

The United Nation's Human Rights Council in Geneva reviews the human rights record of the United States on the 5<sup>th</sup> of November 2010, on the occasion of the Ninth Session of the Universal Periodic Review (UPR), 1 to 12 November 2010. The following is a presentation given by Dirk Adriaensens in Geneva on 3 November.

## Beyond the Wikileaks Files: Dismantling the Iraqi state.



Just days after the devastating attacks of 9/11 Deputy Defense secretary Paul Wolfowitz declared that a major focus of US foreign policy would be “*ending states that sponsor terrorism*”. Iraq was labelled a “terrorist state” and targeted for ending. President Bush went on to declare Iraq the major front of the global war on terror. US forces invaded illegally with the express aim to dismantling the Iraqi state. After WWII focus of social sciences was on state-building and development model. Little has been written on state-destruction and de-development. We can now, after 7 years of war and occupation, state for certain that state-ending was a deliberate policy objective.

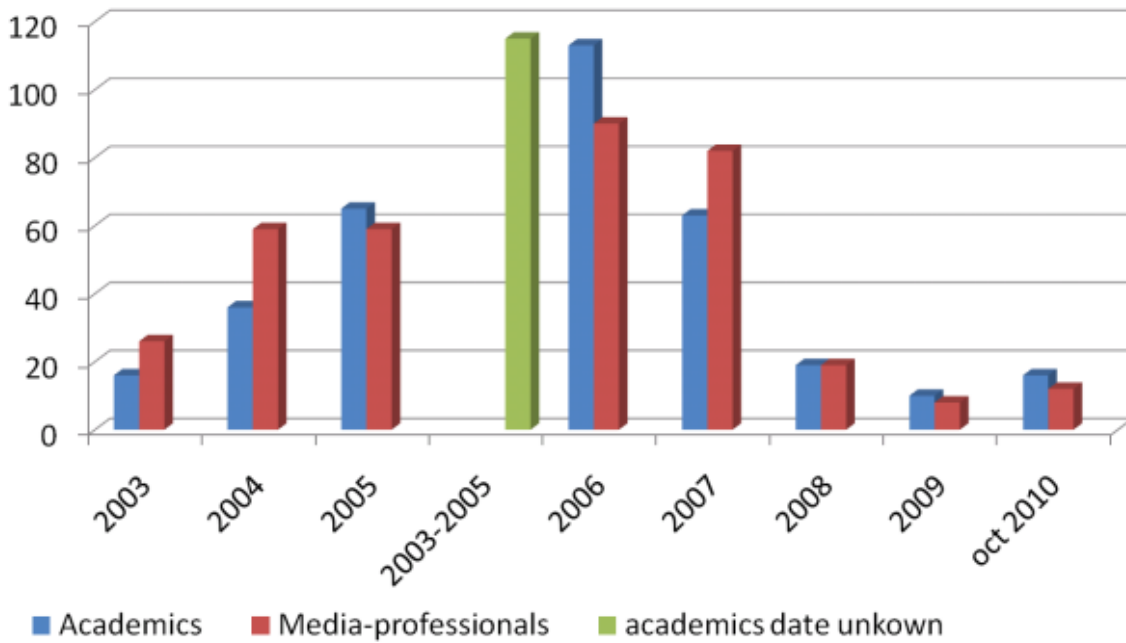
The consequences in human and cultural terms of the destruction of the Iraqi state have been enormous: notably the death of over 1,3 million civilians; the degradation in social

infrastructure, including electricity, potable water and sewage systems; over eight million Iraqis are in need of humanitarian assistance; abject poverty: the UN Human rights report for the 1<sup>st</sup> quarter of 2007 found that 54% of Iraqis were living on less than \$1 a day; the displacement of minimum 2.5 million refugees and 2.764.000 internally displaced people as to end 2009. One in six Iraqis is displaced. Ethnic & religious minorities are on the verge of extinction. UN-HABITAT, an agency of the United Nations, published a 218-page report entitled *State of the World's Cities, 2010-2011*. Prior to the U.S. invasion of Iraq in 2003, the percentage of the urban population living in slums in Iraq hovered just below 20 percent. Today, that percentage has risen to 53 percent: 11 million of the 19 million total urban dwellers.

### **Destroying Iraqi education**

The UNESCO report *“Education Under Attack 2010 – Iraq”*, dated 10 February 2010, concludes that *“Although overall security in Iraq had improved, the situation faced by schools, students, teachers and academics remained dangerous”*. The director of the United Nations University International Leadership Institute published a report on 27 April 2005 detailing that since the start of the war of 2003 some 84% of Iraq's higher education institutions have been burnt, looted or destroyed. Ongoing violence has destroyed school buildings and around a quarter of all Iraq's primary schools need major rehabilitation. Since March 2003, more than 700 primary schools have been bombed, 200 have been burnt and over 3,000 looted. Populations of teachers in Baghdad have fallen by 80%. Between March 2003 and October 2008, 31,598 violent attacks against educational institutions were reported in Iraq, according to the Ministry of Education (MoE). Since 2007 bombings at Al Mustansiriya University in Baghdad have killed or maimed more than 335 students and staff members, according to a 19 Oct 2009 NYT article, and a 12-foot-high blast wall has been built around the campus. MNF-I, the Iraqi Army and Iraqi police units occupied more than 70 school buildings for military purposes in the Diyala governorate alone, in clear violation of The Hague Conventions. The UNESCO report is very clear: *“Attacks on education targets continued throughout 2007 and 2008 at a lower rate – but one that would cause serious concern in any other country.”* Why didn't it cause serious concern when it comes to Iraq? And the attacks are on the rise again, an increase of 50%, as these statistics show:

Murdered Academics and Media Professionals (source: BRussell's Tribunal)



*(On the 20th of March 2008, Reporters Without Borders reported that hundreds of journalists were forced into exile since the start of US-led invasion.)*

### Eliminating the Iraqi middle class

Running parallel with the destruction of Iraq's educational infrastructure, this repression led to the mass forced displacement of the bulk of Iraq's educated middle class — the main engine of progress and development in modern states. Iraq's intellectual and technical class has been subject to a systematic and ongoing campaign of intimidation, abduction, extortion, random killings and targeted assassinations. The decimation of professional ranks took place in the context of a generalized assault on Iraq's professional middle class, including doctors, engineers, lawyers, judges as well as political and religious leaders. Roughly 40 percent of Iraq's middle class is believed to have fled by the end of 2006. Few have returned. Up to 75 percent of Iraq's doctors, pharmacists and nurses have left their jobs since the U.S.-led invasion in 2003. More than half of those have emigrated. Twenty thousand of Iraq's 34,000 registered physicians left Iraq after the U.S. invasion. As of April 2009, fewer than 2,000 returned, the same as the number who were killed during the course of the war.

To this date, there has been no systematic investigation of this phenomenon by the occupation authorities. Not a single arrest has been reported in regard to this terrorization

of the intellectuals. The inclination to treat this systematic assault on Iraqi professionals as somehow inconsequential is consistent with the occupation powers' more general role in the decapitation of Iraqi society.

### **Destroying the Iraqi culture and erasing collective memory**

All these terrible losses are compounded by unprecedented levels of cultural devastation, attacks on national archives and monuments that represent the historical identity of the Iraqi people. On America's watch we now know that thousands of cultural artefacts disappeared during "Operation Iraqi Freedom". These objects included no less than 15.000 invaluable Mesopotamian artefacts from the National Museum in Baghdad, and many others from the 12.000 archaeological sites that the occupation forces left unguarded. While the Museum was robbed of its historical collection, the National Library that preserved the continuity and pride of Iraqi history was deliberately destroyed. Occupation authorities took no effective measures to protect important cultural sites, despite warnings of international specialists. According to a recent update on the number of stolen artefacts by Francis Deblauwe, an expert archaeologist on Iraq, it appears that no less than 8.500 objects are still truly missing, in addition to 4.000 artefacts said to be recovered abroad but not yet returned to Iraq. The smuggling and trade of Iraqi antiquities has become one of the most profitable businesses in contemporary Iraq.

The attitude of the US-led forces to this pillage has been, at best, indifference and worse. The failure of the US to carry out its responsibilities under international law to take positive and protective actions was compounded by egregious direct actions taken that severely damaged the Iraqi cultural heritage. Since the invasion in March 2003, the US-led forces have transformed at least seven historical sites into bases or camps for the military, including UR, one of the most ancient cities of the world and birthplace of Abraham, including the mythical Babylon where a US military camp has irreparably damaged the ancient city.

### **Destroying the Iraqi state**

Rampant chaos and violence hamper efforts at reconstruction, leaving the foundations of the Iraqi state in ruins. The majority of Western journalists, academics and political figures have refused to recognise the loss of life on such a massive scale and the cultural destruction

that accompanied it as the fully predictable consequences of American occupation policy. The very idea is considered unthinkable, despite the openness with which this objective was pursued.

It is time to think the unthinkable. The American-led assault on Iraq forces us to consider the meaning and consequences of state-destruction as a policy objective. The architects of the Iraq policy never made explicit what deconstructing and reconstructing the Iraqi state would entail; their actions, however, make the meaning clear. From those actions in Iraq, a fairly precise definition of state-ending can be read. The campaign to destroy the state of Iraq involved first the removal and execution of the legal head of state Saddam Hussein and the capture and expulsion of Baath figures. However, state destruction went beyond regime change. It also entailed the purposeful dismantling of major state institutions and the launching of a prolonged process of political reshaping.

Bremer's 100 orders turned Iraq into a giant free-market paradise, but a hellish nightmare for Iraqis. They colonized the country for capital - pillage on the grandest scale. New economic laws instituted low taxes, 100% foreign investor ownership of Iraqi assets, the right to expropriate all profits, unrestricted imports, and long-term 30-40 year deals and leases, dispossessing Iraqis of their own resources.

This desecration of the past and undermining of contemporary social gains is now giving way in occupied Iraq to the destruction of a meaningful future. Iraq is being handed over to the disintegrative forces of sectarianism and regionalism. Iraqis, stripped of their shared heritage and living today in the ruins of contemporary social institutions that sustained a coherent and unified society, are now bombarded by the forces of civil war, social and religious atavism and widespread criminality. Iraqi nationalism that had emerged through a prolonged process of state-building and social interaction is now routinely disparaged. The regime installed by occupation forces in Iraq reshaped the country along divisive sectarian lines, dissolving the hard-won unity of a long state-building project. Dominant narratives now falsely claim that sectarianism and ethnic chauvinism have always been the basis of Iraqi society, recycling yet again the persistent and destructive myth of age-old conflicts with no resolution and for which the conquerors bear no responsibility. Contemporary Iraq represents a fragmented pastiche of sectarian forces with the formal trappings of liberal democracy and neo-liberal economic structures. We call this the divide and rule technique,

used to fracture and subdue culturally cohesive regions. This reshaping of the Iraqi state resulted in a policy of ethnic cleansing, partially revealed by the Wikileaks files.

### **The Wikileaks documents**

The Wikileaks documents, first made public on 22 October 2010, show how the US military gave a secret order not to investigate torture by Iraqi authorities discovered by American troops.

The data also reveal how hundreds of civilians were killed by coalition forces in unreported events, how hundreds of Iraqi civilians: pregnant women, elderly people and children, were shot at checkpoints.

There are numerous claims of prison abuse by coalition forces even after the Abu Ghraib scandal. The files also paint a grim picture of widespread torture in Iraqi detention facilities. Two revelations await the reader of the Wikileaks section dealing with civilian deaths in the Iraq War: Iraqis are responsible for most of these deaths, and the number of total civilian casualties is substantially higher than has been previously reported.

The documents record a descent into chaos and horror as the country plunged into so-called "civil war". The logs also record thousands of bodies, many brutally tortured, dumped on the streets of Iraq.

Through the Wikileaks files we can see the impact the war had on Iraqi men, women and children. The sheer scale of the deaths, detentions and violence is here officially acknowledged for the first time.

A thorough research of these documents will give us a further insight into the atrocities committed in Iraq. The Wikileaks logs can serve as evidence in courts. They are important material for lawyers to file charges against the US for negligence and responsibility for the killing of thousands. A fair compensation for the families of the victims and the recognition of their suffering can help to heal the wounds. In the first official US State Department response to the massive WikiLeaks release of these classified Iraq War documents, spokesman P.J. Crowley shrugged off the evidence that US troops were ordered to cover up detainee abuse by the Iraqi government, insisting the abuse wasn't America's problem. This response is infuriating. The perpetrators of this violence and those who ordered the soldiers to turn a blind eye when being confronted with torture and extra-judicial killings should be

convicted for war crimes. The US and UK forces and Governments clearly refused to fulfil their obligations under international law as a de facto occupying power.

However, these logs reveal only the 'SIGACT's or Significant Actions in the war *“as told by soldiers in the United States Army”*: the reports of the “regular” US troops. The logs contain nothing new, they merely confirm and officialize what the Iraqis and un-embedded Western observers have been trying to convey to the public for years. While all of the press is now reporting the Wikileaks story, few media outlets are going back to their own coverage and acknowledging how they have failed to honestly report about the crimes.

What these 400.000 documents do not reveal is the US involvement of “irregular troops” in Special Operations, counter-insurgency war and death squads activities. When will the documents of the “dirty war” be revealed? The *BRussells* Tribunal, monitoring this horrendous invasion and occupation since 2003, is convinced that the leaked logs only scratch the surface of the catastrophic war in Iraq. What we can extract from the Wikileaks documents is only the tip of the iceberg. It is time to take a dive into the troubled waters of the Iraq war and try to explore the hidden part of the iceberg.

### **Ethnic cleansing**



*(Death Squad)*

It became clear after the invasion in 2003 that the Iraqi exile groups were to play an important role in the violent response to dissent in occupied Iraq. Already on January 1<sup>st</sup> 2004, it was reported that the US government planned to create paramilitary units comprised of militiamen from Iraqi Kurdish and exile groups including the Badr brigades, the Iraqi National Congress and the Iraqi National Accord to wage a campaign of terror and extra-judicial killing, similar to the Phoenix program in Vietnam: the terror and assassination campaign that killed tens of thousands of civilians.



*(The Wolf Brigade)*

The \$87 billion supplemental appropriation for the war in November 2003 included \$3 billion for a classified program, funds that would be used for the paramilitaries for the next 3 years. Over that period, the news from Iraq gradually came to be dominated by reports of death squads and ethnic cleansing, described in the press as “sectarian violence” that was used as the new central narrative of the war and the principal justification for continued occupation. Some of the violence may have been spontaneous, but there is overwhelming evidence that most of it was the result of the plans described by several American experts in December 2003.

Despite subsequent American efforts to distance US policy from the horrific results of this campaign, it was launched with the full support of conservative opinion-makers in the USA, even declaring that “*The Kurds and the INC have excellent intelligence operations that we*

*should allow them to exploit... especially to conduct counterinsurgency in the Sunny Triangle”* as a *Wall Street Journal* editorial stated.

### **The Salvador Option**

In January 2005, more than a year after the first reports about the Pentagon’s planning for assassinations and paramilitary operations emerged, the “*Salvador Option*” hit the pages of Newsweek and other major news-outlets. The outsourcing of state terrorism to local proxy forces was regarded as a key component of a policy that had succeeded in preventing the total defeat of the US-backed government in El Salvador. Pentagon-hired mercenaries, like DynCorp, helped form the sectarian militias that were used to terrorize and kill Iraqis and to provoke Iraq into civil war.

In 2004 two senior US Army officers published a favourable review of the American proxy war in Colombia: “*Presidents Reagan and Bush supported a small, limited war while trying to keep US military involvement a secret from the American public and media. Present US policy toward Colombia appears to follow this same **disguised, quiet, media-free approach.***”

It reveals the fundamental nature of “dirty war”, like in Latin America and the worst excesses of the Vietnam War. The purpose of dirty war is not to identify and then detain or kill actual resistance fighters. The target of dirty war is the civilian population. It is a strategy of state terrorism and collective punishment against an entire population with the objective to terrorizing it into submission. The same tactics used in Central America and Colombia were exported to Iraq. Even the architects of these dirty wars in El Salvador (Ambassador John Negroponte and James Steele) and in Colombia (Steven Casteel) were transferred to Iraq to do the same dirty work. They recruited, trained and deployed the notorious “**Special Police Commandos**”, in which later, in 2006, death squads like the Badr Brigades and other militias were incorporated. US forces set up a high-tech operations centre for the Special Police Commandos at an “*undisclosed location*” in Iraq. American technicians installed satellite telephones and computers with uplinks to the Internet and US forces Networks. The command centre had direct connections to the Iraqi Interior Ministry and to every US forward operating base in the country.



*(Special Police Commandos)*

As news of atrocities by these forces in Iraq hit the newsstands in 2005, Casteel would play a critical role in blaming extrajudicial killings on “*insurgents*” with stolen police uniforms, vehicles and weapons. He also claimed that torture centres were run by rogue elements of the Interior Ministry, even as accounts came to light of torture taking place inside the ministry headquarters where he and other Americans worked. US advisers to the Interior Ministry had their offices on the 8<sup>th</sup> floor, directly above a jail on the 7<sup>th</sup> floor where torture was taking place.



*(General Adnan Thabit and James Steele)*



(Steven Casteel)

The uncritical attitude of the Western media to American officials like Steven Casteel prevented a worldwide popular and diplomatic outcry over the massive escalation of the dirty war in Iraq in 2005 and 2006, consistent with the *“disguised, quiet, media-free approach”* mentioned before. As the *Newsweek* story broke in January 2005, General Downing, the former head of US Special Forces, appeared on NBC. He said: *“This is under control of the US forces, of the current Interim Iraqi government. There’s no need to think that we’re going to have any kind of killing campaign that’s going to maim innocent civilians.”* Within months, Iraq was swept by exactly that kind of a killing campaign. This campaign has led to arbitrary detention, torture, extra-judicial executions and the mass exodus and internal displacement of millions. Thousands of Iraqis disappeared during the worst days of this dirty war between 2005 and 2007. Some were seen picked up by uniformed militias and piled into lorries, others simply seemed to vanish. Iraq’s minister of human rights Wijdan Mikhail said that her ministry had received more than 9,000 complaints in 2005 and 2006 alone from Iraqis who said a relative had disappeared. Human rights groups put the total number much higher. The fate of many missing Iraqis remains unknown. Many are languishing in one of Iraq's notoriously secretive prisons.

Journalist Dr. Yasser Salihee was killed on June 24<sup>th</sup> 2005 by an American sniper, so-called *“accidentally”*. Three days after his death Knight Ridder published a report on his investigation into the Special Police Commandos and their links to torture, extra-judicial killings and disappearances in Baghdad. Salihee and his colleagues investigated at least 30 separate cases of abductions leading to torture and death. In every case witnesses gave consistent accounts of raids by large numbers of police commandos in uniform, in clearly marked police vehicles, with police weapons and bullet-proof vests. And in every case the detained were later found dead, with almost identical signs of torture and they were usually killed by a single gunshot to the head.

The effect of simply not pointing out the connection between the US and the Iranian-backed Badr Brigade militia, the US-backed Wolf Brigade and other Special Police Commando units, or the extent of American recruitment, training, command, and control of these units, was far-reaching. It distorted perceptions of events in Iraq throughout the ensuing escalation of the war, creating the impression of senseless violence initiated by the Iraqis themselves and concealing the American hand in the planning and execution of the most savage forms of violence. By providing cover for the crimes committed by the US government, news editors played a significant role in avoiding the public outrage that might have discouraged the further escalation of this campaign.

The precise extent of US complicity in different aspects and phases of death squad operations, torture and disappearances, deserves thorough investigation. It is not credible that American officials were simply innocent bystanders to thousands of these incidents. As frequently pointed out by Iraqi observers, Interior Ministry death squads moved unhindered through American as well as Iraqi checkpoints as they detained, tortured and killed thousands of people.

As in other countries where US forces have engaged in what they refer to as “counter-insurgency”, American military and intelligence officials recruited, trained, equipped and directed local forces which engaged in a campaign of state-sponsored terror against the overwhelming proportion of the local population who continued to reject and oppose the invasion and occupation of their country.

The degree of US initiative in the recruitment, training, equipping, deployment, command and control of the Special Police Commandos made it clear that American trainers and commanders established the parameters within which these forces operated. Many Iraqis and Iranians were certainly guilty of terrible crimes in the conduct of this campaign. But the prime responsibility for this policy, and for the crimes it involved, rests with the individuals in the civilian and military command structure of the US Department of Defense, the CIA and the White House who devised, approved and implemented the “Phoenix” or “Salvador” terror policy in Iraq.

The report of the Human Rights Office of UNAMI, issued on September 8th 2005, written by John Pace was very explicit, linking the campaign of detentions, torture and extra-judicial executions directly to the Interior Ministry and indirectly to the US-led Multi-National Forces.

The final UN Human Rights Report of 2006 described the consequences of these policies for the people of Baghdad, while downplaying their institutional roots in American policy. The “sectarian violence” that engulfed Iraq in 2006 was not an unintended consequence of the US invasion and occupation but an integral part of it. The United States did not just fail to restore stability and security to Iraq. It deliberately undermined them in a desperate effort to “divide and rule” the country and to fabricate new justifications for unlimited violence against Iraqis who continued to reject the illegal invasion and occupation of their country.

The nature and extent of involvement of different individuals and groups within the US occupation structure has remained a dirty, dark secret, but there are many leads that could be followed by any serious inquiry.

### **The Surge**

In January 2007, the US government announced a new strategy, the “surge” of US combat troops in Baghdad and Al-Anbar province. Most Iraqis reported that this escalation of violence made living conditions even worse than before, as its effects were added to the accumulated devastation of 4 years of war and occupation. The UN Human Rights report for the 1<sup>st</sup> quarter of 2007 gave a description of the dire conditions of the Iraqi people. The violence of the “surge” resulted i.e. in a further 22% reduction of the number of doctors, leaving only 15.500 out of an original 34.000 by September 2008. The number of refugees and internally displaced has risen sharply during the period 2007-2008.

Since Interior Ministry forces under US command were responsible for a large part of the extra-judicial killings, the occupation authorities had the power to reduce or increase the scale of these atrocities more or less on command. So a reduction in the killings with the launch of the “security plan” should not have been difficult to achieve. In fact, a small reduction in violence seems to have served an important propaganda role for a period until the death squads got back to work, supported by the new American offensive.

The escalation of American firepower in 2007, including a five-fold increase in air strikes and the use of Spectre gun-ships and artillery in addition to the “surge” was intended as a devastating climax to the past 4 years of war and collective punishment inflicted upon the Iraqi people. All resistance-held areas would be targeted with overwhelming fire-power, mainly from the air, until the US ground forces could build walls around what remained of each neighbourhood and isolate each district. It’s worth mentioning that General Petraeus compared the hostilities in Ramadi with the Battle of Stalingrad without qualms about adopting the role of the German invaders in this analogy. Ramadi was completely destroyed as was Fallujah in November 2004.

The UN Human Rights reports of 2007 mentioned the indiscriminate and illegal attacks against civilians and civilian areas and asked for investigations. Air strikes continued on an almost daily basis until August 2008 even as the so-called “*sectarian violence*” and US casualties declined. In all the reported incidents where civilians, women and children were killed, Centcom press office declared that the people killed were “terrorists”, “Al Qaeda militants” or “involuntary human shields”. Of course, when military forces are illegally ordered to attack civilian areas, many people will try to defend themselves, especially if they know that the failure to do so may result in arbitrary detention, abuse, torture, or summary execution for themselves or their relatives.

### **Forces involved in “*Special Operations*”:**

Another aspect of the “surge” or escalation appears to have been an increase in the use of the American Special Forces assassination teams. In april 2008 i.e. President Bush declared: *“As we speak, US Special Forces are launching multiple operations every night to capture or kill Al-Qaeda leaders in Iraq”*. The NYT reported on 13 May 2009: *“When General Stanley McChrystal took over the Joint Special Operations Command in 2003, he inherited an insular, shadowy commando force with a reputation for spurning partnerships with other military and intelligence organizations. But over the next five years he worked hard, his colleagues say, to build close relationships with the C.I.A. and the F.B.I. (...) In Iraq, where he oversaw secret commando operations for five years, former intelligence officials say that he had an encyclopaedic, even obsessive, knowledge about the lives of terrorists, and that he pushed his ranks aggressively to kill as many of them as possible. (...) Most of what General McChrystal has done over a 33-year career remains classified, including service between*

2003 and 2008 as commander of the Joint Special Operations Command, an elite unit so clandestine that the Pentagon for years refused to acknowledge its existence.” The secrecy surrounding these operations prevented more widespread reporting, but as with earlier US covert operations in Vietnam and Latin America, we will learn more about these operations over time.



*(Task Force Black)*

- An article in the *Sunday Telegraph* in February 2007 pointed towards clear evidence British Special Forces recruited and trained terrorists in the Green Zone to heighten ethnic tensions. An elite SAS wing, called “Task Force Black”, with bloody past in Northern Ireland operates with immunity and provides advanced explosives. Some attacks are being blamed on Iranians, Sunni insurgents or shadowy terrorist cells such as Al Qaeda.



*(Swat Team)*

- the SWAT teams (Special Weapons and Tactics), extensively used in counter-insurgency operations. The mission of SWAT is to conduct high-risk operations that fall outside the abilities of regular patrol officers to prevent, deter and respond to terrorism and insurgent activities. It was reported that *“The foreign internal defense partnership with Coalition Soldiers establishes a professional relationship between the Iraqi Security and Coalition forces where the training builds capable forces. Coalition soldiers working side-by-side with the SWAT teams, both in training and on missions.”* On 7 October 2010 the Official website of US Forces in Iraq reported that *“The Basrah SWAT team has trained with various Special Forces units, including the Navy SEALs and the British SAS. The 1st Bn., 68th Arm. Regt., currently under the operational control of United States Division-South and the 1st Infantry Division, has taken up the task of teaching the SWAT team.”*



- the Facilities Protection Services, where the “private contractors” or mercenaries, like Blackwater, are incorporated, are also used in counter-insurgency operations.

- the Iraq Special Operations Forces (ISOF), probably the largest special forces outfit ever built by the United States, free of many of the controls that most governments employ to rein in such lethal forces. The project started in Jordan just after the Americans conquered Baghdad in April 2003, to create a deadly, elite, covert unit, fully fitted with American equipment, which would operate for years under US command and be unaccountable to Iraqi ministries and the normal political process. According to Congressional records, the ISOF has grown into nine battalions, which extend to four regional "commando bases" across Iraq. By December 2009 they were fully operational, each with its own "intelligence

infusion cell," which will operate independently of Iraq's other intelligence networks. The ISOF is at least 4,564 operatives strong, making it approximately the size of the US Army's own Special Forces in Iraq. Congressional records indicate that there are plans to double the ISOF over the next "several years."



*(Iraqi Special Operation Forces)*

Conclusion: the *"dirty war"* in Iraq continues. Even as President Barack Obama was announcing the end of combat in Iraq, U.S. forces were still in fight alongside their Iraqi colleagues. The tasks of the 50,000 remaining US troops, 5,800 of them airmen, are *"advising" and training the Iraqi army, "providing security" and carrying out "counter-terrorism" missions.*

According to the UN Human Rights report, upon a request for clarification by UNAMI, the MNF confirmed that *"the US government continued to regard the conflict in Iraq as an international armed conflict, with procedures currently in force consistent with the 4<sup>th</sup> Geneva Convention"* and not that the civil rights of Iraqis should be governed by the International Covenant on Civil and Political Rights and other human rights laws, because this would have strengthened the rights of Iraqis detained by US or Iraqi forces to speedy and fair trials. The admission that the US was still legally engaged in an *"international armed conflict"* against Iraq at the end of 2007 also raises serious questions regarding the legality of constitutional and political changes made in Iraq by the occupation forces and their installed government during the war and occupation.

## Legitimizing torture

When the public revelations of abuse and torture at Abu Ghraib prison created a brief furor in the world, the ICRC, Human Rights First, AI, HRW and other Human Rights groups documented far more widespread and systematic crimes committed by US forces against people they extra-judicially detained in Iraq. In numerous human rights reports they established that command responsibility for these crimes extended to the highest levels of the US government and its armed forces.

The forms of torture documented in these reports included death threats, mock executions, water-boarding, stress positions, including excruciating and sometimes deadly forms of hanging, hypothermia, sleep deprivation, starvation and thirst, withholding medical treatment, electric shocks, various forms of rape and sodomy, endless beatings, burning, cutting with knives, injurious use of flexicuffs, suffocation, sensory assault and/or deprivation and more psychological forms of torture such as sexual humiliation and the detention and torture of family members. The ICRC established that the violations of international humanitarian law that it recorded were systematic and widespread. Military officers told the ICRC that *“between 70% and 90% of the persons deprived of their liberty in Iraq had been arrested by mistake”*.

All these facts are well known, but only the lower ranks in the Army were mildly punished. The “Command’s Responsibility” report revealed that the failure to charge higher ranking officers was the direct result of the “key role” that some same officers played “in undermining chances for full accountability”. By delaying and undermining investigations of deaths in their custody, senior officers compounded their own criminal responsibility in a common pattern of torture, murder and obstruction of justice. Senior officers abused the enormous power they wield in the military command structure to place themselves beyond the reach of law, even as they gave orders to commit terrible crimes. It was in recognition of the terrible potential for exactly this type of criminal behaviour that the Geneva Conventions were drafted and signed in the first place, and that is why they are just as vital today. Nevertheless, the responsibility for these crimes is not limited to the US army. The public record also includes documents in which senior civilian officials of the US government approved violations of the Geneva Conventions, the 1994 Convention against Torture and

the 1996 US War Crimes act. The United States government should thus be held accountable for this terrible tragedy it inflicted upon millions of Iraqi citizens and should be forced to pay appropriate compensations to the victims of its criminal policy in Iraq.

## **RECOMMENDATIONS**

We learned that on Tuesday the 26<sup>th</sup> of October the United Nations High Commissioner for Human Rights Navi Pillay urged Iraq and the United States to investigate allegations of torture and unlawful killings in the Iraq conflict revealed in the Wikileaks documents. We are very surprised by this statement. Does the High Commissioner think it is appropriate for criminals to investigate their own crimes? Wijdan Mikhail, the Iraqi Minister of Human Rights in Iraq has called for putting Julian Assange on trial instead of investigating the crimes. And since the Obama administration has shown no desire to expose any of the crimes committed by US officials in Iraq, an international investigation under the auspices of the High Commissioner of Human Rights is necessary. Different Special Rapporteurs should be involved: i.e. the *Special Rapporteur on extrajudicial, summary or arbitrary executions*, the *Special Rapporteur on the promotion and protection of human rights while countering terrorism* and the *Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. A *Special Rapporteur on the situation of human rights in Iraq* should be urgently appointed.

Although the U.N. did not authorize the invasion of Iraq, it did “legalize” the occupation a posteriori in UNSC resolution 1483 (22 May 2003), against the will of the overwhelming majority of the world community, that didn’t accept the legality or the legitimacy of that UN resolution. And it was during the occupation that the war crimes brought to light by WikiLeaks took place. As should the U.S., the U.N. has the moral and legal duty to respond.

The world community has the right to know the complete and unbiased truth about the extent and responsibilities of American involvement in Iraq’s Killing Fields and demands justice for the Iraqi people.

We appeal to all states to ask the US about all these crimes against the Iraqi people during the UPR on the 5th of November.

We also demand that procedures be set up to compensate the Iraqi people and Iraq as a nation for all the losses, human and material destruction and damages caused by the illegal war and the occupation of the country lead by the US/UK forces.

Dirk Adriaensens

Member of the **BRussells** Tribunal Executive Committee

**Note:** this presentation contains information available in the public domain, it is compiled of several official reports, press articles, **BRussells** Tribunal witness accounts, **Max Fuller**'s articles on the counter-insurgency war (<http://www.brusselstribunal.org/FullerKillings.htm>) and two books:

“**Cultural Cleansing in Iraq**”, of which Dirk Adriaensens is co-author (Pluto Press, London, ISBN-10: 0745328121, ISBN-13: 978-0745328126) and

“**Blood On Our Hands, The American Invasion And Destruction Of Iraq**”, written by Nicolas J.S. Davies. (Nimble Books LLC, ISBN-10: 193484098X, ISBN-13: 978-1934840986).

---

**Background:**

## **THE UNIVERSAL PERIODIC REVIEW**

### **Reviewing human rights violations of the United States by NGOs**

November 2010

The Universal Periodic Review (UPR) was established to undertake a review of the fulfillment by each State of its obligations and commitment under international Human Rights Law taking in account the Human Rights obligations of States as set out in the UN Charter, the Universal Declaration of Human Rights and the International Humanitarian Law in a manner to prompt, support, and expand the promotion and protection of Human Rights around the world.

This event is proposed to encourage states to raise questions during the 9<sup>th</sup> session of the UPR concerning human rights violations by the United States outside its territory, especially in Iraq, Afghanistan.

The United States are still present in Iraq and Afghanistan, exercising actual control, through its and its allies- forces, or through the private companies, therefore, it is under obligation to protect the civilians in these countries and maintain public order and safety.

It is unfortunate that the reports compiled by the Office of the High Commissioner for Human Rights failed to take into account violations that occurred outside the US territory. It sets a regrettable precedent that should not be ignored.

Hence we believe that these violations must be addressed during the Universal Periodic Review of the United States, in order to respect the real goals of this mechanism.

For the above mentioned reasons a group of NGOs is going to organize a meeting to allow the NGOs to do their own review to the violations of the United States and encourage states to take this review in their account during the official review on the 5<sup>th</sup> of November 2010.

UN experts, specialist from the Middle East and victims from Iraq and USA are supposed to address the event.

---

---

## **THE NINTH SESSION OF THE UNIVERSAL PERIODIC REVIEW**

### **The Extra-Territorial Application of Human Rights**

### **Reviewing the Human Rights Record of the United States of America**

#### **United Nations- Geneva 3 November 2010**

**11.00h-17.00h- Room (will be notified later)**

The United States' human rights record will be reviewed by the Human Rights Council during the Ninth Session of Universal Periodic Review (UPR) being held in Geneva from 1 to 12 November 2010. The United States will be reviewed on the morning of Friday, 5 November.

The UPR was established to undertake a review of the each States obligations and commitments under international human rights law taking in account the UN Charter, the Universal Declaration of Human Rights and the International Humanitarian Law in a manner that prompts, supports, and expands the promotion and protection of human rights.

NGOs are not allowed to speak during the official session, but they can exercise influence by bringing relevant information to the attention of States. It is for this reasons that a coalition of NGOs have organized a side event on Wednesday, 3 November 2010 at the site of the Human Rights Council in Geneva, Switzerland. At this event, prominent human rights defenders familiar with the situation of human rights in the United States will speak and NGOs and other observers will have the opportunity to submit information relevant to the review of the human rights record of the United States. The focus will be on extra-territorial violations of human rights, namely in Iraq, Afghanistan, and elsewhere.

Among the speaker will be:

- Mr. Ramsey Clark      66<sup>th</sup> United States Attorney General
- Mr. Dirk Adriaensens      *BRussells* Tribunal Executive Committee

- Prof. Alfred De Zayas US Attorney and Professor at the Geneva School of Diplomacy and International Relations
- Prof. Curtis Doebbler American international human rights lawyer and representative of the NGO Nord-Sud XXI
- Mr. Sabah Al-Mukhtar President of the Arab Lawyers Network in the United Kingdom
- Dr. Aziz Al- Qazaz Iraqi human rights defender
- Mr. Jose del-Prado Member of the UN Human Rights Council’s Working Group on Mercenaries

