

TOMAHAWK 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 rhetorics. 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

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 causally 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 if an armed attack occurs against a member of the United

Nations, until the Security Council has taken measures 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.

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. — UN FAO, September 1998.

• "Alarming 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

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

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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.

greater loss of civilian life. In Hiroshima hundreds of thousands died, in Korea and Vietnam millions died as a result of its (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 weapons to justify the killing of civilians "to send a message".

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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 12 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.

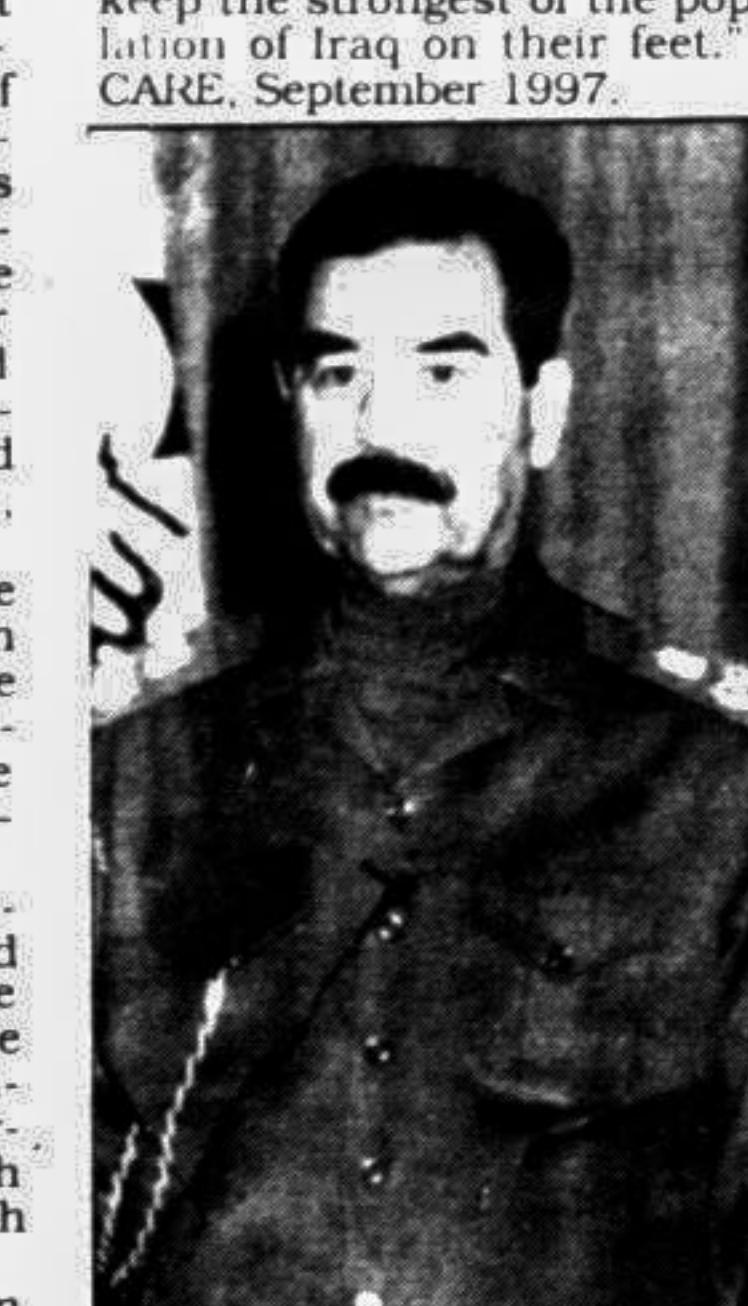
Constitution of the World Health Organization (1946): The enjoyment of the highest standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic, or social condition.

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 of any 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.



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 1995.

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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