq's or UN's?

The joint Anglo-American air assault on Iraq has not only shaken the UN coalition to its foundation, it has brought forth questions of legality of the economic sanctions against the Iraqi people. A H Monjurul Kabir writes

THIS is a sad day for the United Nations and for the world. My thoughts tonight are with the people of Iraq, with the 307 United Nations humanitarian workers who remain in the country, and with all others whose lives are in danger.

It is also a very sad day for me personally. Throughout this year I have done everything in my power to ensure peaceful compliance with Security Council resolutions, and so to avert the use of force.

This has not been an easy or a painless process. It has required patience, determination and the will to seek peace even when all signs pointed to war. However daunting the task, the United Nations had to try as long as any hope of peace remained. I deeply regret that today these efforts have proved insufficient.

What has happened cannot be reversed. Nor can any of us foresee the future. All we know is that tomorrow, as yesterday, there will be still an acute need, in Iraq and in the wider region, for humanitarian relief and healing diplomacy. In both these tasks, the United Nations will be ready, as ever, to play its part.

With those few words, UN Secretary-General Kofi Annan informed the media on 16 December 1998 about how peace efforts had failed.

Ahead of 21st century, this statement by UN Secretary General unfolded a classical testimony of UN's bankruptcy. As admitted by Kofi Annan, it has only two things to perform for future i.e. maintaining humanitarian relief and healing diplomacy. Infact in the era of globalisation solely led by the North (more precisely, some rich north states under the leadership of USA), the prime limitation of UN is that it is now a limited organization in all senses particularly for the southern countries.

It has huge establishment, all-out legal backup, impressive diplomatic privileges, wide authority and mandate yet it failed miserably to protect the interests of millions of unarmed civilians in Bosnia, Kosovo, Iraq etc. It has a charter full of promises. They still remain as decorative rhetoric. It has a powerful Security Council whose members are empowered with veto power. Yet that is not even consulted with before applying force on a state like Iraq by two powerful states. And the UN Secretary General

had to express his inability to do anything! As rightly commented in 'For a Strong and Democratic United Nations: A Govt Perspective on UN Reform':

"The central dilemma to be faced in reforming the United Nations is that it is an institution with a highly unequal and diverse membership operating in a global economic and political system which many would like to see changed in major respects, while other determined to maintain the status quo at all costs."

The current practices of the UN particularly its most powerful organ the Security Council, in accordance with the security doctrine of 'New World Order (I)' is detrimental to a comprehensive policy of peace. The Operation Desert Fox makes it abundantly clear that how vulnerable we are. It is inadmissible that medieval methods of siege — and savage war tactics including carpet bombing against countries that are (economically) not self-sufficient are to be regarded as such — are justified as measures for the protection of world peace and human rights.

Operation Desert Fox: How Successful, Really?

Some of the Gulf states, including Kuwait which was occupied by Iraq for seven months in 1990-91, went out of their way to distance themselves from the airstrikes. Some Gulf officials are saying that the US-led military strikes against Iraq have embarrassed some of the region's states who might hesitate to provide the same level of support in any future attack on Iraq.

Not only that, the United Nations Security Council — not consulted by the United States — is split on the issue, with Russia, China and France all condemning the US action.

France called for urgent engagement with Iraq, in the form of a review of an eight-year-old international oil conditions in Iraq had to be improved urgently. China which condemned the bombing all along released a statement in which it hoped for "an early resumption of diplomatic efforts to solve the issue concerning the weapons inspection in Iraq by political means".

And Russian President Boris Yeltsin called

the air strikes "senseless and unlawful," and said it was "already absolutely clear that the use of force has only complicated solving the Iraq problem."

With the countries that once supported Desert Storm now condemning the United States, and the actual damage done to Saddam Hussein's regime under question, Yeltsin may turn out to be right.

Michael E. O'Hanlon, a security expert at Brookings Institution and author of a book on Desert Storm, said that the United States did great damage to Iraq, but that "buildings are not what you're ultimately trying to destroy."

He says the stated US end of degrading Saddam's ability to make weapons of mass destruction and threaten his enemies are "fuzzy goals."

Richard Perle, a former senior Pentagon official in the Reagan administration agrees. "Desert Storm had a clear objective. ... This campaign does not, and it's a significant difference. It seems highly likely that Saddam Hussein will still be in power and we will still face his weapons of mass destruction."

And according to ABCNEWS military consultant Anthony Cordesman, Saddam has "most of his military forces intact, and they will remain intact even if we knock out their headquarters."

US and British officials are touting the success of four days of dumping thousands of pounds of high explosives on Iraq but others now charge that the bombing of Baghdad may have done little to weaken Saddam Hussein. While Saddam is certainly not the innocent victim of 'American bullying' neither is the US and the UK justified in bombing Iraq. President Clinton lied defending his position this time not about the relatively trivial matter of his sexual activities, but about matters of life and death. In explaining his decision to bomb Baghdad, he said that other nations besides Iraq have weapons of mass destruction, but Iraq alone has used them.

He could only say this to a population deprived of history. The United States has supplied Turkey, Israel, and Indonesia with such weapons and they have used them against civilian populations. No nation in the world possesses greater weapons of mass destruction than the USA does, and none has used them more often, or with

greater loss of civilian life. In Hiroshima hundreds of thousands died. In Korea and Vietnam millions died as a result of it's (US) use of such weapons.

The US-led economic sanctions are also weapons of mass destruction, having resulted in the deaths of hundreds of thousands of Iraqi children. Saddam Hussein may well have weapons of mass destruction, he may indeed be inclined to use them, but only the United States is actually using them, and even at this very moment, people are dying in Iraq as a result.

However evil Saddam Hussein is, whatever potential danger he may represent, he is not, as President Clinton said on 16 December a "clear and present danger" to the peace of the world. We are living in times of madness, when men in suits and ties, and yes, a woman secretary of state, can solemnly defend the use, in the present, of indiscriminate violence against a tyrant who may use violence, in the future. The phrase "clear and present danger" has therefore lost its meaning. The phrase "weapons of mass destruction" too has lost its meaning when a nation which possesses more such weapons, and used them more often than any other, uses those words to justify the killing of civilians "to send a message".

The burden of blame for the current Iraqi crisis lies largely on Bill Clinton and Tony Blair, the western media, and countries that support the US. The Director of the United Nations Special Commission (UNSCOM) Richard Butler has a clear bias towards USA. His remarks like "Arabs have a different notion of truth than the rest of the world" proved his racist character.

Infact, by bombing Iraq, Washington has thrown away the chance to monitor Iraq's weapons programmes on the ground, without any progress toward removing Iraqi President Saddam Hussein.

Washington seriously undermined the role and authority as conferred on it by the UN charter.

Besides, the future of UNSCOM has become totally uncertain. The neutrality of the UN officials has also seriously been questioned. Operation Desert Fox has successfully dug a grave for the UN.



The Law of Wars, Or the War on Laws?

THE bombing of Iraq brings up various issues of international law, particularly the law of war.

The law of war, also called the law of Armed Conflict, is a subset of international law that governs the mitigation and conduct of hostilities between nations. The term law of Armed Conflict is the more modern phrase and reflects that these international laws apply in any armed conflict, regardless of whether there is a formal declaration of war. The primary purpose of the law of war/law of Armed Conflict is to make war more humane by regulating what happens, may be used, what are legitimate military targets, and to minimize impacts of war on civilians.

The question is: were US along with UK at war? As a matter of US law-no. Only Congress can declare war. (US Constitution, Article I Section 8). Everyone will agree that United States is engaged in hostilities with Iraq and that the laws of war apply to the situation.

The war the US dictated, the use of force against Iraq was illegal.

Article 2 of United Nations Charter states:

2-3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

2-4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

In order to impose collective coercive measures against a member state, the Security Council must first formally determine the existence of a threat to the peace, breach of the peace or act of aggression. It is evident, with regards to the immense power conferred upon the Security Council, that the Council cannot casually make such determinations. The threat to the peace must, in order to justify coercive action under Article 41 of the Charter, be of such a degree as to place the continuation of world peace in jeopardy, so that action is immediately necessary in order to maintain peace and security.

After the sovereignty of Kuwait was restored in 1991, the Iraqi army defeated and the economic infrastructure of Iraq reduced to rubble, no case was made nor could one be made, that an imminent threat to world peace emanates from Iraq, necessitating the most draconian enforcing measures against any nation in the history of the United Nations. Articles 41 and 42 of the Charter, permitting collective coercive measures against member states, cannot be justified by invoking a hypothetical future threat.

The bottom line is that the UN charter prohibits the use of force to solve international disputes, but nations still have the right to defend themselves both individually and collectively. The US is interpreting article 51 of the UN Charter (Article 51 provides: Nothing in the present charter shall impair the inherent right of individual or collective self-defense against an armed attack occurs against a member of the United

Nations, until the Security Council has taken measures and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.) to allow the pre-emptive use of military force in national self defense against another nation. But did Iraq pose a threat to US or UK's national interest at all? The US and UK legal argument is that Iraq's failure to comply with the terms of the cease-fire agreement authorizes them to use force under security council Resolution 675 (1990). Basically, according to them, they are just continuing the 1991 Gulf War and wish to do so in future. This peculiar Anglo-Saxon argument did not find any solid basis of international norms and laws. Depriving the security council of the opportunity of discussing in the normal way the report from UNSCOM, the USA and the UK acted according to their arbitrary and most heinous will.

A Summary of Facts

Eight years of the most severe Security Council sanctions in history have failed to dislodge the regime of president Saddam Hussein. These sanctions, however, have had a devastating impact on the most vulnerable sectors of Iraqi society specially children. Numerous studies by United Nations agencies and independent groups, including an April — May 1996 survey conducted by the center for Economic and Social Rights, have documented dramatic increases in malnutrition and disease leading to the death of hundreds of thousands of children under the age of five since 1991. Yet there has been an astonishing lack of public awareness and debate over the moral and legal implications of a policy that imposes such enormous costs on a civilian population. Here is a summary of facts based on UN reports crystallizing the inhuman and savage impact of the 8 year war on the people of Iraq.

What UN Reports State

"The increase in mortality reported in public hospitals for children under five years of age (an excess of some 40,000 deaths yearly compared with 1989) is mainly due to diarrhea, pneumonia and malnutrition. In those over five years of age, the increase (an excess of some 50,000 deaths yearly compared with 1989) is associated with heart disease, hypertension, diabetes, cancer, liver or kidney diseases." Approximately 250 people die every day in Iraq due to the effect of the sanctions. — UNICEF, April 1998.

"The Oil-for-Food plan has not yet resulted in adequate protection of Iraq's children from malnutrition/disease. Those children spared from death continue to remain deprived of essential rights addressed in the Convention on Rights of the Child." — UNICEF, April 1998.

"Seven years after the imposition of the blockade on the people of Iraq, more than 1.2 million people, including 750,000 children below the age

of five, have died because of the scarcity of food and medicine. — Verified by the UN, June 1997.

"32 percent of children under five, some 960,000 children are chronically malnourished — a rise of 72 per cent since 1991. Almost one quarter (23%) are underweight — twice as high as the levels found in neighbouring Jordan or Turkey." — UNICEF, November 1997.

"There is no sign of any improvement since Security Council Resolution 986/1111 [Oil for Food] came into force." — UNICEF, November 1997.

"One out of every 4 Iraqi infants is malnourished. Chronic malnutrition among children under five has reached 27.5%. After a child reaches two or three years of age, chronic malnutrition is difficult to reverse and damage on the child's development is likely to be permanent." UNICEF and World Food Programme (WFP), May 1997.

"Iraq's health system is close to collapse because medicines and other life-saving supplies scheduled for importation under the oil-for-food deal have not arrived. Government drug warehouses and pharmacies have few stocks of medicines and medical supplies. The consequences of this situation are causing a near-breakdown of the health care system, which is reeling under the pressure of being deprived of medicine, other basic supplies and spare parts." World Health Organization (WHO), February 1997.

"4,500 children under the age of 5 are dying each month from hunger and disease. The situation is disastrous for children. Many are living on the very margin of survival." — UNICEF, October 1996.

"Since the onset of sanctions, there has been a six-fold increase in the mortality rate for children under five and the majority of the country's population has been on a semi-starvation diet." — World Health Organization (WHO), March 1996.

"More than one million Iraqis have died — 567,000 of them children — as a direct consequence of economic sanctions. As many as 12% of the children surveyed in Baghdad are wasted, 28% stunted and 29% underweight." — UN FAO, December 1995.

"Famine threatens four million people in sanctions-hit Iraq — one fifth of the population — following a poor grain harvest. The human situation is deteriorating. Living conditions are precarious and are at pre-famine level for at least four million people. The deterioration in nutritional status of children is reflected in the significant increase of child mortality, which has risen nearly fivefold since 1990." — UN FAO, September 1995.

"Alarming food shortages are causing irreparable damage to an entire generation of Iraqi children." — UN FAO and WFP, September 1995.

"Sanctions are inhibiting the importation of spare parts, chemicals, reagents, and the means of transportation required to provide water and sanitation services to the civilian population of Iraq. What has become increasingly clear is that no significant movement towards food security can be achieved so long as

the embargo remains in place. All vital contributors to food availability — agricultural production, importation of foodstuffs, economic stability and income generation, are dependent on Iraq's ability to purchase and import those items vital to the survival of the civilian population." — UNICEF, 1995.

UNR 986 "Oil for Food" Deal... in truth is the "Oil for Nothing" deal.

"UNR 986 allows for the limited sale of \$2 billion of Iraqi oil every 6 months. Only 40% of the proceeds from the 'Oil for Food' deal can be used to purchase food and medicine for the population of Central and Southern Iraq. These small and restricted sales allocate less than 25 cents a day per person, and provide, at best, less than a quarter of the minimum caloric intake."

"Children, mothers, the aged and sick were all cared for before 1990, but are now dying while the outside world mistakenly believes it has solved Iraq's problems with the much-delayed oil-for-food shipments. The deal 'will barely keep the strongest of the population of Iraq on their feet.'" — CAIRE, September 1997.



Saddam Hussein

THE impact of sanctions on the Iraqi civilians raises fundamental questions of legal and ethical responsibility which have not been answered, let alone asked, in UN policy-making circles. What is the acceptable trade-off between pressuring a country's government and harming its population? What legal regime governs this situation? What are the limits, if any, on Security Council action?

The Security Council was established by, and derives its authority through, the United Nations Charter. Chapter VII of the Charter explicitly empowers the Council to impose economic sanctions, and even take military action. Between 1945-90, there was no need to define the legal parameters of this power since the Security Council imposed multilateral sanctions only twice — a trade embargo against Rhodesia in 1966 and an arms embargo against South Africa in 1977.

Since the end of the Cold War, the Council has imposed sanctions against eight different states, still without reference to external legal stan-

dards. While some commentators still argue that the Security Council is empowered to act as a law unto itself, Justice Weeramantry of the World Court counters that: "The history of the United Nations Charter... corroborates the view that a clear limitation on the plenitude of the Security Council's powers is that those powers must be exercised in accordance with the well-established principles of international law."

Article 24 of the Charter explicitly directs the Security Council to act in accordance with the purposes and principles of the United Nations when exercising its authority to maintain peace and security. Among the most fundamental purposes and principles listed in Article 1 is the promotion of human rights. In imposing sanctions against Iraq, Security Council resolutions have frequently and properly condemned the Iraqi government for violating the human rights of its own citizens, but it has failed to acknowledge that the Council itself is bound to uphold human rights. Instead, the Council has placed exclusive blame on President Saddam Hussein for all hardships caused by sanctions.

The fundamental premise of the entire human rights regime, however, is the need to respect the inherent dignity of every individual. These rights are owed directly to individuals and are not forfeited because of a government's misconduct, particularly when citizens have no voice in the decisions of such government. By imposing a devastating, even if unintended, form of collective punishment on the Iraqi people and failing to mitigate or even monitor the impacts, the Security Council has fostered the mistaken impression — completely at odds with the UN Charter's proclamation of "faith in fundamental human rights and in the dignity and worth of the human person" — that it may harm an entire population for the crimes of its leaders, without reference to any legal standards.

While the question 'Are sanctions against Iraq justified?' does not generally elicit an outrageous response (it is in fact the title of many learned debates), a rewording of this question to 'Is it justified to starve the Iraqi population in order to bring pressure on the Iraqi Government?' would certainly elicit a different reaction. And if this question would furthermore be reworded to 'Is it justified to cause 600,000 children to die in order to force Iraq to disarm?', then that would not be an outrageous fabrication; it reflects the tragic reality. A UN FAO 1995 report stated that one million Iraqi civilians have died as result of the UN sanctions, half of whom are children under the age of five.

In addition, the common formulation 'Sanctions against Iraq' is a semantic obfuscation. Sanctions cannot be imposed on a 'country', only on people. More appropriate would have been the wording 'Sanctions against the Iraqi population'. But this formulation is not used as it would reveal too much against whom the sanctions are directed.

Under the terms of the Geneva Conventions of 12 August 1944 and their Additional Protocol of 1977, it is prohibited to indiscriminately attack civilian populations. Moreover

it is prohibited to starve civilian populations as an act of war.

In theory, the humanitarian exception clauses, would fulfill the minimal requirements of international humanitarian law. But in practice the Security Council made the enjoyment of these peremptory rights conditional upon the fulfillment of a set of measures by the Government of Iraq.

In order to strictly fulfill requirements of international humanitarian law with regards to the civilian population of Iraq, there are only two alternatives: Either to lift the blanket trade sanctions against the Iraqi people or to ensure by other means the physical integrity and well-being of the civilian population in Iraq. More to the point is the fact that any significant restriction of civil trade in today's technology-dependent world, including spare parts for water purification facilities, parts for electric generators, computers, technical manuals, etc. can gravely affect the operations of the infrastructure necessary for maintaining a civilian society alive. Thus, by exempting food and medicines from the trade sanctions the Iraqi people are treated as animals, for whom it is sufficient to ensure mere survival.

Question before the UN

NO failure to comply with any United Nations resolution can possibly justify the collective punishment of the entire people of Iraq. No hidden arms, or arms programmes in Iraq possibly pose any greater threat to life anywhere, than the bombings and economic sanctions inflict on the Iraqi people. These brutal acts kill more people each week than Iraq could inflict on foreign arms and countries even with all its armies and material at their greatest strength, when Iraq was carpet-bombed from January 16 to March 1, 1991. These sanctions kill the most vulnerable people, the very people all societies have the highest duty to protect.

In comparison, Israel has been rewarded with billions of dollars worth of weapons of mass destruction by the US for doing exactly what Iraq did: occupying other countries' territories by armed force. Since 1967 the Israeli army has occupied the Golan Heights of Syria, the West Bank of Palestine, East Jerusalem and has confiscated private Palestinian properties, in spite of Security Council Resolution 465 adopted on March 1, 1980, with US support. Since 1982, the Israeli army has occupied South Lebanon, usurping its water resources in defiance of UN resolution.

Also it is common knowledge that it is Israel, and not Iraq, which is in possession of the most advanced and dangerous weapons of mass destruction, including nuclear bombs. Yet, no sanctions are imposed on Israel, despite its defiance of UN resolutions and international legitimacy.

The UN Secretary General has expressed his deep anguish through a message of healing diplomacy! But this is not enough. The question is: will the United Nations remain silent, thus sending the message that the latest round of military aggression is warranted, legal, and is approved by the United Nations?

Clinton: Digging the UN's grave?

Sanctions: The Laws They Violate

International protocols protect civilians but sanctions hurt people

THE blockade against Iraq violates numerous fundamental human rights of the people of Iraq, including their dignity as human beings. Starvation of civilians as a method of warfare is strictly prohibited by international law. The blockade is a violation of the Geneva Convention, UN Charter, Constitution of the world Health Organization, Universal Declaration of Human Rights and Charter of Economic Rights and Duties of States. According to the US legal code Title 18 2331, the blockade on the people of Iraq is also an act of international terrorism.

Protocol 1 Additional to the Geneva Conventions

(1977): (1) Starvation of civilians as a method of warfare prohibited. (2) It is prohibited to attack, destroy, remove, or render useless objects indispensable to the agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies, and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

International conference on Nutrition, World Declaration on Nutrition, FAO/WHO (1992): We recognize that access to nutritionally adequate and safe food is a right of each individual. We affirm... that food must not be used as a tool for political pressure.

UN General Assembly Resolution 44/215 (Dec. 22, 1989): Economic measures as a means of political and economic coercion against developing countries: Calls upon the developed countries to refrain from exercising political coercion through the application of economic instruments with the purpose of inducing changes in the economic or social systems, as well as in the domestic or foreign policies, of other countries; Reaffirms that developed countries should refrain from threatening or applying trade and financial restrictions, blockades, embargoes, and other economic sanctions, incompatible with the provisions of the Charter of the United Nations and in violation of undertakings contracted multilaterally and bilaterally, against developing countries as a form of political and economic coercion that affects their political, economic, and social development.

Constitution of the World Health Organization (1946): The enjoyment of the highest standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic, or social condition.

Universal Declaration of Human Rights (1948): Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

Charter of Economic Rights and Duties of States, adopted by UN General Assembly (1974): [No] state may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages beyond its kind.

International Terrorism, as defined by the US legal code (Title 18 "2331): (1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; (2) appear to be intended: (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or

(3) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the local in which their perpetrators operate or seek asylum.