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PETRAEUS MANUAL AND TACTICS FLOUT INTERNATIONAL LAW
Death and Suffering Grow for the Iraqi People

General David Petraeus' blueprint for the surge in Iraq implicitly violates international law as do U.S. tactics that have dramatically increased the level death and suffering for Iraqi people, according to a report released today by ConsumersforPeace.org

The report, entitled "U.S. War Crimes in the 'Surge' - 2007", begins with an analysis by noted human rights lawyer Karen Parker of the US Army/Marine counterinsurgency manual produced by General Petraeus. The manual has been considered the operational plan for the latest U.S. offensive. Ms. Parker, specifying the ways in which the manual fails the test of international law, says: "The bottom line is that the Manual is a blueprint for the subjugation of the Iraqi people."

The second section of the report, prepared by author and researcher Bill Rau, focuses on the devastating consequences to the Iraqi people of the vastly expanded use of air strikes against resistance fighters and the dramatically increased detentions of Iraqis. This section of the report also documents the continued deterioration of public services that plague Iraq.

The report is a one-year follow-up of "U.S. War Crimes in Iraq; Mechanisms for Accountability," published in October 2006 by ConsumersforPeace.org.

Ms. Parker is President of the San Francisco-based Association of Humanitarian Lawyers (www.humanlaw.org) and Chief Delegate to the United Nations for the Los Angeles-based International Educational Development/Humanitarian Law Project (IED/AHL), an accredited non-governmental organization on the U.N. Secretary-General's list. Mr. Rau is the author of *From Feast to Famine* and a researcher and development policy analyst based in Washington, DC.

ConsumersforPeace.org, directed by Nick Mottern, is a website and organizing entity that focuses on the relationship between oil and the Iraq War and advocates for accountability for the invasion and occupation of Iraq. It promotes the ExxonMobil War Boycott.

THE FULL REPORT FOLLOWS AS PART OF THIS PDF FILE.

U.S. WAR CRIMES IN THE “SURGE” - 2007

Petraeus’ Manual and Tactics Flout International Law

Death and Suffering Grow for the Iraqi People

Prepared by Karen Parker and Bill Rau

for

ConsumersforPeace.org

September 6, 2007

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U.S. WAR CRIMES IN THE “SURGE” - 2007

Foreword

This report documents some of the horrible human costs of the “surge” of U.S. military forces in Iraq, a manifestation that can only be described as the latest phase of the vast, criminal experiment in subjugation that the United States is conducting in Iraq.

The report begins within an analysis of what is often described as the blueprint for the “surge”, the US Army/Marine Corps *Counterinsurgency Field Manual* developed by the current commander of US military forces in Iraq, Gen. David Petraeus. The manual has been widely publicized and is for sale on Amazon.com. Released just as General Petraeus was about to head for Iraq to command US forces there in the “surge”, the manual purports to guide field commanders in carrying out a counterinsurgency that will be successful, unlike other such US experiments.

But, here, international human rights lawyer Karen Parker finds that the manual is fundamentally flawed in that it implicitly scorns international law and attempts to establish an alternative framework that would legitimize a wide range of activities intended to bring Iraq under what would effectively be U.S. colonial control.

She also suggests that, given the manual’s limited if any practical use as a field guide, its primary intended audiences appear to be the American press, public and political establishment who might want reassuring that there is a “new” plan for “winning” in Iraq and reinforced justification for doing so.

Indeed, the manual emphasizes the need to prepare the US public for a “long” war of counterinsurgency. It anticipates the current touting of the war by Army and Marine generals when it says that top military commanders will engage in US domestic politics by promoting such wars. And, the manual advises commanders to take care to conduct operations in a way that will not embarrass “elected officials”.

But as the documentation gathered by Bill Rau in the second section of the report shows, General Petraeus’ is far less concerned about the impact of his operations on the Iraqi people, operations that are much more tragic than those alluded to in the supposedly sensitive world of counterinsurgency portrayed by the manual. The manual gives no hint, for example, that one tactic of the “surge” will be far wider, more indiscriminate and deadly use of firepower from the air.

Nor does the manual give a hint that General Petraeus’ counterinsurgency tactics will include a surge in the detention of Iraqis. And it does not explain why there continues to be no effective restoration of public services for Iraqis, in spite of the requirements of international law.

We hope this report will help further expose the war crimes in Iraq generated at the highest levels of the US civilian and military establishment and lead to the prosecution and conviction of those responsible.

We also hope that the report will help more US citizens to know what is happening in our names in Iraq.

Nick Mottern, Director, ConsumersforPeace.org
September 6, 2007

SECTION ONE – PETRAEUS MANUAL FLOUTS INTERNATIONAL LAW

Introduction

The United States Army and Marine Corps recently issued the *Counterinsurgency Field Manual*.¹ The *Manual* was co-authored by General David Petraeus who subsequently became Commanding General Multi-National Force – Iraq. While some of the *Manual* is a restatement of prior US military rules, it derives from a totally different perspective, making it both provocative and dangerous. This brief report sets out why premises of this *Manual*, as well some of its provisions, should be met with alarm by those who have opposed the invasions of either or both Afghanistan and Iraq and who would likely oppose similar operations in the future.

Overview of Counterinsurgency

“Counterinsurgency” is a term used by the US military to describe operations to secure control over an opposition “insurgency”, described in the *Manual* as “[a]n organized movement aimed at the overthrow of a constituted government through the use of subversion and armed conflict.”² The *Manual* describes counterinsurgency as “military, paramilitary, political, economic, psychological, and civic actions” to defeat insurgency.³

This *Manual* is needed, it says, because dependency on “traditional” warfare was the main reason that the US “lost the war” in Vietnam, because prior manuals, issued in 1980s and motivated by US activities in Central America, were perceived as outdated and because an interim manual issued in haste when the invasion of Iraq was met with a surprise “insurgency” proved grossly inadequate for the US purposes. The *Manual* is further defended because of the growing “insurgency” in Afghanistan and because it will be needed in “the next counterinsurgency campaign.”⁴

The Biggest Problem with United States Counterinsurgency Activities

The primary problem with the *Counterinsurgency Field Manual* is that the US should not be involved in situations where “counterinsurgencies” may be taking place. Neither this *Manual* nor any other set of “rules” or practices can legitimize what are essentially illegal operations – invading another country or overthrowing directly or indirectly existing governments and then forcing people in other countries to submit to a US agenda. Such actions violate the United Nations Charter, which specifically requires the peaceful settlement of disputes and forbids the use of force against another State.⁵ They also

¹ *The U.S. Army – Marine Corps Counterinsurgency Field Manual*. 2007. University of Chicago Press, Chicago. Henceforth: *Manual*.

² It is rather ironic that the insurgency in Iraq is as focused on seeking the withdrawal of the US forces as it is to overthrow the government of Iraq. Most “insurgents” appear to consider them one and the same. A “constituted” government is not necessarily a “legally constituted” one from the perspective of human rights law, as is apparent in Iraq. Emphasis added.

³ *Manual*, p. 2.

⁴ John A. Nagl. 2007. “Forward to the University of Chicago Press Edition.” *Manual*. op. cit.

⁵ UN Charter, Article 2. To clarify what these provisions mean, the General Assembly has adopted a number of resolutions, including one on the principles of friendly relations (Resolution 2625) and one defining aggression. (Resolution 3314).

violate other fundamental principles of law, especially the right to self-determination, which provides that a people have a right to unfettered development of their own political, economic and social systems, and a right to control their own natural resources.⁶ International law does not grant any State the right to coerce or overcome any other people, and specifically forbids all acts of aggression.⁷ Finally, States may not intervene in the internal affairs of another State.⁸

Unfortunately, the US has a long history of involving itself militarily in situations where it may not legally do so. US military interventions or other illegal involvements in another State's internal affairs almost always are intended to overthrow a "leftist" government or to ensure that a "rightist" government is able to stay in power – even against the wishes of the citizens of a particular country. The "rightist" governments, whether initially elected into power by the people of that country, or "installed" by the US to prevent a "leftist" political victory or rebellion, almost all allow the US to carry out economic policies with the countries that ultimately benefit US interests and frequently harm the interests of the people of these other countries. The "rightist" countries generally stay in power by oppressing the people, and the US props them up with military aid that the recipient country uses against its people if the people begin a popular rebellion. For generations, the US has supported the worst of possible oppressors to prevent any popular/nationalist/leftist groups from either winning elections or governing of elected.⁹ The US entered Vietnam because populist/leftist/communist candidates were viewed as likely to win elections to take place in South Vietnam, and would not have allowed US oil interests to "take over" Vietnam's petroleum reserves. In the Americas alone, the US propped up a series of oppressive governments in Guatemala, El Salvador, Nicaragua, Honduras, Uruguay, Brazil and Venezuela. The US "intervened" in elections in Dominican Republic to prevent a leftist/nationalist victory. The US openly created and supported a "freedom fighter" group in Nicaragua – the Contras – who were to fight against the leftist/popular government run by the Sandinists, who had succeeded in ousting the US supported Somoza in a popular, military uprising.¹⁰

Both nations mentioned in the reasoning for preparing the *Manual* – Iraq and Afghanistan – had governments whose national interests ran counter to US interests. In Iraq it was the petroleum and in Afghanistan it was primarily the oil pipelines.

Contrary to the impression of US innocence conveyed by the *Manual*, US military involvement must be construed as acts of aggression against both of these sovereign States, as neither has the slightest capacity to carry out acts of aggression against the United States. The reasons presented to justify such actions are either totally inadequate

⁶ See, e.g. UN Charter, Article 1; General Assembly Resolution 1803; Article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the Charter on the Economic Rights and Duties of States, General Assembly Resolution 3281.,

⁷ General Assembly Resolution 2625.

⁸ *Idem*

⁹ A short list of countries where the US engineered a coup against a leftist/populist government includes Iran, Guatemala, Chile, Pakistan, Indonesia, Argentina, Brazil and Venezuela.

¹⁰ The Nicaragua action was urgent to prevent another "Cuba" – the one that got away. It is interesting to note that essentially all of Latin America is now governed by leftist/nationalist elected governments, who are forming a solid block to prevent any further US adventurism in this region, which perhaps is a factor in the US involvements in Asia at the present time.

or are blatantly false.¹¹ The people of both countries have had their right to self-determination completely nullified, and have suffered appalling violations of humanitarian (armed conflict law) and human rights. In Iraq, far more Iraqis have died due to the US invasion than under the previous regime, and there is growing commentary that Iraq as a State no longer actually exists.

The Right to Resist

As in other situations where the US has invaded a country or has used its military to prop up a brutal regime, the people in both Iraq and Afghanistan resist. They have a legal right to do so. The right to self-determination, for example, includes the right to resist alien occupation. The Universal Declaration of Human Rights protects the right to rebel against tyranny and oppression. Popular resistance, if by force of arms, is fully governed by the laws and customs of war (humanitarian law) as set out in The Hague Conventions, the Geneva Conventions and other laws and customs of war. The Geneva Conventions are actually in force as long as there is a Power in another State that partially or totally occupies it, even if the people are not militarily resisting.¹² United States military forces are indisputably occupying or trying to occupy territory in both Iraq and Afghanistan.¹³ Accordingly, all acts of United States in both countries Afghanistan are governed by humanitarian law.

Humanitarian law applies not only to regularly constituted military forces of the invaded country, but also to “inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist . . . without having had time to form themselves into regular armed units. . . .”¹⁴ Resistance is not “terrorism.” Iraqi civilians have a legal right to aid and support resistance fighters. The United States may not justify any actions it undertakes against Iraqi militias or re-forming military units of the former regime in Afghanistan (called “the Taliban”) on the basis of combating terrorism. The United States may not undertake any military operations directed at the civilian populations for any reason whatsoever, and may only undertake military operations against resistance fighters if there is no possibility of undue civilian casualties. That the civilian population may support and harbor their resistance fighters does not in any way alter this rule.¹⁵

The *Manual* Versus Applicable Humanitarian Law

The second problem with the *Counterinsurgency Field Manual* is that it seeks to set up an

¹¹ Assuming it was proven in advance that Al-Qaeda had perpetrated the attacks on September 11, 2001, that in no way would legally justify invading Afghanistan, militarily defeating its government, and installing a US-friendly one. However, the US actually invaded without any proof at all. Iraq had no connection whatsoever with the events of September 11. None of the other reasons – such as human rights violations in both countries or possible “weapons of mass destruction” – justify military intervention. Note that the UN Security Council specifically declined to approve any military actions against Iraq in spite of Secretary-of State Colin Powell’s assertion that Iraq had such weapons.

¹² Common Article 1 of the four Geneva Conventions of 1949.

¹³ The US constantly refers to its military operations as necessary to bring “area x” under US control.

¹⁴ Geneva Convention I of 1949, Article 13.

¹⁵ See, e.g. Articles 57 – 58 of Protocol Additional I on this point. Although the US has not ratified this Protocol, certain of its provisions, such as these, are regarded as binding customary law, and hence are in force for the US.

“alternate universe” with respect to existing humanitarian law governing occupations. This is its most chilling feature.

The relevant humanitarian law rules governing what an Occupying Power may or may not do are actually quite detailed. Although there are many provisions in The Hague Conventions of 1899 and 1907, Articles 47–78 of the fourth Geneva Convention of 1949 are usually viewed as the basics of the contemporary rules, supplemented by certain clarifications or additions in Protocol Additional I. Of course, all of these provisions are also supplemented by the entire body of human rights law. These rules, along with the basic rules of military operations, protections for the civilian populations and weaponry are fully adequate to address any situation.¹⁶

Given the adequacy of the existing laws and customs of war, it is reasonable to question the purpose of this *Manual*, which leads to consideration of its real but completely unstated operational premises. These can be broken down into premises relating to the on-the-ground reality and premises relating to wished-for solutions to the problems with the on-the-ground reality. Using Iraq as the country, the following is a brief review of the *Manual's* operational, although sometimes unspoken, premises:

1. The war is not over.
2. The US is losing the war.
3. The “traditional” laws and customs of war hamper a US victory.
4. To shift review of the armed conflict out of the purview of US compliance with the Geneva Conventions and other rules of armed conflict, there needs to be a “legal” pretense to do so.
5. The Iraqi people, for the most part, do not accept the US agenda in Iraq.
6. The Iraqi people have many militias and other organized resistance forces, established in part as a result of the mistake of disbanding the Iraqi military forces of the former regime.
7. Because of the overwhelming “heavy metal” style of warfare of the US, US forces cannot effectively fight the Iraqi resistance forces.¹⁷
8. Sufficient numbers of Iraqi civilians have aided, assisted and protected the Iraqi resistance to date to allow the resistance to succeed in its some of its goals.¹⁸
9. The US-installed and -controlled government does not have the support of the

¹⁶ The Manual pays lip service to these rules in Appendix D, Legal Considerations. Note in the Index that the Geneva Conventions are discussed 5 times, 4 in Appendix D, and the civil war rules (Common Article 3) 3 times, 2 in Appendix. The Hague Conventions are only mentioned 1 time, in Appendix D.1

¹⁷ The Iraqi resistance actually fights somewhat like the colonists in the American Revolutionary War – militias such as Ethan Allen’s Green Mountain Boys, who harassed the British “heavy metal” troops. The Revolutionary War was ultimately won when the colonists formed their own “heavy metal” military forces and engaged in what was then “conventional” warfare. Most contemporary wars have some combatants who could be referred to as “conventional” and others who might be called “guerrilla” or “unconventional”, but these terms are mainly operational not legal. The laws and customs of war fully apply to all forms of warfare.

¹⁸ While different militias of forces of the Iraqi resistance themselves have varying goals, resulting in conflicts between them, in the conflict against the US forces, they individually and collectively are succeeding. The military operations between Iraqi forces are governed by the civil war rules of the Geneva Conventions and humanitarian law as a whole, while the resistance operations against the US as the Occupying Power are governed by the international armed conflict rules.

Iraqi people and cannot govern.

10. To win in Iraq, the US will need to subjugate the Iraqi people. The bottom line is that the *Manual* is a blueprint for the subjugation of the Iraqi people.¹⁹

The Core of the Manual

This report will not challenge the *Manual* point by point.²⁰ Rather, it seeks to underscore some of its main themes and to point out some of its glaring divergences from established rules of armed conflict. It is important to keep constantly in mind that this *Manual* is about how to subdue people defending, from their perspective, their OWN country.²¹ One of the most obvious examples of the use of a term to distort reality is the term “host nation” (HN). The “host nation” is actually the replacement government installed by the US after the US has overthrown the existing government. The “host nation” then turns around and “invites” the US to defend it. The use of the term implies that the installed government is legitimate and has authority to “appoint” the US as its defenders against its enemies – in the case of both Iraq and Afghanistan, its own people. Whatever anyone thinks about the resistance, or factions of the resistance, they are nationals of the country in question and the US forces are foreign. It is obvious that many of the nationals do not think that the US-installed governments are legitimate.

A key feature of the *Manual* is a frequent “pairing” of “terrorists” and “guerillas” – as if they are comparable. For example, section 1-8 begins “[t]he terrorist and guerilla tactics common to insurgency have been among the most common approaches to warfare throughout history.”²² The *Manual* also states that insurgents resort to “violence” as if that is necessarily bad or necessarily terrorism. War, of course, is violent, but that does not undermine the rules of armed conflict nor the status of combatants engaged in war. The *Manual* also complains that the rules of internal armed conflict (civil war) are not “fair”; many of the “rules” favor insurgents.²³ This is stated to support why the *Manual* would allow for acts that violate the rules. Civil war rules were not considered unfair by the US when it was involved with the “contra” insurgents against the elected Nicaraguan government. But it is apparent that fairness of these rules is likely to be questioned under circumstances in which the US is confronting what it perceives as a leftist insurgency. In any case, the US cannot use its view that the rules are “unfair” to rewrite them. In fact the rules have been carefully developed since the US Civil War.²⁴ They were updated in the

¹⁹ This euphuism used in the Vietnam War was “to win the hearts and minds” of the Vietnamese. The US failed to do so.

²⁰ A good reason for this is that most people who even read through the *Manual*, including the author of this report, will have a difficult time doing so. It is laden with quasi-scientific jargon, acronyms, euphuisms, terms meant to distort, and, as the author of one of the forwards describes, “Zen-like” paradoxes (*Manual*, p. xvii). The same author of a preface also comments on the large bibliography of non-military texts, the first time he had ever seen that in a US military manual, underscoring this author’s contention that this is not really a military manual but a manual on how to subdue a rebellious civilian population and how to skirt humanitarian law rules. Nearly half of these non-military sources address terrorism, which is, as stated above, improperly used to deflect from legitimate resistance.

²¹ This is not to say that there are not people from other countries who come to aid them, but in fact by far the most people who are “insurgents” are Iraqis, or in the case of Afghanistan, Afghans.

²² *Manual*, p. 3.

²³ *Manual*, p. 4. The quotation marks around “rules” are in the text, implying that the rules are not really rules.

²⁴ The US was responsible for initiating the development of civil war rules when President Lincoln sought the services of Prussian legal school Friedrich Lieber to formulate a statement of the existing

four Geneva Conventions of 1949 and in Protocol Additional II to the Geneva Conventions.

The *Manual* also states that insurgents lie or distort the truth and that this must be countered. It offers as a remedy “embedded” journalists and a variety of suggestions to manipulate perceptions. These include an instruction to US commanders to spend money on media outlets “to transmit the repetitive themes of the HN government accomplishments and insurgent violence against the populace.”²⁵ The manual gives “a word of caution” though: “the populace and the HN media must never perceive that counterinsurgents and HN forces are manipulating the media.” The use by the US of planted news stories both in Iraq and the US is widely known, and the US has itself admitted to this practice. Of course, from a practical point of view, people in the “HN” can discern who is lying from the day to day situation. They know, for example, if they have food, water, and electricity; have been shot at and by whom; and who has entered their home to interrogate them and how harshly.

The *Manual* discusses the need to build networks, institutions and organizations based on social assumptions in a variety of areas: culture, beliefs, social norms, identity, values and the like.²⁶ The underlying assumption here is that in order to win over hearts and minds, the US forces must somehow gain a propaganda advantage. Insurgents typically have a strong advantage as they derive from the people in question, and the goal of the *Manual* is to replace this with a US-friendly shift. As the US does not have historic social authority, this must somehow be won. The *Manual* is full of references to infiltration of civil groups and seeking to transform them from within.

The *Manual* repeatedly uses highly unflattering and demonizing language to characterize “insurgents”. “Extremist”, “unscrupulous”, “tribal” are some of the terms. Insurgents “carry out barbaric acts and do not observe accepted norms of behavior.”²⁷ It is said they are kidnappers, extortionists, bank robbers and drug traffickers.²⁸ The *Manual* indicates that extremists “must be killed or captured.”²⁹ While in some cases, persons in the Iraqi resistance have engaged in acts that would violate humanitarian law, one cannot taint all resistance fighters. Many of what the US has labeled as so-called “barbaric” acts are in fact legal military operations.³⁰

The Manual’s Ultimate Failure – or Is It in Fact Successful?

In spite of the fanfare apparent in the three introductory commentaries to the *Manual*, it is not a clear, practical guide on how to win the hearts and minds of the Iraqi or Afghani people, nor does it provide a useful military operations guide in counter resistance forces.

armed conflict law. The Lieber Code, as it was called, was made law of US military operations on April 24, 1863.

²⁵ *Manual*, pp. 164 – 165.

²⁶ *Idem*, pp. 87 – 93.

²⁷ *Manual*, at liv.

²⁸ *Manual*, at 19.

²⁹ *Manual*, at 17.

³⁰ The *Manual* does not identify any specific acts, but when any act occurs, it should be evaluated under the normal rules of armed conflict which identifies legal as opposed to illegal military operations or weapons.

It is hard to imagine why American military personnel involved in day-to-day combat in either Iraq or Afghanistan would be issued this *Manual* or that they know what to do with it. As a recent report shows, the average American soldier has not even been given trained in rules of the Geneva Convention or humanitarian law even though these are very clear, specific and understandable by anyone.³¹

And, given the unusual step of such a military document being published by a prestigious university press, in this case The University of Chicago Press, one must ask just what is the purpose of this *Manual*?

Clearly, this is a publication targeted at the American people and political establishment, most of whom understand that there have been some problems with Geneva Convention compliance, especially relating to torture. Unfortunately, most do not at the present time fully grasp the degree to which all the laws and customs of war have been violated by the US, not merely some of the rules on torture.

And clearly the current Administration would want to lead people away from a deeper understanding of the relevant law and uncountable war crimes committed by US forces in the course of the invasion and occupation of Iraq and Afghanistan. Certainly reading this *Manual* places the reader in a totally different realm, far removed from the rules of war. Its opacity makes it extremely difficult to put the Geneva Conventions' rules and other humanitarian law and human rights rules side-by-side for comparison. It provides a not-so-subtle characterization of "resistance equals terrorism" that most who are not well-schooled in humanitarian law may find persuasive³² It builds on extreme, general ideas such as "insurgents lie" or the "insurgents are extremist" to provide justifications for acts that skirt or violate international law. In this light, if accepted by the American people and policy-makers, the *Manual* will be viewed by its authors as a great success.

Editors Notes: The *Manual* gives lipservice to the need for field commanders to observe international law. However, as noted in the above text, spread liberally through the document are references to "insurgents" that tend to categorize opponents of the US forces in ways that encourage killing them. Killing opponents who have strongly-held political and religious beliefs is also legitimized. Here are examples:

Introduction – final paragraph – "They (the 'insurgents') often carry out barbaric acts and do not observe accepted norms of behavior."

1-4 – "This can include eliminating those extremists whose beliefs prevent them from reconciling with the government."

1-14 – "...killing insurgents – while necessary, especially with respect to extremists – by itself cannot defeat an insurgency."

³¹ "Papers: U.S. Troops Disregard Rules of War", Associated Press, September 4, 2007.

³² This may explain the detailed bibliography with so many references to works about terrorism.

1-47 – “True extremists are unlikely to be reconciled to any other outcome than the one they seek; therefore they must be killed or captured.”

1-56 – “...kidnapping, extortion, bank robbery and drug trafficking – four favorite insurgent activities- are very lucrative.”

1-68 – “...auxiliaries might be co-opted by economic and political reforms, while fanatic combatants will most likely have to be killed or captured.”

1-126 – “...counterinsurgents are like surgeons cutting out cancerous tissue while keeping vital organs intact.”

1-128 – “Clearly, killing or capturing insurgents will be necessary, especially when an insurgency is based in religious or ideological extremism. However, killing every insurgent is normally impossible.”

1-160 – “These amoral and often barbaric enemies...”

2-1 – “Effective COIN (counterinsurgency) operations ultimately eliminate insurgents...”

5-24 – “Insurgent propaganda may include lying, deception and creating false causes.”

7-9 – “The greatest challenge for (US military) leaders may be in setting an example for the local populace. Effective senior and junior leaders embrace this role and understand its significance. It involves more than killing insurgents; it includes the responsibility to serve as a moral compass that extends beyond the COIN force into the community. It is the moral compass that distinguishes Soldiers and Marines from the insurgents.”

7-38 – “While enemy prisoners in conventional war are considered moral and legal equals, the moral and legal status of insurgents is ambiguous and often contested.”

This kind of language becomes even more legally problematic when one considers that in the vast majority of combat situations it is impossible to know the operative philosophies of individual local people, even if this were the business of US troops. The assumption of a trooper is that anyone presenting or appearing to present a threat must come under fire, without knowing the thinking of the local person(s). Moreover, in combat situations such as that in Iraq, any member of the local general population is suspect and potentially a target, often without any provocation. (See “Documents Show Soldiers Disregard Rules”, by Ryan Lenz, Associated Press, September 4, 2007 and “The Other War: Iraq Vets Bear Witness”, by Chris Hedges and Laila Al-Arian, *The Nation*, July 9, 2007.) The *Manual* speaks about “the fog and friction inherent in COIN” without being more explicit, but in such situations, the language noted above can prove extremely deadly. (2-55)

And reinforcing tendencies toward indiscriminate killing and brutality, the *Manual* cites action in El Salvador as an example of a successful counterinsurgency. This counterinsurgency was marked by atrocities by local military and death squads, supported by the US. And, remarkably, the *Manual* cites the success in the 1980’s of the apartheid government of South Africa in using “light aircraft to locate small groups of insurgents

trying to infiltrate Namibia from Angola.” (6-5; E-17)

The *Manual* from time to time talks about manipulating local people and their culture. For example: “Attempts to change the central beliefs of a culture may result in significant unintended second- and third-order consequences. Decisions to do so are made at the national-strategic level.” (3-41)

Another remarkable statement with respect to manipulation is: “Getting the support of families is a big step toward mobilizing the local populace against the insurgency. Co-opting neutral or friendly women through targeted social and economic programs builds networks of enlightened self-interest that eventually undermine the insurgency. Female counterinsurgents, including interagency people, are required to do this effectively.” (A-35)

The *Manual* makes clear that the US public is also a target of propaganda in fighting a war of counterinsurgency:

“At the strategic level, gaining and maintaining U.S. public support for a protracted deployment is critical. Only the most senior military officers are involved in this process at all. It is properly a political activity. However, military leaders typically take care to ensure that their actions and statements are forthright. They also ensure that the conduct of operations neither makes it harder for elected officials to maintain public support nor undermines public confidence.” (1-136)

Note that this paragraph accepts that US military leaders will be making statements that cross the line into domestic politics around war and peace. In addition, they are charged with the responsibility to conduct operations in ways that will support elected officials who are trying to maintain public support for a war and to ensure that military operations do not undermine confidence, presumably in these same public officials. One wonders how this requirement would always comport with the requirement for actions and statements that are forthright.

SECTION TWO – GROWING DEATH AND SUFFERING IN IRAQ

Introduction

Since mid-2006, when Consumersforpeace.org first published its report on war crimes in Iraq, key indicators of such crimes have steadily increased. More civilians have been killed, more Iraqis held in detention, more highly deadly weapons have been used by US forces. All this has occurred during the period the US Administration and senior military commanders refer to as a period of stabilization.

This report provides an update for the period late 2006 to mid-2007 and covers three broad topics: the increased use of US air power and implications for Iraqi civilians; the increase in the number of people in both US and Iraqi detention facilities and the conditions under which they live; and the decrease in welfare and basic services available to Iraqi citizens.

Each of these topics relates to potential war crimes by US authorities.

Although the official US argument is that the US military (and related institutions) presence in Iraq is at the invitation of the current Iraqi government and sanctioned by a UN resolution, the reality is one in which Iraq is not treated as a sovereign country by the US. The most dramatic and deadly aspect of US dominance, for which the US bears full responsibility, is that the US military continues to operate at its own discretion in most instances. The US military makes its own decisions on when to undertake offensives and when to use air power and in what forms. The US military continues to operate extremely large prisons. The US military continues to disrupt the daily lives of Iraqi citizens, often violently and without notice. In short, the US continues to operate as an occupying power, as it has done since the 2003 invasion.³³

War crimes by the US does not negate the significance of the on-going violence committed by Iraqis themselves. It is often difficult to untangle the power and sectarian relationships that sustain that violence and to determine to what degree attacks are undertaken to dislodge the US occupation. Clearly the US military presence adds a deadly dimension to armed conflicts and the divisions within Iraq society as the US feeds more and more weapons into the country and uses weapons and money to seek to enlist allies among various factions. The US invasion and continued presence in Iraq is the reason for resistance by many Iraqis, irrespective of internal power struggles. The US press often focuses on conflicts among Iraqis as a major, if not the major cause of

³³ The US continues to dictate standards and organizational structures that should be the province of an independent government. For example, a US commission headed by a senior military officer recommends that the Iraq national police force be fully reorganized. David S. Cloud. 2007. "Panel will urge broad overhaul of Iraqi Police." *New York Times*, August 31. Some US journalists and politicians still speak of achieving a US "victory" in Iraq, carrying on the assumption of the US control of event in that country. See Michael Gerson, 2007. "A season of hope in Iraq." *Washington Post*, August 31. Although Iraq regain authority over its own armed forces in September 2006, those forces rely heavily on both US ground and air military power. The US retains control over its own forces in Iraq.

increasing deaths of Iraqi civilians.³⁴ However, there is ample evidence that specific US military strategies, strategies that violate international law, are causes of the growing rate of death and abject suffering among Iraqi people.

I. Increased use of air power

The steady increase in the use of air power to impose US military and political goals has been vastly under-reported. Similarly, the toll on civilians killed and wounded and homes, shops, and offices damaged or destroyed have not been adequately reflected in media accounts. The US military reports on its daily use of air power, but it fails to report on damage sustained in Iraq. In addition, the increase in the use of air power has paralleled the increase in troop strength and application of military means by the US in Iraq.

At least since mid-2006, the US has been expanding its air capabilities in Iraq. Air bases have been enlarged and more planes and helicopters added to the arsenal. The build-up has led to a dramatic increase in air strikes within Iraq. “Close-support missions”—the military’s terminology for aircraft directly attacking assumed combatant positions or in support of ground operation—were 28% higher in July 2007 than the same period in 2006.³⁵ These missions have led to a five-fold increase in the amount of ordinance dropped in 2007.³⁶ The tonnage of munitions dropped by aircraft increased to 222,000 pounds in the first half of 2007, compared to 61,500 during all of 2006.³⁷

The types of air weapons being used also changed during 2006-07. A squadron of A-10 "Warthog" attack planes and a squadron of F-16C Fighting Falcons doubled the number of fighter-bombers stationed at US bases within Iraq. B1-B bombers, capable of carrying up to 24 tons of bombs, were re-introduced into Iraq airspace when they arrived with a second aircraft carrier in the Persian Gulf. Other B1-B bombers were stationed at an undisclosed base in the Persian Gulf region, according to media coverage.³⁸ In July 2007 it was reported that the Air Force was building facilities at its largest airbase in Iraq to handle Reaper drone aircraft. This drone is an attack, unmanned fighter, operated from as far away of the US.³⁹ The types of munitions used by these aircraft are the same or additions to the munitions described in our previous report. The bombs include 250 and 500 pound guided bombs. The use of large caliber cannon shells is common on the jets. Helicopter gunships rely on machine guns, cannons and missiles.⁴⁰

³⁴ Nancy A. Youssef. 2007. “Combat deaths in Iraq decline; reasons aren't clear.” September 2. <http://www.mcclatchydc.com/homepage/story/19401.html>.

³⁵ Data from daily summaries of Air Force activity. <http://www.af.mil/news>.

³⁶ Charles J. Hanley. 2007. “Air Force quietly building Iraq presence” *Forbes.com*. July 14. www.forbes.com/feeds/ap/2007/07/14/ap3914388.html.

³⁷ Mark Benjamin. 2007. “When is an accidental civilian death not an accident?” July 30. http://www.salon.com/news/feature/2007/07/30/collateral_damage/; citing Human Rights Watch. Benjamin also is useful for understanding the US Rules of Engagement in battle; see below.

³⁸ Hanley. 2007

³⁹ “Bomb-laden 'Reaper' drones bound for Iraq.” 2007. *USA Today*. July 15. http://www.usatoday.com/news/world/iraq/2007-07-15-reaper_N.htm.

⁴⁰ For a fuller description of the munitions available to US military see

Like most military accounts of actions, the press releases describe air attacks on Iraqis as people “thought to be insurgents,” “believed to be...”, or confidently state that targets were al-Qaeda gunmen. Common usage is “anti-Iraqi forces” as if the vast majority of combatants were not Iraqis themselves. There is never definitive evidence that the air attacks targeted combatants. While the US reports that US-equipped Sunni militias are organizing against al-Qaeda, many Iraqis “know now that the U.S. military is using the name of al-Qaeda to cover attacks against our national resistance fighters and civilians who wish immediate or scheduled withdrawal of foreign troops from Iraq,” an Iraqi journalist in Baghdad is quoted as saying.⁴¹

“Flying at night, the pilot said, the 14th Fighter Squadron jets dropped two 500-pound bombs on a burning building in which several insurgents were thought to be hiding.”

-- a 14th Fighter Squadron pilot, Misawa Air Base, January 28, 2007, at Najaf

The use of air power occurs when combatant activity is suspected, but not regularly confirmed. Thus, the US Central Command reported on a July 2, 2007 attack in southern Baghdad:

Apache crews from 4th "Guns" Battalion, 227th Aviation Regiment, 1st Air Cavalry Brigade, 1st Cavalry Division, were supporting Operation Dragon Fire when Soldiers from 2nd Battalion, 12th Infantry Regiment, 4th Brigade Combat Team, 1st Infantry Division, spotted a vehicle moving north and south repeatedly on a roadway.

The vehicle stopped, and the driver exited the vehicle. The 2-12 Inf. identified the vehicle as a possible car bomb and cleared the "Guns" Apache crews to engage it. The Apache crews fired on the vehicle, destroying it.⁴²

In a raid in May 2007 on Sadr City, in eastern Baghdad, American forces called in an airstrike on nine cars that were seen positioning themselves to ambush the American and Iraqi troops on the raid, the statement said, and five people suspected of being “terrorists”—to use the words from the official US statement on the operation—were killed in the attack. But an Interior Ministry official and residents of Sadr City said the cars were parked in a line of vehicles waiting at a gas station.⁴³

Although the US military takes pride in the technology available for precision air attacks, history suggests that accuracy is often arbitrarily defined.⁴⁴ Scattered media reports point to the failures of technology and the resultant civilian losses in air attacks. For example, a US helicopter attack on alleged al-Qaeda fighters turned out to be “11 village guards....

<http://www.globalsecurity.org/military/systems/munitions/index.html>

⁴¹ Ali al-Fadhily. 2007. “Iraq: ‘Arrowhead’ becomes fountainhead of anger.” IPS News. July 10. <http://www.ipsnews.net/news.asp?idnews=38479>.

⁴² US Central Command. 2007. “MND-B aircrews destroy possible car bomb.” Press Release July 4. <http://www.centcom.mil/sites/uscentcom2/Lists/Current%20Press%20Releases>.

⁴³ Kirk Semple. 2007. “U.S. and British Airstrikes hit Iraqi militia.” *New York Times*, May 27; **Multi-National Force-Iraq, Combined Press Information Center. 2007. “Secret cell key leader detained, air strike in Sadr City.” Press Release, May 26. <http://www.mnf-iraq.com>.**

⁴⁴ For an analysis of some of the working assumptions of the use of air strikes, see: Benjamin. 2007, op.cit..

They were assisting the Iraqi police in trying to protect their village from possible al-Qaeda attacks when rocketed and strafed by American helicopters.”⁴⁵

The use of air strikes in areas where civilians may be present is framed by Rules of Engagement (ROE) and various supplements to those rules (SROE). For the US military, the ROE are defined (and refined) by the Judge Advocate General's Corps. The Department of Defense has sought to add specificity to the ROE before and since the invasion of Iraq. Since 2005, the Pentagon has stipulated: “U.S. troops must now positively identify a “hostile act” (such as the firing of an automatic weapon in their direction) or a ‘hostile intent’ (such as the brandishing of a rocket-propelled grenade or the planting of an improvised explosive device) before they may fire their weapons.”⁴⁶

While officers must abide by the ROE/SROE, the parameters are highly flexible. The ROE clearly state “nothing in these rules of engagement limits your right to take appropriate action to defend yourself and your unit.”⁴⁷

Consequences for civil society

The air strikes conducted by the US in late 2006 and through 2007 have been a part, albeit under-reported, of the expansion of military tactics during that period. The consequences for civil society have been dramatic. UN and Iraqi government estimates, as of April 2007, indicated that 22,400 people remained displaced as a direct result of military operations, including air assaults. Military offensives, including aerial bombings, have forced several hundred thousand people to flee their homes.⁴⁸

The killing and wounding of civilians with US aircraft is not new in Iraq. Since the invasion, bombs and rockets have killed thousands of people.⁴⁹ Whether intentional or not, the nature of aerial warfare precluded 100 percent assurance that only military targets are hit. A hint of the recent impacts on civilians came during a mid-June 2007 offensive in Diyala province and its capital Baquba. In addition to massive ground forces, aerial attacks were sustained. In a report on the offensive, Amer Hussein Jasm is quoted as saying, “The airplanes have been shooting all the houses and people are getting scared, so they ran away... ‘My neighbor, he is innocent, and they shot his house anyway,’” another man said.⁵⁰ In prior attacks on cities, civilians were urged beforehand to leave. On this occasion civilians were encouraged to stay because the military worried that resistance groups would use the opportunity to slip away. In reality, the military admitted

⁴⁵ Tom Engelhardt. 2007. “Accidents’ of war.” *Tom Dispatch*. July 9.

<http://www.globalpolicy.org/empire/intervention/2007/0709accidents.htm>.

⁴⁶ Colin H. Kahl. 2006. “How we fight.” *Foreign Affairs*, November/December.

<http://www.foreignaffairs.org/20061101faessay85608/colin-h-kahl/how-we-fight.html>.

⁴⁷ JTF UNITED SHIELD, Rules of Engagement Ser #1 11 January 95. <https://www.jagcnet.army.mil>.

⁴⁸ Dina Abou Samra. 2007. “Military-induced displacement.” Global Policy Forum.

<http://www.globalpolicy.org/security/issues/iraq/attack/consequences/2007/07induced.htm>

⁴⁹ This also has been the case in Afghanistan where similar equipment is used. For Iraq, see as an example

Rory Carroll. 2005. “US air strikes kill civilians in Iraq, say witnesses.” *The Guardian*, October 18.

<http://www.guardian.co.uk/international/story/0,,1594506,00.html>.

⁵⁰ Jim Muir. 2007. “US-Iraqi assault in Diyala.” BBC News, June 19.

http://news.bbc.co.uk/2/hi/middle_east/6769391.stm; Joshua Partlow. 2007. “Troops take embattled Baqubah bit by bit, U.S. Commander says.” *Washington Post*, June 26.

that at least half of the expected number of resistance fighters had left. A New York Times reporter told of white phosphorus shells being used in the assault.⁵¹

Conflicting accounts are frequent in reporting civilian casualties from air strikes. For example, a combined air and land attack on Sadr City, Baghdad, produced the following: “The U.S. military said 32 suspected militiamen were killed and 12 captured. But Iraqi police and witnesses said the raids killed nine civilians, including two women, and wounded six others, and made no mention of militants.” The US military claimed that 30 “militants” were killed in the air attack.⁵²

One of the best sources of information on Iraqi casualties of the wars is Iraq Body Count which scans a variety of news sources to identify deaths due to military actions. The organization draws from media reports to document the number of civilian deaths in Iraq that have resulted from the 2003 military intervention by the USA and its allies. The organization’s weekly listing of deaths demonstrates the role of air strikes and other factors. For example,

- August 26, 2007 “Qara Taba: US air strike kills 4 policemen.” “Samarra: US air strike kills 7 family members in their house”
- August 25, 2007: “Touz: US air raid over two villages kills 4. Kirkuk: US air raid kills 2.”
- August 20, 2007: “Al-bu-Abdi: US air raid kills 10.”⁵³

For all of August 2007 (except the last three days of that month), 67 Iraqi civilians were reported killed by US air strikes.⁵⁴

II. Detentions

During the period 2006-07, imprisonment of Iraqis rapidly escalated. Both US and Iraqi military and security forces have stopped, questioned, arrested and detained in a variety of facilities both citizens and alleged combatants.

In March 2007, US prison facilities in Iraq housed some 17,000 Iraqi citizens. A month later, shortly after the beginning of the troop increase (“surge”), another 1,000 or so were added. Toward the end of August 2007, a reported 24,500 people were held in detention centers by the US. About 85 percent of US detainees were Sunni Arabs—only one-tenth of a percent of those detained were from outside of Iraq.⁵⁵ As of March 2007, the Iraqi detention system contained about 34,000 detainees. It was reported that another 4,050

⁵¹ Michael R. Gordon. 2007. “U.S. Plan to capture and kill insurgents in Baquba fell far short of goal, officer says.” New York Times. June 26; <http://insomnia.livejournal.com/2007/06/26/>.

⁵² Sally Buzbee. 2007. “U.S. raids hit suspected Iraqi militias.” Associated Press report, August 8. http://news.yahoo.com/s/ap/20070808/ap_on_re_mi_ea/iraq.

⁵³ <http://iraqbodycount.net/database/recent/>

⁵⁴ Ibid.

⁵⁵ Walter Pincus. 2007. “US expects Iraq prison growth” *Washington Post*, March 14.

<http://globalpolicy.igc.org/security/issues/iraq/contract/2007/0314usexpects.htm>; Walter Pincus. 2007a.

“US holds 18,000 detainees in Iraq.” *Washington Post*, April 15.

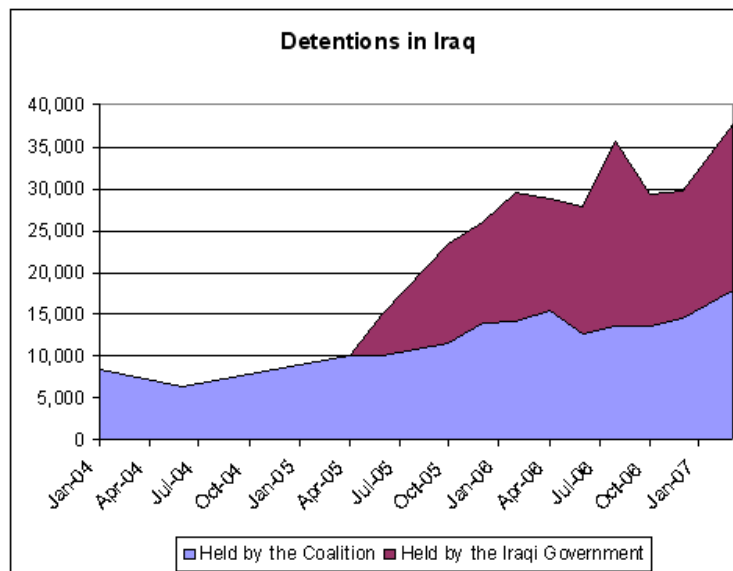
<http://www.globalpolicy.org/security/issues/iraq/torture/2007/0415usholds.htm>; Thom Shanker. 2007.

“With troop rise, Iraqi detainees soar in number.” *New York Times*, August 25.

had been added to the Iraqi system between March and August 2007.⁵⁶ The numbers are only suggestive. “In addition, the US and its partners hold many hundreds in intake facilities, where detainees are not yet registered and counted.” Both US and Iraqi authorities operate secret detention centers. The number of people held in these is not known.⁵⁷

As the prison population has grown, so too have the number of facilities. Hajj Ali, director of the Organization for the Defense of Detainees in Occupation Jails, is cited as saying, “Under Saddam there were 13 prisons. Now there are 36 run by the government and 200 run by the militias. All these have the approval of the American government.”⁵⁸ The US State Department

Democracy and Human Rights Bureau put the number of detention centers even higher, at 450.⁵⁹ In a subsequent annual report, the US added: “...the total number of MoI [Ministry of Interior] detention facilities was unknown. Including police station holding stations, official MoI detention locations were estimated to number over 1,000 facilities. Additionally, there were reports of unofficial detention centers throughout the country.



The Ministry of Defence ran another 30 detention facilities across the country.⁶⁰

Source: Global Policy Forum, *War and Occupation in Iraq*: “Chapter 4: Unlawful Detention.” New York, 2007, p.9

Detention is both arbitrary and systematic; it is seen as an essential element of counter-

⁵⁶ Pincus, 2007a; Walter Pincus. 2007b. “‘Surge’ has led to more detainees.” *Washington Post*, August 15. <http://www.globalpolicy.org/security/issues/iraq/torture/2007/0815surgedetainees.htm>.

⁵⁷ Haifa Zangana. 2006. “The height of humiliation.” *AL-AHRAM* (Cairo). 22-28 June. <http://weekly.ahram.org.eg/2006/800/focus.htm>.

⁵⁸ *ibid.*

⁵⁹ US State Department, Bureau of Democracy, Human Rights, and Labor. 2006. *Country Reports on Human Rights Practices 2005: “Iraq”*. Washington, D.C. <http://www.state.gov/g/drl/rls/hrrpt/2005/61689.htm>.

⁶⁰ US State Department, Bureau of Democracy, Human Rights, and Labor. 2007. *Country Reports on Human Rights Practices 2006: “Iraq”*. Washington, D.C. <http://www.state.gov/g/drl/rls/hrrpt/2006/78853.htm>.

insurgency operations.⁶¹ An example illustrates a common situation. In May 2007, US troops were patrolling in Mahmudiya, south of Baghdad. An explosion injured one of the soldiers. Afterwards the soldier was evacuated, Iraqi and American soldiers continued through the area. .

After about 15 minutes, they came across a one-story stone house with a wide grass lawn, a cattle pen and five young men whom the Iraqi soldiers had lined up against a wall. Their names were checked against a list of insurgents wanted for questioning in relation to the May 12 attack. None of their names appeared, but Captain Abercrombie ordered them arrested anyway, in light of the bomb attack that morning. 'I'm detaining them all,' he said. 'For proximity.'⁶²

Detentions are lengthy. "The average stay in these detention centers is about a year, but about 8,000 of the detainees have been jailed longer, including 1,300 who have been in custody for two years...."⁶³ Prisoners are held without legal rights "The US insists on its right to hold these prisoners, based on what it chooses to call 'military necessity.'" Prisoners in US detention centers do not have access to legal advice and rarely are brought to trial. Until recently, few prisoners were turned over to Iraqi authorities for trial. The detention paperwork is reviewed periodically by the Combined Review and Release Board, set up in August 2004. Both Iraqi and Coalition representatives sit on the Board, but its recommendation are not binding on the military. The prisoners cannot appear before review panels, nor are they allowed a lawyer to represent them at the review. The evidence considered by the panels (if any) is secret.⁶⁴

For those in Iraq detention facilities, the law requires that "detainees should be brought before a judge within 72 hours of their arrest." That rarely happens in Iraq detention centers; most people are held for about two months, according to facility commanders.⁶⁵ However, many Iraqis are highly skeptical of that assertion. Relatives and friends and neighbors had been detained months before and remained in captivity.⁶⁶

US authorities argue that Iraqis are detained on the basis of "Law of Armed Conflict standard. It is a standard that enables a threat to security to be detained, and it is not a criminal law process of moving toward a trial." They suggest that the standard is "taken from the fourth Geneva Convention, one of the 1949 Geneva Convention -- specifically the one for the protection of civilians in time of war."⁶⁷

⁶¹ Anton Menning. 2006. "Counterinsurgency in the Battle of the Casbah." *Small Wars Journal*, vol. 6, October. www.smallwarsjournal.com

⁶² Damien Cave. 2007. "As comrades search, fatal bomb wreaks havoc." *New York Times*, May 23.

⁶³ Pincus. 2007a

⁶⁴ Global Policy Forum. 2007. *War and Occupation in Iraq*: "Chapter 4: Unlawful Detention." New York. <http://www.globalpolicy.org/security/issues/iraq/occupation/report/4detention.htm>

⁶⁵ Molly Hennessy-Fiske. 2007. "Iraqi Jails in 'Appalling' Condition." *Los Angeles Times*, July 21. <http://www.globalpolicy.org/security/issues/iraq/torture/2007/0721appallingjails.htm>

⁶⁶ Ali al-Fadhily. 2007. "Families of detainees losing hope." Inter Press Service, August 30. <http://www.afterdowningstreet.org/?q=node/26312>.

⁶⁷ Colonel Mark Martins. Transcript of a teleconference from Baghdad, August 2, 2007. <http://www.defendamerica.mil/specials/2007/blog/docs/0802martTranscript.pdf>. Martins is Staff Judge Advocate for Multinational Force Iraq and Legal Advisor to General David Petraeus.

However, numerous authorities have challenged this interpretation and questioned the legal basis for the US to hold Iraqi prisoners. For example, a director of Human Rights Watch told a reporter that “under Maliki's declared martial law, it is up to the Iraqi government to deal with the detainees. `We don't see any legal authority for the U.S. to detain Iraqis or judge them under some tribunal system... If the U.S. exercises that power it's another symbol of occupation and not an obligation many in the military want to assume.”⁶⁸

Conditions in Detention

There has been little media attention to the conditions in which prisoners live, in either US or Iraqi detention centers. It is telling, however, that a Pentagon survey, published in May 2007, reported that many US military personnel were willing to tolerate torture of Iraqi detainees and unwilling to report abuse by comrades.⁶⁹ The reaction was for General Petraeus, the US Commander in Iraq, to write a letter, posted on a website, expressing to the US troops his concern about such attitudes.

The general has reason for concern. His own government's State Department wrote in 2007 :“...the general conditions of detention in the country were "not consistent" with international human rights standards. Overcrowding and lack of judicial oversight were principal problems.” The report continued: “There was continued overcrowding. Many lacked adequate food, exercise facilities, medical care, and family visitation. Detainee populations were high due to mass arrests carried out under security and military operations. Limited infrastructure or aging physical plants in some facilities resulted in marginal sanitation, limited access to water and electricity, and poor quality food.”⁷⁰

There is little reason to believe that conditions for Iraqis in US and Iraq prisons have improved in recent years. In 2004, it was reported that women in detention experienced sexual violence, torture of women by US forces includes routine maltreatment, degradation, physical and psychological abuse, and unhealthy and unhygienic conditions.⁷¹ The head of the UN Human Rights Office in Baghdad, reported in April 2006 that instances of torture and summary execution are “happening every day.”⁷² A report in July 2007 noted extreme overcrowding at a joint US-Iraq detention center—nearly 1,000 prisoners in a temporary holding facility designed to hold 300. The media account found: “Many have been held for months without trials or hearings. A human-rights observer employed by the U.S. government has repeatedly complained about the conditions, with problems including overcrowding, intermittent meals, backed up sewage, and long-term detentions in a short-term facility, but conditions have remained the same.”⁷³

⁶⁸ Pincus, 2007a

⁶⁹ Thomas E. Ricks and Ann Scott Tyson. 2007. “Troops at odds with ethics standards,” *Washington Post*, May 5.

⁷⁰ US State Department, Bureau of Democracy, Human Rights, and Labor. 2007, op. cit.

⁷¹ Yifat Susskind. 2007. *Promising Democracy, Imposing Theocracy: Gender-Based Violence and the US War on Iraq*. MADRE, New York. <http://www.madre.org/articles/me/iraqreport.pdf>, citing Annia Ciezadlo. 2004. , "For Iraqi women, Abu Ghraib's taint," *Christian Science Monitor*, May 28.

⁷² Alexander G. Higgins, 2006. “UN exec decries illegal Iraq detainees” *Associated Press*. April 21.

⁷³ Chris Hondros. 2007. “Overcrowding creates deplorable conditions.” July 19. <http://www.iraqslogger.com/index.php/post/3654/subscriptions/splash.html>

Conditions in Iraqi detention centers are acknowledged to be worse than those in US centers. A US reporter found at the National Police detention center, nearly 900 people (a “mix of suspected insurgents, alleged criminals and apparent innocents”) housed in a space designed for 300. She reported: “Partially treated wounds, skin diseases and grossly unsanitary conditions appear common here. So, too, is extortion by guards, say U.S. officials who serve as advisors to the Iraqi staff, but disclaim responsibility for the conditions inside.”⁷⁴

Iraqi authorities appear to be generally indifferent to the conditions in which prisoners live. The Vice President of Iraq, Tariq Al-Hashimi, during an August 2007 visit to an Iraq prison, is reported as having told prisoners: ““please brothers, you must know that your conditions here are much better than of those who is outside, at lease you are safe, at least you have the safety, your conditions is much better than those outside the prison , I know you miss the freedom , but you have the safety...”⁷⁵

Numerous authorities have pointed out that conditions in detention centers breach the Geneva Conventions on the treatment of prisoners. US authorities ignore the international law by classifying detainees by their own vague and singular criteria; the Iraqi authorities by ignoring their own laws and international standards for treating prisoners.

The consequences of detention go beyond the suffering of the detainees, extending into the disruption of the social and economic lives of families and communities. The loss of support of those who are detained can have huge emotional costs for families and mean dramatic declines in income, which in some cases can have deadly consequences. Depending on family size, the numbers of Iraqis directly affected by detention easily approaches (if not exceeds) 200,000 people. These statistics translate into currents of anxiety, fear, dread, trauma and confusion running through Iraqi society, the destructive impact of which is beyond calculation.

III. Living Conditions

Living conditions for most Iraqi citizens have worsened since the invasion and the cumulative impacts are widely evident and severe. While the absence of everyday security is often noted in the media, for millions of people the basic needs of life are not being met. Poverty rates are above 40 percent, childhood malnutrition exceeds 25 percent, and poor water supplies and sanitation have led to numerous outbreaks of diseases.

In our previous report, it was argued that “One duty under the concept of public safety is the fundamental duty of an Occupying Power to ensure the life, health and safety of the civilian population under its control.” The US continues to have an obligation to provide for the general welfare of

“The most important front in the counterinsurgency, improving basic social and economic conditions, is the one on which we have failed most miserably.”

-- “The Iraq war as we see it: Seven U.S. soldiers speak” *The New York Times*, August 19, 2007

⁷⁴ Molly Hennessy-Fiske. 2007. “Iraqi jails in 'Appalling' condition.” *Los Angeles Times*, July 21.

⁷⁵ Mohammed. 2007. “Barb-Wired Iraq.” August 20. <http://last-of-iraqis.blogspot.com/2007/08/barb-wired-iraq.html>.

the Iraqi people. It acknowledges this obligation by taking credit for each new school or clinic whose construction it funded or helped build. The current military strategy of winning the “hearts and minds” of the population further reinforces the obligations of the US to secure basic services and provide security. The US contravened the Geneva Conventions for over two years in this regard and continues to share a large portion of responsibility in the continued breaches in those requirements.

Refugees and Displaced Persons

Nearly 2 million Iraqis are now displaced inside their country and up to 2 million others have fled abroad since the US invasion in March 2003. About 50,000 Iraqis now flee their homes every month.⁷⁶ The International Medical Corps estimated that over half a million Iraqis fled their homes between February 2006 and February 2007.⁷⁷ A variety of factors contribute to the flight of people from their homes. One of those factors is the on-going US and Iraqi military operations, in both urban and rural areas, force people to leave their homes.⁷⁸ Some may return only to have to flee again because of renewed military invasions, as has occurred in several urban areas.⁷⁹ A report by the Internal Displacement Monitoring Centre further notes: “Humanitarian organisations working inside Iraq face a plethora of restrictions preventing them from assisting civilians during and in the aftermath of military operations.”⁸⁰

Health and Welfare

The US military and administration report decreases in violence in Baghdad and elsewhere in Iraq since the addition of US troops beginning in March 2007. Whether such is the case, the violence of daily life for most Iraqis has actually increased in the same period.⁸¹ The ability of people to live in healthy conditions has steadily worsened.

The health conditions of millions of Iraqi citizens have become increasingly compromised since the beginning of 2006. This is especially evident in the ill-health of children and their extremely high rate of preventable deaths. “Iraq’s child mortality rate has increased by a staggering 150 percent since 1990, more than any other country.” Since the US invasion in 2003, infant (children under 1 year of age) mortality has increased by over one-third from pre-war levels. In 2005, one in eight Iraqi children died before they reached five years of age. Malnutrition is widely evident. Over one-fifth of children show evidence of chronic malnutrition. Other preventable childhood diseases, including acute respiratory illnesses and diarrhea are major killers of children in Iraq.⁸²

⁷⁶ “UNHCR reports”. April 16, 2007. <http://www.unhcr.org/news/NEWS/4623a34b2.html>

⁷⁷ The International Medical Corps. 2007. *Iraqis on the Move: Sectarian Displacement in Baghdad*. Santa Monica, California, p.12.

⁷⁸ “Families begin to flee Baghdad suburb as US-Led forces strike.” 2007. *Integrated Regional Information Networks*. May 7.
<http://www.globalpolicy.org/security/issues/iraq/fallujah/2007/0507fleebaghdad.htm>

⁷⁹ Dina Abou Samra. 2007. “Military-Induced displacement.” Global Policy Forum.
<http://www.globalpolicy.org/security/issues/iraq/attack/consequences/2007/07induced.htm#1>

⁸⁰ Internal Displacement Monitoring Centre. 2007. *IRAQ: A Displacement Crisis*. Geneva

⁸¹ “Securing, Stabilizing and Rebuilding Iraq”, US General Accountability Office, Sept. 5, 2007

⁸² Save the Children. 2007. *State of the World’s Mothers*. Westport, CT, p. 25.

Children and adults are sick and dying because the overall basic services to safeguard health had been destroyed or had broken down. Eighty percent of the population lacks effective sanitation, 70 percent lack access to regular clean water, and only 60 percent have access to the public food distribution system.⁸³ The latter has been intentionally cut under pressure from US authorities and the International Monetary Fund. In desperation, people turn to polluted water supplies. The results are an outbreak of cholera in both southern and northern Iraq in mid-2007. "Many cases of viral hepatitis, diarrhoea, typhoid and bacterial infections have been registered in Baghdad due to polluted drinking water," according to that city's health department.⁸⁴

Summarizing the dire situation of millions of people in Iraq, Oxfam and the NGO Coordination Committee in Iraq recently concluded: "Iraqis are suffering from a growing lack of food, shelter, water and sanitation, health care, education, and employment. Of the four million Iraqis who are dependent on food assistance, only 60 per cent currently have access to rations through the government-run Public Distribution System (PDS), down from 96 per cent in 2004.

Forty-three per cent of Iraqis suffer from 'absolute poverty'. According to some estimates, over half the population are [sic] now without work."⁸⁵

One reason health conditions are so poor is because medical facilities can not serve patients adequately. The Iraq government has estimated that nearly three-quarters of critically injured patients die in emergency and intensive care units because of a shortage of qualified staff and a lack of drugs and equipment.⁸⁶ An estimated 12,000 doctors have left Iraq since the US invasion.⁸⁷ The government indicates that 90 percent of the country's hospitals lack essential equipment.

Intensifying the medical shortfalls is the disruption of services by military actions. In December 2006, the US military raided Fallujah General Hospital. "Eyewitnesses said US soldiers raided the hospital 'as if it were a military target'. Doctors and medical staff were arrested, insulted and called terrorists. A hospital employee said that it was already the third time he was handcuffed by US soldiers, and alleged that 'they have been more vicious with medical staff than with others because they consider us the first supporters of those they call terrorists.'"⁸⁸

Basic Infrastructure

Despite the billions of dollars the US has spent to build (and re-build) the basic elements of the infrastructure in Iraq, the poor state of the health system in Iraq parallels the conditions of other basic parts of the national infrastructure. Conditions have

⁸³ Ibid.

⁸⁴ IRIN, 2007. "Health Ministry issues warning on waterborne diseases." July 3. <http://www.irinnews.org/Report.aspx?ReportId=73052>

⁸⁵ Oxfam and the NGO Coordination Committee in Iraq. 2007. *Rising to the Humanitarian Challenge in Iraq*. Briefing Paper. Oxfam. Oxford, UK, p.3.

⁸⁶ WHO. 2007. "Violence threatens health in Iraq" 2007. WHO, <http://www.who.int/mediacentre/news/releases/2007/pr15/en/index.html>.

⁸⁷ *Iraq Index*, April 16, 2007, p.42. www.brookings.edu/iraqindex.

⁸⁸ DeBelder, 2007. "Four years into the Occupation: No health for Iraq." Global Policy Forum. <http://www.globalpolicy.org/security/issues/iraq/attack/consequences/2007/0321nohealth.htm>

progressively worsened in 2006-07, as the US acknowledges. For example, the daily supply of electricity through the national grid during the first week of August 2007 was 12 percent below the same period in 2006. Less than half of national demand was met.⁸⁹ Baghdad residents may get up to eight hours of electricity a day,⁹⁰ when there is not a national grid blackout. Power cuts have been one factor aggravating people's health, causing dehydration especially during the extreme summer temperatures.⁹¹ Power cuts also close water pumping stations, further aggravating a precarious water supply.

Water supplies are no better. About 70 percent of Iraqis lack adequate water supplies, compared to 50 percent in 2003. Over 80 percent do not have effective sanitation systems, creating conditions for the spread of preventable diseases. The International Red Cross reports that "Water is often contaminated owing to the poor repair of sewage and water-supply networks and the discharge of untreated sewage into rivers, which are the main source of drinking water."⁹²

Baghdad residents say they have never experienced such poor levels of municipal services. Limited electricity and drinking water are the main problems, causing disease and frustration.

Construction of new health centers came to a halt early in 2006 with only 14 percent of the planned centers built.⁹³ A year later the percentage had doubled, but only half of the completed centers had been turned over to Iraqi authorities and only half of those were operating.⁹⁴

IV. Conclusion

Although 2007, with the increase of US forces in Iraq, has been described by the US Administration as a period for providing greater security for Iraqis to enable the current Iraqi government to function more effectively, the year has been one of even greater death and suffering for Iraqi people. US military actions that are illegal under international law, as documented in this and our previous war crimes reports, have been the driving force in bringing this death and suffering to Iraq and in progressively destroying basic family and community human networks and physical infrastructure of civil society.

Our previous report outlines mechanisms for investigation and prosecution of high US civilian and military officials responsible for violations in Iraq of international law and

⁸⁹ Center of Excellence. 2007. "Iraq Crisis Report." August 15, citing the US State Department. <http://coe-dmha.org/HARIraq.cfm>.

⁹⁰ Special Inspector General for Iraq Reconstruction. 2007. *Quarterly Report and Semi-Annual Report to Congress*. SIGIR, Arlington, VA, table 2.10. <http://www.sigir.mil/reports/quarterlyreports/Jul07/Default.aspx>

⁹¹ IRIN. 2007. "Power cuts getting worse, affecting lives." 21 August. <http://www.irinnews.org/Report.aspx?ReportId=73835>

⁹² International Committee of the Red Cross. 2007. *Civilians without Protection: The Ever-worsening Humanitarian Crisis in Iraq*. ICRC. Geneva. [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/iraq-report-110407/\\$File/Iraq-report-icrc.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/iraq-report-110407/$File/Iraq-report-icrc.pdf).

⁹³ De Belder. 2007. op. cit.

⁹⁴ Special Inspector General for Iraq Reconstruction. 2007. op.cit. p.97.

US law. Undertaking this urgent task is not only a matter of essential justice, it is a way for US society and the world to know more fully what has happened in Iraq and possibly to end the carnage there.