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**IRAQ 2004:  
A WORKING PAPER FROM CANDIL**

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## **About CANDIL**

CANDIL (Canada, Democracy, and International Law) recognizes democracy and respect for international law as mutually supporting and necessary conditions of human security. The devastation of Iraq is recognized as a case in point of the dangers to human security posed by lawless violence of states and non-state actors. Our future security depends on compliance with international law by governments. Our own government and the governments of our allies must comply with international law, and we as citizens have a responsibility to bring our government's policies, actions, and commitment into compliance with international law, through democratic process.

CANDIL was founded in 2003. The organization represents a direct extension of more than a decade of work by Calgarians and others concerned with the economic sanctions on Iraq and their effects on the people of Iraq. This paper is therefore based on many years of work and personal experience by individual members of CANDIL. That work includes sustained, critical observation of events related to Iraq; fact-finding visits to Iraq; testimony before Parliament's Standing Committee on Foreign Affairs and International Trade; numerous public presentations; interactions with scholars in international law; longstanding personal associations with Iraqis, including Iraqi scholars and professionals; as well as other, extensive experience relevant to the task of producing this paper.

## **About this paper**

Any analysis or account of history is a set of abstractions, selected or constructed from many possible ways of interpreting the world. Any account of history is designed to serve one or more purposes. This paper is intended to advance public awareness of how violations of law by various governments produced the current crisis in Iraq, the devastation of countless human lives, and an incalculable waste of resources. It also explores how international law must be used as a framework in the process of reconciliation, reconstruction, and recovery; and the responsibility of citizens and necessity of democracy as the engine in that process of reconciliation, reconstruction, and recovery.

Many other accounts, more familiar or standard or "official" in western countries such as Canada and the United States, were designed to cultivate public support for a policy of regime change in Iraq. Specifically, these more familiar accounts tend to eliminate, rationalize, or obscure those parts of history which incriminate western governments in the devastation of Iraq; and emphasize almost exclusively those parts which incriminate the government of Iraq under Saddam Hussein. Our approach is to emphasize both aspects of reality. Largely for this reason, the interpretation provided here will differ substantially from interpretations of events more familiar to many North Americans.

The catastrophe which the people of Iraq have endured for more than a decade has recently grown worse. As with any catastrophe – whether an airline disaster or genocide – we have a responsibility to deal with the effects; facilitate optimal recovery; understand the causes of the disaster; and address those causes in order to prevent recurrence of similar disasters in the future. These components are interrelated. To neglect any one is to fail in our responsibility.

We find no easy solutions to the crisis in Iraq. However, we find easily identifiable sources of the ongoing crisis. These sources must be addressed honestly, forcefully, and persistently. Responsibility for addressing the roots of the crisis in Iraq lies with all competent citizens, institutions and organizations of civil society, and governments.

## Background

The law of the United Nations Charter implicitly recognized war as one of the most fundamental violations of human rights, and opened with an express intent to save post-World War II generations from the scourge of war. Toward that end the United Nations Charter outlawed the international threat or use of force with two exceptions. Self-defense including collective self-defense was affirmed as an inherent right in Article 51. And the use or threat of international force as a last resort was to be legal if conducted under the auspices of the United Nations.

In the case of Iraq, the United Nations Security Council did not merely fail to save the current generation of Iraqis from the scourge of war. The Security Council was instrumental in imposing the scourge of war on Iraq in 1991 and supporting the economic strangulation of Iraq through the decade of the 1990s. In this process the UN Security Council betrayed the fundamental purposes and principles of the UN Charter. Yet as the United States and the United Kingdom persisted in the policy of regime change in Iraq and carried that policy into a new phase of military aggression in 2003, the UN Security Council played a more constructive, if vacillating, role in de-legitimizing the invasion and occupation of Iraq.

For the future we face a choice between the rule of law or the rule of force as the framework for our future security. Powerful states historically have preferred to seek domination rather than subject themselves to constraints of a rule of law. Hence powerful states have been the major obstacle to a rule of law. Today the refusal of the most powerful states to subject themselves to a rule of law is the major obstacle to establishing international law as the framework for human security. That failure will continue to cost us dearly in the years ahead.

Achieving a rule of law depends on justice in the written law and justice in its implementation. "Law" without justice is the law of the jungle. A law that permits rich people or powerful nations to usurp the fundamental rights of others guarantees its own demise.

Even if the law as written is based on justice, there will be no rule of law if those entrusted with its implementation apply the law inequitably. If the United States invades Panama in 1989 and Iraq invades Kuwait in 1990 and the law effectively ignores the first violation but punishes the second, then the prospects for a rule of law become dim.

If implementation adds treachery to inequity, by using the very institutions and instruments of the law to violate the most fundamental principles and purposes of the law itself, then the prospects for a rule of law become as dark as night. In the case of Iraq, the instruments of law were used to promote a policy of regime change in Iraq, at a cost of hundreds of thousands of lives and the devastation of human rights of a generation of Iraqis. That is an irrefutable case of the use of law as pretext to violate the most fundamental principles and purposes of law. That perfidy will continue to cost us dearly in the years ahead.

At the beginning of the 21<sup>st</sup> century we therefore live in a very dark time, and it is important to recognize that this darkness has been brought on by our own choices. The Canadian government has supported the assault on law in the case of Iraq, and the Canadian public has permitted that assault on law, an assault on its own future security which continues in policies and position papers of some Canadian political parties to this day.

Those who support policies of lawlessness of course do not see it quite this way. They adopt different ways of thinking about the world designed to gain support for their own power, or the power of a particular state, over a rule of law. The political parties in Canada that supported regime change in Iraq also supported, de facto, a fundamental violation of international law and therefore supported an erosion of prospects for a rule of law.

Historically, powerful states rally their populations to support of this adventure by promoting concepts of the world which justify their acquisition, use, and abuse of power. It has always been easy for a powerful state to do this because such states always convey significant benefits. It is easy to construct concepts of the world which emphasize the good that the powerful state has conveyed, and build a national ideology on those concepts. The major atrocities which are also part of the history of every powerful state are simply ignored or obscured or rationalized in the ideology that supports state power.

As the relative power of the state increases in the international arena, the persuasiveness of these concepts becomes irresistible to many. The economic power of the state reinforces the cultural power of its ideology. But the violence that the powerful state uses to maintain its power over populations for whom that domination is anathema, always carries huge costs to the powerful state. With time those costs erode the resources of the powerful state, which then goes into decline.

There is another alternative. States have the opportunity to comply with international law and promote it according to its fundamental principles and purposes. This can lower costs of transactions, promote trust, and advance human security worldwide. That can yield incalculable dividends for the future, for all of us. We are constantly in the process of choosing between that option (a rule of law) and the other option (the domination of powerful states). That process of choice is taking us down the road of history for the twenty-first century.

It is possible to spend a lot of time arguing about this, but the argument will largely be wasted time to anyone whose priority is human security based on a rule of law. All concepts of the world are sets of abstractions. They are representations of reality, not the reality itself. They are maps, and the map is not the territory. Maps are designed for a purpose. This map for future progress is designed to promote a rule of law, because we believe a rule of law is essential for our future security. The map offered here is not designed to promote the power of a particular state or a coalition of states. Others may make different choices. Whatever our concepts of the world they are important because those concepts influence our behavior and our behavior influences the world. We are responsible for our choices and for our influence in history.

The following set of working principles is a blueprint for progress in Iraq and in our future security. We present it so that the public, political parties and government can make a better informed choice in the future than they have made in the past.

### **1. Recognition of responsibility for the devastation of Iraq.**

All governments and institutions that participated in the violence and the economic siege of Iraq and the unlawful use of force against Iraq, as well as the United Nations Security Council, must acknowledge their part in the destruction of Iraq and renounce the unlawful use of force and economic warfare. This process of acknowledgement is an essential part of understanding the catastrophe in terms necessary to avoid its repetition, and to promote the process of reconciliation and recovery in Iraq.

Disasters like the one in Iraq arise from violent contests for power, and the lawlessness involved in those contests. The government of Iraq, armed insurgents within Iraq, other non-state actors, regional governments; and world powers and the international institutions they influence, have all been involved in the contest for power that has devastated the Iraqi people. Predictably, each of the contestants has preferred to shift the blame for the disaster onto one or more of the other contestants.

The same contestants for power that have produced the crisis in Iraq, are impeding a constructive resolution to the crisis by their refusal to acknowledge their part in the problem, by their refusal to renounce their illegitimate use of force and lawlessness, and by their usurpation of political power and control of resources that under international law belong to the people of Iraq.

In this impasse, the standards of international law re-emerge as indispensable standards for progress in the reconstruction and recovery of Iraq, and restoration of normal relations between Iraq and the international community.

Despite the part they have played in creating the catastrophe in Iraq, each of the responsible actors also has a record of important positive achievements. Hence a viable solution to the crisis must include the very governments, non-state actors, and international institutions that have created the crisis. These actors must acknowledge and repudiate their illegitimate policies and practices; bring their policies and practices into compliance with international law; and build on their legitimate positive achievements.

The recently and illegally displaced government of Iraq was among the actors contributing to the current crisis. Its history illustrates the duality of all parties involved in the contest for power in Iraq. The government of Iraq was responsible for major positive achievements, summarized for example in a 1988 United States government report. Advances in provision of health services, in education, and in the involvement of women in the work force were among the important achievements. But the government of Iraq under Saddam Hussein also established a reign of terror as its mode of governance. Its violations of international law included major acts of aggression against Iran and Kuwait, and horrific violations of international humanitarian and human rights law.

Factions within Iraq have suffered murderous injustice; and have been the source of important positive achievements under extremely challenging conditions. Nonetheless, it is essential that all parts of the population in Iraq, and their political leaders, examine the part they have played in the national and regional catastrophe. An armed Kurdish insurgency, divided against itself and against the government of Iraq, is an important example. Whatever the merits of Kurdish nationalism, the violent factionalism and tribalism in northern Iraq, and the collusion of Iraqi Kurdish groups with foreign governments hostile to the government of Iraq, posed an ongoing internal security threat and a threat to regional peace and security. The potential for ethnic nationalism to prolong and exacerbate the current crisis in Iraq must be critically re-examined.

Kuwait was subjected to an illegal invasion and occupation by Iraq in 1990, and its government and citizens subjected to inexcusable atrocities and terror. However the government of Kuwait played a divisive role in the events of 1990 leading up to the invasion and occupation. By producing oil in excess of limits agreed to regionally, Kuwait drove down the price of oil and knowingly inflicted damage on the Iraqi economy. The government of Kuwait persisted in these practices despite repeated regional efforts to resolve the dispute with Iraq in the months leading up to the invasion. The government of Kuwait was also reportedly involved in provocative oil drilling practices at the Iraq-Kuwait border. None of these practices in the least exonerate Iraq in its invasion of Kuwait, but they exacerbated antipathies regionally and contributed to the horrendously destructive events which followed. As with all other states that played a destructive role in the course of events, the government of Kuwait must acknowledge its responsibility in the ongoing catastrophe and its origins. The government of Kuwait has the resources to play a more positive role in regional reconciliation, and in the reconstruction and recovery of Iraq.

The government of the United States is widely respected for its contributions to democracy and a rule of law. In its policy toward Iraq, it has radically undermined that credibility. After August 1990, it adopted the illegitimate and illegal objective of regime change in Iraq, masking that objective with other pretexts. In the process of pursuing that policy objective, it has betrayed its own principles, violated the United States Constitution and international law, jeopardized its place in history, and undermined the security of Americans. It has played a leading role in subverting the United Nations Security Council in pursuit of regime change in Iraq.

The government of the United States, both of its major political parties, the cultural institutions of the United States, and the citizens of the United States who have allowed this to happen, bear a major responsibility for the current crisis in Iraq and must acknowledge that

responsibility. The United States must bring its policies and practices into compliance with international law. The citizens and civil society in the United States are responsible for that process. The United States bears a major responsibility to support the Iraqi people in the reconstruction and recovery of Iraq.

The government of Canada has often played a constructive role in world affairs, and has occasionally demonstrated independence and ethical strength in matters pertaining to Iraq. This includes its sharply limited participation in and voiced opposition to the illegal invasion and occupation of Iraq in 2003. However, since August 1990, the government of Canada has for the most part been complicit in the policy of regime change in Iraq, and the attendant violations of international law and assault on the human rights of the people of Iraq. The citizens of Canada and the major Canadian political parties who have allowed these policies to develop, bear a major responsibility for the current crisis in Iraq and must acknowledge that responsibility. The government of Canada must bring its policies and practices into compliance with international law. The citizens and civil society of Canada are responsible for that process. The government of Canada bears a major responsibility to support the Iraqi people in the reconstruction and recovery of Iraq.

Other governments and international institutions that have been complicit in the policy of regime change in Iraq, under whatever pretext and for whatever reason, share in the responsibility to support the process of reconstruction and recovery in Iraq, and to conduct their part in that process in full compliance with and support of international law and the rights of the people of Iraq.

The United Nations represents the work and vision of thousands of dedicated and intelligent men and women from many parts of the global community. The United Nations Charter is a necessary cornerstone of international law. The prohibition on the international threat or use of force except as specified in the Charter, is a basic requirement for future human security worldwide. It is therefore a tragedy beyond reckoning that the United Nations Security Council has repeatedly been obstructed and subverted by member states in promotion of their narrow and ill conceived "interests." The subversion of the UN Security Council to the process of regime change in Iraq represents a profound betrayal of the purposes and principles of the United Nations. It has been a major setback to the credibility of the United Nations as an institution, and an assault on the chances for a rule of law and for future human security worldwide.

Despite this the United Nations has continued to play a constructive role in many aspects of the evolving crisis in Iraq. Equally important is the fundamental and necessary role and responsibility of the United Nations to acknowledge and repudiate the destructive and illegitimate policies and practices that led to the catastrophe in Iraq; and to monitor the process of reconstruction, recovery, and reconciliation. All member states share in this responsibility.

The extent to which, and the manner in which, these responsibilities are discharged, will provide an indicator of chances for a rule of law and human security in the twenty-first century. International law, not the arbitrary policies of powerful states, is the necessary framework within which the crisis in Iraq must be resolved. Insofar as the process conforms to the purposes, principles, and requirements of international law, human security will be promoted in Iraq and worldwide. Insofar as the process violates international law, human security will be jeopardized in Iraq and worldwide.

The invasion and occupation of Iraq by the United States and the United Kingdom are illegal. The disposition of Iraq's resources by the United States or the United Kingdom or other foreign powers, are potentially major violations of international law. The right of peoples to liberate their country from foreign occupation or colonization is recognized under international law.

By their continued occupation of Iraq and other violations of international law, the United States and other collaborators in the invasion and occupation legitimize the violence directed against occupying forces and their collaborators. The occupying powers can delegitimize this violence by an expeditious devolution of power to legitimate governance by Iraqis themselves, by timely

withdrawal of their armed forces from Iraq, and by bringing their policies and practices into full compliance with international law.

## **2. International law as necessary framework for the recovery of Iraq.**

International law is the essential framework for the recovery and reconstruction of Iraq and for global security. The violation and subversion of international law by the previous government of Iraq and by the international community are responsible for the devastation of Iraq and for endangering peace and security in the global community. Reliable progress in reducing the dangers globally, and in reconstruction and recovery of Iraq, can be achieved only to the extent that the spirit, purposes, and provisions of international law are implemented and followed in the process.

An independent international legal advisory body must be established to monitor the process of reconstruction and recovery in Iraq. This body would monitor evolving procedures of governance in Iraq; as well as social, cultural, and economic affairs, and their compliance with international law. It must be independent of influence from the parties responsible for the destruction of Iraq. It should be drawn from existing international legal institutions such as the International Court of Justice, and from other organizations with international credibility for work in the framework of international human rights and humanitarian law.

This independent body must assess whether the process of resource use, reconstruction, and recovery are being conducted in accord with international law, toward independence for Iraq, and on behalf of the people of Iraq. It must have international credibility for independent and authoritative interpretation of international law as it applies to Iraq and for assessment of the evolving conditions in Iraq. Its advisory opinions and assessments must be given decisive weight in the international community not only in the process of decision making but also in public awareness. Publication of the findings of this independent monitor must be made widely accessible to governments, NGOs and civil society, and to the mass media in all countries.

The United States and the United Kingdom must comply fully with international law governing their occupation of Iraq and rapidly bring that occupation to an end. Because of the UN Security Council's subversion and loss of credibility in the destruction of Iraq, it is essential that a separate body within the United Nations be entrusted with power of advice and consent in any UN involvement with the process of reconstruction and recovery in Iraq. This body should have representation from various parts of the United Nations including the Economic and Social Council and others. It would monitor events in Iraq and give periodic assessment and recommendations in accord with the assessments of the international legal advisory body stipulated above.

## **3. Sovereignty and self-determination as inalienable rights of the people of Iraq.**

Sovereignty and self-determination are inalienable rights of the people of Iraq. Foreign governments and international bodies must renounce all efforts to delay, manipulate, or dilute the enjoyment of those rights by the people of Iraq.

With the exposure of false pretexts for the invasion and occupation of Iraq, some observers have attempted to justify the invasion and occupation by suggesting that the incursions may promote democracy and human rights in Iraq. We reject the view that "promoting democracy and human rights in Iraq" can justify policies that violated the most fundamental provisions of international law, extinguished hundreds of thousands of lives, and wasted incalculable human potential among Iraqis, losses that can never be recovered or adequately understood.

Louis Henkin, former editor for the American Journal of International Law and advisor to the State Department on international law, has emphasized that advances in human rights must be made within the framework of UN Charter law. Sweeping aside the constraints imposed by the UN Charter makes a rule of law impossible and thus renders advances in human rights transient and illusory.

Instead we propose that reparations and compensation for the siege of Iraq can be made in part by insuring a rapid restoration of the rights, the independence, and the empowerment of the people of Iraq. This process must be rigorously based in international human rights law.

#### **4. Resources of Iraq to be used in accord with international human rights law for the benefit of the people of Iraq.**

The resources of Iraq belong to the people of Iraq. Those resources are to be deployed in accord with the Charter for Economic Rights and Duties of States and the International Covenant on Economic, Social, and Cultural Rights.

The government of Iraq under Saddam Hussein, notwithstanding its record of savage internal repression, had an objective of a unified and independent Iraq, in which the resources of the country would be used to promote national unity and strength. The occupying authority appears to have very different objectives. The invasion and occupation of Iraq are illegal, and under current conditions all disposition of Iraqi resources must be kept subject to independent legal review.

The following excerpts from the Charter of Economic Rights and Duties of States are examples of criteria we consider essential to reconstruction and recovery in Iraq.

From Chapter I: Economic as well as political and other relations among States shall be governed, *inter alia*, by the following principles:

- (a) Sovereignty, territorial integrity and political independence of States;
- (b) Sovereign equality of all States;
- (c) Non-aggression;
- (d) Non-intervention;
- (e) Mutual and equitable benefit;
- (f) Peaceful coexistence;
- (g) Equal rights and self-determination of peoples;
- (h) Peaceful settlement of disputes;
- (i) Remedying of injustices which have been brought about by force and which deprive a nation of the natural means necessary for its normal development.
- (j) Fulfillment in good faith of international obligations;
- (k) Respect for human rights and fundamental freedoms;
- (l) No attempt to seek hegemony and spheres of influence;
- (m) Promotion of international social justice;
- (n) International co-operation for development;
- (o) Free access to and from the sea by land-locked countries within the framework of the above principles.

From Chapter II, Article 1: Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever.

From Chapter II, Article 2, Paragraph 1: Every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities.

We note that the Charter is part of a General Assembly Resolution adopted on 12 December 1974 by a vote of 120 in favor, 6 against, and 10 abstentions; and we note with concern that the United States and the United Kingdom, currently occupying powers in Iraq, both voted against this Resolution. We consider the hostility of the United States and the United Kingdom to basic rights of self-determination and the right of peoples to control over their natural

resources, as a potentially major obstacle to reconstruction and recovery in Iraq. It is the responsibility of all governments and institutions to uphold the principles set forth in the Charter of Economic Rights and Duties of States; and the responsibility of citizens, particularly citizens of the United States and the United Kingdom, to bring their governments' policies and practices into compliance with those principles.

#### **5. Acceptance of responsibility for the recovery of Iraq:**

All competent governments and international organizations must play a sustained and effective supporting role in the reconstruction of Iraq; and facilitate interactions between civil society in Iraq and the international community. Reparations for the devastation of Iraq, including the effects of economic sanctions and political isolation, as well as illegal acts of war against Iraq, are the particular responsibility of those governments and institutions in the international community which perpetrated and supported the sanctions and the unlawful use of force. These reparative resources must be placed under control of Iraqi institutions and an Iraqi civil society working for a strong, independent, and inclusive Iraq, with its internal and external affairs guided by basic precepts of international law and free of interference from foreign powers. For more than ten years after the invasion of Kuwait, Iraq was illegally deprived of access to its own resources and repeatedly subjected to unjustifiable military assaults. Responsibility for restoration to Iraq of lost resources rests with the perpetrators of that injustice.

#### **6. Rapid devolution of power to Iraqi institutions.**

Implementation of the third working principle above requires a rapid devolution of power to Iraqi institutions. Those institutions must represent all parts of Iraqi society, without prejudice against previous affiliations with the former government of Iraq, the occupying powers, or others. Proxy institutions of governance and manipulative control of Iraqi institutions and resources by the very governments responsible for the ravaging of Iraq is illegitimate. Instead, resources must be placed in the hands of Iraqi institutions, including Iraqi civil society and its non-governmental organizations. It is essential to understand that such organizations, in collaboration with other NGOs and international civil society, have long been at work in the process of healing the damage to Iraq inflicted by violence and lawlessness. It is Iraqi civil society and NGOs that represent the core of integrity and experience necessary for an effective and legitimate process of recovery of the country. Foreign institutions and governments have neither the experience nor the credibility to direct this process; their role must be to support the process driven by the people of Iraq.

#### **7. Responsibility of the people of Iraq to establish and implement the process of reconciliation and inclusive governance.**

All parts of Iraqi society face the urgent necessity to establish an explicit process of reconciliation and governance, and to implement the process without delay. Martin Luther King Jr.'s observation that "We must learn to live together as brothers, or we will perish together as fools" applies at the national and international levels. Both the international aggression of the Iraqi government under Saddam Hussein and the violent factionalism within the country played major roles in the devastation of Iraq.

Internal factionalism in Iraq was responsible for direct self-destruction and waste of Iraq's human and natural resources, and also aided and abetted the violence of foreign powers directed against Iraq. The people of Iraq must end their factionalism and their support for international aggression, either by Iraq against other countries, or by other countries against Iraq. Otherwise their process of self-destruction will continue, regardless of any action or inaction on the part of the international community. A house divided against itself cannot stand.

Iraq has long faced internal factionalism, oppression, and violence. The possibility of a devastating civil war in the wake of an illegal occupation cannot be dismissed lightly. There is no doubt that the concerns expressed about civil war in Iraq are in part an effort to justify prolonging the illegal occupation of Iraq. Robert Fisk has recently expressed serious doubts that a civil war would escalate if foreign troops were withdrawn (interview April 2004). He emphasizes the de facto integration of Sunni and Shia within the tribal structures of Iraq, and cites his recent experience in the context of an upsurge of violence.

Nonetheless the potential for factional violence remains a legitimate concern, and in any case is likely to be used cynically as pretext for prolonging the foreign occupation. For these reasons it is urgent that groups in Iraq develop an explicit arrangement for reconciliation and governance; that the process of reaching this accord involve all potential adversaries including those formerly affiliated with the Baath party in Iraq; and that the process be implemented as soon as possible. Such an accord, and its implementation as a process of reconciliation, will effectively refute the predictions of civil war as pretext for prolonging the illegal occupation of Iraq.

An independent mediator may be useful in this process. Such mediation might be provided by any of the governments which were not associated with the invasion of Iraq. The Canadian government might play a constructive role in this process, despite its logistical support of the invasion. The possibility that NGOs rather than governments might serve as mediators should also be considered. In any case it is urgent that this process be initiated as soon as possible, and that it be designed and implemented in such a way that co-optation, obstruction, or sabotage of the process will have minimal chance of success. The United States and the United Kingdom, as illegal occupiers, cannot be credible participants in this process but must refrain from undermining or opposing it in any way.

An occupied and divided country is at an extreme disadvantage in generating concepts of self-respect, independence, and national unity. To develop a program of independence and national unity, it is essential that all parts of Iraqi society work together in civic institutions and throughout the structures of governance. Education, the police and armed forces, judiciary bodies, and all levels of government, must have effective participation from all parts of Iraqi society, and must be independent of foreign influences that tend to divide the country or marginalize parts of Iraq's population. Exclusion of individuals and groups based on previous affiliation with the Baath party or other political or ethnic grounds will perpetuate the division of the country and vitiate efforts at reconstruction and recovery. It is of utmost importance that women's rights and empowerment, in which Iraq had played a leading role in the Middle East, recover their pace of progress and governmental support.

## **8. Withdrawal of all US and UK military forces from Iraq and closure of all foreign military bases.**

All foreign military forces must be expeditiously withdrawn from Iraq. Security within Iraq must be administered and controlled by Iraqi institutions and police, in accord with international law, without foreign domination or interference.

Some have expressed concern that withdrawal of occupying military forces would place Iraqis in greater jeopardy than they already face. We are well aware of concerns that civil war might escalate in Iraq after the foreign occupation is ended (see section 7 above). However, we do not believe the evidence supports this prediction. Current violence in Iraq derives from various sources and is directed against several targets.

The sources of violence include the occupying forces themselves, which according to recent reports are the major perpetrators of civilian deaths in Iraq at this time.

Other sources of violence in Iraq include a violent resistance directed against the occupying forces and against Iraqis seeking employment associated with the occupation; and random criminal violence which the occupying military forces have utterly failed to control, and

which Iraqi police forces are hampered from controlling because the occupation undermines their authority and operational effectiveness. Withdrawal of foreign military forces and an end to the occupation will no doubt involve many problems, but the above-cited sources of violence would be eliminated or sharply reduced by ending the occupation.

A major source of violence in Iraq is from military personnel involved in the illegal occupation. We do not have accurate counts of those killed or injured by the US and UK military forces during the illegal invasion and occupation of Iraq, but the numbers may be in the tens of thousands, and according to a recent report represent the majority of civilian deaths and injuries in Iraq since the invasion. Additionally the foreign military presence is pervasive and extremely provocative, as events have shown.

The illegal invasion and occupation of Iraq have extinguished countless lives, and continue to place countless other lives in jeopardy: ordinary Iraqis; Iraqis associating themselves with the occupation by seeking work in various organizations including police forces that are under effective control of the occupying forces; numerous foreign nationals engaged in activities potentially beneficial to Iraqis but associated with the occupation; and military personnel in the armed forces occupying Iraq.

A *sine qua non* for reducing this violence is to end the occupation and restore legitimate governance in Iraq. This would 1) end the attacks on Iraqi civilians perpetrated by the foreign military forces occupying Iraq; 2) end the attacks on occupying military forces; and 3) permit an Iraqi police force under legitimate Iraqi governance to counteract the random criminal violence currently directed against Iraqi civilians; and 4) permit normalization and legitimization of international commerce and interactions with foreign nationals. In this transitional process it is essential that Iraqis reject all retaliatory violence against those Iraqis who have collaborated with the illegal occupation. The longer the illegal occupation persists, the more difficult and protracted the process of national reconciliation is likely to be. The urgency of withdrawal of foreign military forces from Iraq cannot be overemphasized.

#### **9. Participation of United Nations peacekeeping forces contingent upon request from legitimate Iraqi authorities.**

After devolution of full governing authority to Iraq, and at the discretion of the legitimate Iraqi authorities, United Nations or other international peacekeeping forces may have a legitimate and useful role to play in maintaining peace and security in Iraq. No such legitimacy can pertain to UN or other military forces deployed in Iraq under the aegis of the current illegal occupation.

#### **10. Conclusion of non-aggression, disarmament, and cooperation agreements among states in the region.**

Regional governments including the government of Iraq should conclude and implement regional agreements on non-aggression, disarmament, and cooperation.

Acts of aggression in the Middle East have had colossally destructive consequences, including Iraq's acts of aggression against Iran and Kuwait; the US/UK aggression against Iraq; and other acts of aggression perpetrated or supported by governments in the region. International law is concerned not only with the international use of force, but also with international threats. For example, the hypothetical weapons of mass destruction in Iraq were used as a reason for United Nations actions against Iraq after 1990.

Iraq had sought to acquire weapons of mass destruction prior to 1990, but these policies were pursued in part because of perceived threats from an armed insurgency in northern Iraq and from hostile states in the region. The rule of thumb that violence begets violence can be extended to recognize that international threats and hostility tend to be self-perpetuating and mutually destructive to all parties in the process.

There are numerous obstacles to peace and stability in the Middle East. Governments in the region bear the primary responsibility for solving the problems and moving past the obstacles. Other governments with regional influence are responsible for supporting regional processes toward binding agreements on non-aggression, disarmament, and co-operation.

**11. Responsibility of civil society in western democracies to bring their own governments' policies and practices into compliance with international law; and to participate in the recovery of Iraq and restoration of dynamic and constructive interactions between Iraqi civil society and the international community.**

Citizens in all democratic countries, working through organizations of civil society, are responsible for bringing their governments' policies into compliance with international law; and for promoting reconciliation, and cultural and social interactions, with civil society in Iraq.

A government which acts as a tyrant in its external affairs thereby jeopardizes its legitimacy. If that government is a democracy, meaning that the government's foreign policy expresses the will of the people of that State, then the citizens of that country are responsible for the external tyranny and for the dubious legitimacy of their government. This relationship between a tyrannical foreign policy and the conditions of democracy was well expressed by Hans Kochler:

"On the one hand, democracy in foreign policy grants every citizen the right to influence the international relations of [his/her] state (internal aspect). On the other hand, it means that a specific state bases its relations to other states on the principles of democracy (external aspect). Both aspects are mutually entwined. Any democracy that acts as a dictatorship externally (even though its dictatorial foreign policy may internally be sanctified by its citizens) is a contradiction in terms. Such citizens must not claim to be credible in their so-called democratic activities."

Democracy is both a right and a responsibility for citizens. John Ralston Saul makes the following point in reference to the execution of someone convicted of a serious crime; but the principle applies still more forcefully in foreign policy, in which the act of government affects thousands of people who have been convicted of no crime whatever:

"Once you reach the democratic idea of legitimacy rooted in the citizenry, an execution implies that the populace not only consents, but assumes responsibility for the decision. You, as a citizen, are no less directly responsible than a president or a judge or the jury on which you do not personally sit.

"Democratic consent means that you would be prepared personally to act as executioner. Execution is not an abstract theory. It is an existential act. To be for the death penalty is to consider the convicted one by one and answer affirmatively the question: Am I personally prepared to kill that man? Consciously or unconsciously that final level of responsibility explains why Western democracies, with one exception, have ended the practice. The citizenry found themselves face to face with the combination of an ethical reality and their personal responsibility and decided that legal murder was ethically unacceptable, whatever the conditions."

By these standards, citizens of the United States, of the United Kingdom, and of Canada are responsible for their governments' role in the destruction of Iraq. When Madeleine Albright expressed her opinion that the deaths of about half a million children in Iraq, related to economic sanctions on that country, had been "worth it," she indicated at once the tyranny of U.S. foreign policy, the questionable legitimacy of the government of the United States, and the failure of responsible citizenship in North America.

There had been countless citizens of the United States and Canada and other countries, who had made a sustained effort to bring their government's policy into compliance with law, and to halt the effects of economic sanctions on the people of Iraq. As individuals and organizations, these efforts represent the responsible practice of democracy. These efforts ultimately failed because they were not adequately supported by the citizenry and were effectively ignored by the government.

The historic failure of the citizens of Canada and the United States and other western democracies occurred despite the best efforts of some citizens in those countries. That failure has profound implications for future peace and security – conditions that necessarily bind all of us together. Martin Luther King Jr's observation is essential: we will indeed learn to live together in mutual support and respect for international law, or we will perish together as fools.

With the disaster in Iraq as a sign of grave and universal danger to human security in the coming century, it is now imperative that citizens and civil society in western democracies act responsibly and in cooperation with the people of Iraq, to confront that danger: To bring the policies and practices of western governments into compliance with international law, to initiate and develop dynamic and constructive interactions with civil society in Iraq; and to insure international respect for the rights of the people of Iraq.

### **Conclusion**

CANDIL considers the foregoing points as essential guidelines. The extent to which these guidelines are followed in practice will be an indicator of chances for progress in peace and security not only in Iraq but also in the global community.