

U.N. SANCTIONS AGAINST IRAQ: MEASURES OF SPECIFIC DEPRIVATION

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Abstract: By imposing economic sanctions, a general mechanism was set in motion to cripple Iraq's economy and cause shortages to be felt by the population. Banning or restricting oil exports from Iraq, prohibiting the shipment of goods to Iraq, banning financial transactions with Iraq and freezing the assets of Iraqi nationals in other countries, constituted a general mode of deprivation, discussed elsewhere. This account provides evidence of measures of *specific* deprivation imposed on the people of Iraq by the Sanctions Committee established by the U.N. Security Council.

1 A mechanism for specific deprivation: The Sanctions Committee

By paragraph 6 of Security Council Resolution 661(1990), the Council established a Committee, (hereafter “the Sanctions Committee”) composed of all members of the Council, whose main task was to monitor the implementation by member States of the sanctions resolutions. While the overall deprivation of foreign revenues was reflected in provisions of Security Council resolutions (who set ceilings on Iraqi oil sales), the Sanctions Committee was entrusted with the task of ensuring that the funds available to Iraq be only used for goods it approved. As the decisions of the Sanctions Committee were to be taken by consensus, decisions of the Committee could be vetoed by any member. This right was used extensively by the United States and to a lesser extent by its closest allies, the United Kingdom, France and Japan. According to Guidelines provisionally adopted by the Committee at its second meeting, on 17 August 1990[1], its meetings were to be held “in private sessions”, no verbatim records were to be held of its meetings and summary records of its meetings were to remain classified. The Committee did not only hide its deliberations from public scrutiny, including that of the U.N. general membership, but did not even release a transcript of the deliberations that prepared the adoption of its guidelines[2].

In 1996, Tono Eitel, at that time Chairman of the Sanctions Committee, presented to the Security Council a report covering the work of the Committee until mid-1996[3]. While disclosing some unpublicized information, the report did not provide a statistical overview on the disposition of applications for humanitarian waivers it had received over the reporting period, a breakdown on the identity of members who objected to the granting of waivers, the nature of vetoed items and the reasons for the objection. The report reflected the consensual view of the Committee of what it wished to reveal rather than an objective, uncensored, account of its work. Much more insight into the workings of the Sanctions Committee was provided later by Dr. Paul Conlon, former deputy-secretary of the Committee[4].

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- 1 The Guidelines themselves were only rendered public in 1996, as an Annex I to U.N. Doc. S/1996/700
 - 2 These deliberations would throw light on the reasons given by various members for pursuing secretive procedures.
 - 3 *Id.*
 - 4 See, in general, Paul Conlon, *United Nations Sanctions Management: A Case Study of the Iraq Sanctions Committee, 1990-1994*, Transnational Publishers, Inc., Ardsley, New York (2000)

In making decisions regarding "humanitarian exemptions", the Sanctions Committee relied partly on humanitarian norms applicable to situations of armed conflict. But the Committee did not make a formal determination that humanitarian norms applicable to armed conflict were appropriate to economic sanctions, nor did it explicitly link its decisions to any particular norms, humanitarian or other. Its decisions to allow or prohibit goods or services derived ultimately from the conjunction of a pseudo-legal reasoning, real or contrived humanitarianism, tainted by its members' mercantile interests or their foreign policy considerations.

Due to the secrecy that has surrounded the activities of the Sanctions Committee, at least until 1996[5], it has been difficult if not impossible for outside observers to verify claims that the Committee had blocked items essential for life. According to Conlon, part of the data generated by the Sanctions Committee from 1993 until and including the first months of 1995 is now open for consultation to the public, though not easily accessible[6]. He claims that the Sanctions Committee did not, between 1990 and 1994 block as many categories of items as was often claimed, but that Iraq did simply not possess sufficient funds to make use of most humanitarian waivers[7]. Whatever the reason, shortages remained serious in Iraq as reflected in the repeated pleas by U.N. agencies to enable Iraq to import items necessary for increased domestic food production, electricity generation, water-treatment, telecommunications and transportation. The shortages of such items in Iraq, as late as in 1999, suggest that these pleadings were not heeded by the Security Council and the Sanctions Committee. The disclosure after 1996 of decisions by the Sanctions Committee provides evidence that the U.S. (sometimes flanked by the U.K.), blocked and delayed many such items in the Committee. Conlon attributes to the P-3 (U.S., U.K. and France) most blockings in the Sanctions Committee in the period under his consideration (1990-1994)[8]. Such conclusions are strengthened by observing the pattern of Sanctions Committee "holds" after 1996.

A special issue is that of so-called "dual-use" items. These are items that can be equally used for civilian and military purposes. There is currently no recognised international definition of what constitutes a "dual-use" item. Perhaps it is even impossible to provide any conclusive definition of this term because almost any item can serve, in some particular circumstances, a military effort. The concept of "dual use" has been repeatedly invoked within the Sanctions Committee in order to place on hold or ban outright certain pharmaceuticals, chlorine for water treatment, supplies for the electricity industry, computers for universities and other items for civilian use.

According to one view, the justification for withholding or banning these items was contrived. In the first place, no compelling evidence was presented that these items had been or could realistically be diverted to the development of banned weapons. Secondly, as the years passed, rules regarding these items were quietly relaxed without any apparent change in the nature of the Iraqi regime. If such items could be exported to Iraq in the year 2001 without being subject to the scrutiny of the Sanctions Committee, why had they been subject to such scrutiny in, say, 1991, after Iraq lay in ruins? The subsequent revelations that the U.S. and U.K. governments had lied to their populations and to the world's peoples about the alleged possession by Iraq of weapons of mass destruction (in order to justify the war against Iraq in 2003) suggest that the justifications by these governments in the Sanctions Committee to withhold various civilian goods from Iraq as "dual use" had also been contrived.

5 Conlon, *supra* n. 4, provides explanations for this secrecy, that he terms "non-transparency", but eventually criticizes such secrecy as counter-productive from the point of view of sanctions enforcement.

6 Personal communication to the author by Dr. Conlon.

7 *Id.*

8 *Id.*

Another interpretation, based on the assumption that Iraq indeed pursued a programme of developing weapons of mass destruction, is that by withholding items that could be used for such purposes, the dismantlement of the deterrent capabilities of Iraq was hastened. Such policies would ultimately prevent Iraq from possessing the capabilities of deterring others from attacking Iraq. From that perspective, the sanctions against Iraq would be seen as a mere preparation for the military assault on Iraq that took place in 2003 but was planned long before. The above interpretations are not necessarily exclusive of each other: To impoverish a population, cause its elite to emigrate and demoralize its armed forces, are means that contribute to a military victory. Whether such measures were ethical or lawful, or whether they would ultimately contribute to peace and justice, is beyond the scope of this account.

A crucial factor, beyond the competence of the Sanctions Committee, was the ban on Iraqi oil exports. This ban was grudgingly and inadequately relaxed. Only in 1999 (by the provisions of Security Council Resolution 1284) did the permitted ceiling on oil exports approach the amount needed by Iraq to ensure minimal humanitarian needs, including safe drinking water. Even after that date Iraq was reported to have had difficulties to raise sufficient funds to cover its humanitarian needs because the severe dilapidation of oil production facilities prevented the production of sufficient quantities of oil. The Council, acknowledging this bottleneck, finally allowed Iraq to import items to restore its oil production capacity.

The following evidence should not be regarded as comprehensive but as an attempt to identify the major measures of specific deprivation adopted within the sanctions framework, that can be related to specific forms of harm and injury within Iraq.

2 Denying supplies for water-treatment and distribution and sewage plants

In 1991, the Aga Khan mission estimated at \$450 million the amount needed to restore Iraq's water-treatment and sewage facilities to pre-war condition[9]. No information is available on the actual value of goods for these sectors that Iraq was able to obtain until 1997.

The first *confirmed* shipment of items for the rehabilitation of the water and sanitation sector since the imposition of the sanctions in 1990 reached Iraq in September 1997. This shipment, valued at \$17.6 million, included water-purification chemicals (chlorine gas and alum sulphate), dosing pumps and chlorinators[10].

As of 31 March 1999, supplies for the water and sanitation sector in the centre and south valued at \$57 million had arrived in Iraq since the start of the [oil-for-food] programme, of which an amount worth \$25 million had been installed at sites or delivered to end-users[11]. This represented a mere fraction of what had been recommended for this sector in 1991 by the Aga Khan mission (see *supra*)[12].

9 Report of the Inter-Agency mission headed by the Executive Delegate for the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas, Sadruddin Aga Khan, 17 July 1991, UN Doc. S/22799

10 U.N. Doc. S/1997/935, 28 Nov. 1997

11 Periodic report by the U.N. Secretary-General to the Security Council of 18 May 1999 (U.N. Doc. S/1999/573)

12 It is most probable that the costs of full restoration in 1999 exceeded significantly \$450 million, due to inflation and lack of maintenance over a period of 8 years.

In its report of 1999, the Humanitarian Panel established by the Security Council cited WFP estimates according to which “access to potable water [in Iraq] is currently 50% of the 1990 level in urban areas and only 33% in rural areas.”[13].

Saadoun Hammadi, Speaker of Iraq’s National Assembly refers in a letter to the U.N. Secretary-General dated 8 November 1999 to the deterioration of the water distribution network in Iraq resulting from “obsolescence and the lack of resources for their renewal”. Among the humanitarian consequences were “the contamination of drinking water.”[14]

As late as in 2000, Ohio Democrat Representative Tony Hall wrote to U.S. Secretary of State Madeleine Albright, expressing concern about the "profound effects the deterioration of Iraq's water supply and sanitation systems on children's health". Of 18 contracts on water and sanitation, a “prime reason for the increase of sickness and death”, wrote Hall, all but one were placed on hold by the U.S. government[15], a fact corroborated by France’s mission to the U.N.[16].

The issue of water treatment in Iraq was the subject of a classified study by the Defense Intelligence Agency (DIA) of the United States dated 22 January 1991 and entitled “Iraq Water Treatment Vulnerabilities”[17]. The report was partly declassified in 1995 and discovered by Prof. Thomas J. Nagy[18]. It contains a detailed analysis of the likelihood that Iraq could maintain an adequate supply of drinking water in spite of the sanctions. One of its conclusions is:

"Iraq depends on importing specialized equipment and some chemicals to purify its water supply, most of which is heavily mineralized and frequently brackish to saline. With no domestic sources of both water treatment replacement parts and some essential chemicals, Iraq will continue attempts to circumvent United Nations Sanctions to import these vital commodities. Failing to secure supplies will result in a shortage of pure drinking water for much of the population. This could lead to increased incidences, if not epidemics, of disease."

The document notes that Iraq “could try convincing the United Nations or individual countries to exempt water treatment supplies from sanctions for humanitarian reasons” and adds "It probably also is attempting to purchase supplies by using some sympathetic countries as fronts. If such attempts fail, Iraqi alternatives are not adequate for their national requirements."

Major media have shown no interest in publicizing the existence of this report, let alone inquire about its purpose.

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- 13 Report of the second panel established pursuant to the note by the president of the Security Council of 30 January 1999 (S/1999/100), concerning the current humanitarian situation in Iraq [Humanitarian Panel Report], Annex II of UN Doc. S/1999/356, para. 20, at <http://www.casi.org.uk/info/panelrep.html>
- 14 At: <http://www.geocities.com/iraqinfo/index.html?page=/iraqinfo/sanctions/sarticles/nari.html>
- 15 Source: Tony Hall’s web page: <http://www.house.gov/tonyhall/pr149.html>
- 16 The web site of the France’s mission to the U.N. provides a number of examples of such “holds” on French contracts.
See: <http://www.un.int/france/informations/Irak/bienshumanitaires>
- 17 Iraq Water Treatment Vulnerabilities, DIA Washington DC, 22 January 1991, at http://www.gulfink.osd.mil/declassdocs/dia/19950901/950901_511rept_91.html
- 18 Thomas J. Nagy, *The Secret Behind the Sanctions, How the U.S. Intentionally Destroyed Iraq’s Water Supply*, The Progressive, <http://www.progressive.org/0901/nagy0901.html>

It appears that only in August 2000 did U.S. authorities agree to ease restrictions to the flow of supplies for water treatment and sanitation[19]. No explanation was made why nine years had to pass for this to happen. This would mean that the U.S. authorities deliberately prevented the flow of such essential supplies into Iraq for nine years, fully informed of the sinister implications in terms of child mortality.

3 Denying items for repairing and rehabilitating the electric power system

Iraq's Ambassador to the U.N., Mr. Al-Sahaf, stated in the General Assembly on 2 October 1997 that Iraq had "not received...up to now...any spare parts for electricity-generating power stations." [20].

The centrality of electrical power generation for civilian welfare was finally recognized by the U.N. Secretary General, who warned in February 1998 – more than seven years after the imposition of the sanctions - that denying the rehabilitation of the electricity sector could create "humanitarian consequences [which] could potentially dwarf all other difficulties endured by the Iraqi people" [21]. In November 1998, the U.N. Secretary-General again warned about the state of Iraq's electrical power sector:

At present, most power plants are working at less than 50 per cent of their installed capacity. The inputs so far have done little to improve this overall output since, in dollar terms, the inputs for phase I to III [of the oil-for-food programme] are not sufficient to make any substantial impact on the system as a whole. So far, inputs have increased electrical generation by little more than 2 or 3 per cent [22].

In November 1999 Benon Sevan, the Executive Director of the U.N. Iraq Programme, in briefing the Security Council, said that the Sanctions Committee continues to place a large number of holds on applications for Iraqi imports. As of 15 November 1999, "holds" were placed by the U.N. Sanctions Committee on nearly \$750 million worth of applications in the electricity sector alone, he said, noting that Iraq's electricity supply could increase 50 percent if the holds were released [23].

19 Kenneth Katzman, *Iraq: Oil-For-Food Program, International Sanctions, and Illicit Trade, Report to Congress*, Congressional Research Service, 20 March 2003:

"[U.N. Security Council] Resolution 1284 (1999) began the process, continued in subsequent oil-for-food program rollover resolutions, of easing restrictions on the flow of civilian goods to Iraq. The resolution directed the Sanctions Committee to draw up lists of items, in several categories, that would no longer be subject to Sanctions Committee review, and therefore would not be vulnerable to "holds." The accelerated approval procedures for foodstuffs and educational goods began on March 1, 2000, and continued with pharmaceuticals, medical supplies, medical equipment, and agricultural equipment (March 29, 2000). Subsequent oil-for-food rollover resolutions made eligible for the new procedures water treatment and sanitation supplies (August 11, 2000) goods for the housing sector (February 26, 2001) and electricity supplies (May 24, 2001)."

<http://216.239.57.104/search?q=cache:jagHarca7iEJ:fpc.state.gov/documents/organization/19207.pdf++holdings+iraq+sanctions&hl=en&ie=UTF-8>

20 U.N. Doc. A/527PV.22, p.8.

21 Statement by U.N. Secretary-General Kofi Annan on 1 February 1998, reported by Christopher Wren, *UN Council Asked to Raise Limit on Sale of Iraqi Oil*, in New York Times, 3 February 1998.

22 U.N. Security Council, Report of the Secretary-General Pursuant to Paragraph 10 of Security Council resolution 1153 (1998): Oil for Food (1998), 19 November 1998, UN Doc. S/1998/1100, para. 42 (p.9)

23 UN News, November 17, 1999, at <http://www.fas.org/news/iraq/1999/11/991117-iraq2.htm>

Only in 2001 did the United States authorities finally accept to ease restrictions on the import into Iraq of items for the electricity sector[24]. No explanation was provided why items that had been banned for 11 years of sanctions were now suddenly permitted.

Former U.N. humanitarian coordinator in Iraq, Hans von Sponeck, compared the needs of the electricity sector with what Iraq was allowed to obtain:

As of Phase IV [of the Oil-For-Food Programme - OFF] the needs of the electricity sector were identified. The conclusion was that in order to fund a basic rehabilitation of Iraq's electricity sector you needed 7.1 billion U.S. dollars. Seven point one billion. What then was allocated was not \$7.1 billion but \$1.2 billion. This was the allocation that became available for the electricity sector. And what actually arrived, ultimately, was \$112 million. So ultimately, out of \$7.1 billion required as needed, \$112 million, a fraction, 1.5% actually arrived[25].

4 Impairing domestic food production

To counter the effects of the sanctions, the Government of Iraq promoted increase in domestic food production. The Iraqi authorities urged in September 1990 the population "to raise poultry and use their gardens to grow vegetables", raised the prices paid to farmers for crops and reduced the prices of fertilizers to farmers[26].

However, under the terms of the sanctions Iraq was prevented from importing animal feed. In October 1990, the Washington Post reported that there was no feed left in Iraq for farm animals[27].

The Ahtisaari Mission reported to the UN Secretary-General in 1991 that despite the return of the food industry to the private sector in 1990, "total production is only a fraction of the earlier level. This is due to a variety of causes including non availability of both raw and packaging materials as well as restrictions on the use of sugar in manufacturing."[28]. The Mission report warned that unless Iraq could be permitted to import pesticides, fertilizers, parts for the highly-mechanized and fuel-dependent harvesting machines and various other items, its grain harvest in the summer of 1991 would be "seriously compromised" and "widespread starvation conditions [would] become a real possibility"[29].

The Food and Agriculture Organisation of the United Nations (FAO) reported in July 1991 that "Iraq required some \$500 million to rebuild or replace damaged or destroyed agricultural sector facilities and supplies, including machinery, irrigation systems, fertilizers and animal feed."[30].

24 Kenneth Katzman, *supra* note 19

25 BRG (Boston Research Group) interviewing Hans von Sponeck on 1 May 2000, at <http://www.casi.org.uk/discuss/2001/msg00263.html>

26 Cited by Human Rights Watch, in *Objects Attacked: The Need for Full Disclosure and Accountability*, at <http://www.hrw.org/reports/1991/gulfwar/CHAP4.htm>

27 Cited by Ramsey Clark, *The Fire This Time: U.S. War Crimes in the Gulf*, Thunder's Mouth Press, New York (1992), p. 76.

28 *Report on humanitarian needs in Iraq in the immediate post-crisis environment by a mission to the area led by Martti Ahtisaari, the Under-Secretary-General for Administration and Management*, 10-17 March 1991, UN Doc. S/22366, 20 March 1991.

29 *Id.*, para. 15

30 Cited by Human Rights Watch, *supra* note 26, at p. 168

In its 1995 report, the FAO laments the

nonavailability of essential replacements and spare parts, good seeds, fertilizers, pesticides, and herbicides has resulted in a decline in output. Livestock, poultry and fish subsectors also suffer from severe setbacks because of shortages of machinery, equipment, spare parts and essential drugs.” Such shortages are due to the “failure to import machinery and spare parts over the past 5 years” because of the “lack of foreign exchange as a result of the international embargo on oil import from Iraq (...) compounded by the need to obtain clearance from the U.N. Sanctions Committee on a range of imports, particularly non-food items.”[31].

In its 1997 report[32], the FAO again attributes the decline in the availability of milk, milk products, meat, fish and poultry and eggs, caused by the “severe shortages of feed and vaccines during the embargo years.” to “shortages of chemical, feed and hormone supplies” for the maintenance of fish stocks, caused by the sanctions. Under the terms of Security Council Resolution 986 (1995), in effect at that time, Iraq was allowed for the first time since the onset of the sanctions to import “urgently needed agricultural inputs” for \$44 million[33], an amount far short of needs (see *supra*).

But even these “urgently needed agricultural inputs” were slow in reaching Iraq:

The first delivery was made in September [1997] and as at 15 November, goods worth \$4.1 million (17 per cent) had arrived. The long delivery times necessary for agricultural supplies have been such that some 60 per cent of arrivals (pesticides, harvester spare parts and bee-keeping supplies) missed the summer season and will not be used before March 1998[34].

As late as in 2000, the Sanctions Committee blocked again items for agriculture. The U.N. Humanitarian Coordinator in Iraq, Tun Myat, mentioned, as example, that the Sanctions Committee had approved the purchase of pesticides, but not the sprayers needed to apply them, or that irrigation pipes were approved, but not the submersible pumps needed to move the water through them, and asked: “What good are the pipes without the pumps”?[35]

Reduced food production in Iraq during the sanctions years, affected particularly the availability of livestock, eggs and milk, an essential source of protein, with serious effects on health (see effects on malnutrition *supra*).

Peter L. Pellett points out that it “has been more profitable in recent years to import [food] products, both legally and illegally [into Iraq] from the cheapest sources, than to produce locally. (These goods are often past their expiration dates or have been declared unfit for human consumption). This is because many necessary materials, such as stainless steel, and certain chemicals are embargoed.”[36]. The oil-for-food program, based on massive imports of staple foods, has also reduced incentives for local food production. A

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- 31 *Evaluation of Food and Nutrition Situation in Iraq*, Technical Cooperation Programme, FAO, Rome, 1995. Doc. No. TCP/IRQ/4552.
- 32 World Food Programme: *Food Supply And Nutrition Assessment Mission to Iraq*, FAO, Rome, 3 October 1997.
- 33 *Id.*
- 34 Report by the Secretary-General to the Security Council of 28 November 1997, U.N. Doc. S/1997/935
- 35 Interview with Cameron W. Barr in the electronic edition of *Christian Science Monitor*, 30 January 2001.
- 36 Peter L. Pellett, *Sanctions, Food, Nutrition, and Health in Iraq*, in *Iraq under siege: The deadly impact of sanctions and war* (Anthony Arnove, ed.) Pluto Press, London, 151-168. p. 153

similar negative effect of humanitarian food shipments concurrent with economic sanctions, was observed in Haiti.

5 Restricting Iraqi imports of foodstuffs

By imposing a *de facto* ban on food export to Iraq on 6 August 1990, the U.N. Security Council, pressured by the United States, deliberately caused food shortages in Iraq[37]. According to Conlon, “the P-3 asserted that food deprivation as applied to national economies was permissible and that only food deprivation as applied to human beings was subject to strictures under humanitarian law.”[38]. After the Gulf war, the United States, apparently in order to secure the support of other members of the Council for the maintenance of the sanctions against Iraq, accepted that the ban on food shipments to Iraq would be lifted. But as Iraq lacked the funds to import food, the relaxation of the food ban had no practical effect.

While the Government of Iraq attempted to meet food shortages by food rationing, its financial resources dwindled and compelled it to reduce the rations, both in calories and essential nutrients. The inadequate diet provided by government rations and the lack of means of a substantial part of the population to complement food needs privately, contributed to malnutrition, even after the onset of the oil-for-food programme. Garfield observed that “[a]dequate [nutritional food] rations would require an estimated \$10 per capita per month”, additional to what was provided by the terms of the oil-for-food programme. This would raise the cost of humanitarian supplies by an estimated \$2.6 billion per year[39].

According to the above recommendation for adequately nutritious food rations, Iraq would have needed to import food for at least \$4 billion a year. This is more than double the amount the U.N. Security Council had been willing to allow Iraq to earn through oil exports to cover *all* its humanitarian needs from 1991 until the adoption of Security Council Resolution 1284 (1999). The lifting of the ceiling on permitted oil exports, envisaged by the provisions of Security Council Resolution 1284 adopted in December 1999[40], went some way to meet minimal humanitarian needs.

The following paragraph from the report by the FAO/WFP Food Supply and Nutrition Assessment Mission to Iraq of 1997 encapsulates the situation:

Prior to the Gulf war in 1990, Iraq had one of the highest per caput food availabilities in the region, due to its relative prosperity and capacity to import large quantities of food, which met up to two-thirds of food requirements. The imposition of U.N. sanctions in August 1990 have, however, significantly constrained Iraq’s ability to earn foreign currency needed to import sufficient quantities of food to meet needs. As a consequence, food shortages and malnutrition became progressively severe and chronic in the 1990s. Widespread starvation was avoided due to an effective public rationing system, which provided minimum quantities of food to the population[41].

37 The use of food as a weapon is generally considered as contrary to international law.

38 Conlon, *supra* note 4, at 46

39 A figure far beyond what the Security Council has permitted Iraq to obtain.

40 Under both the 1991 proposals (Security Council Resolution 706 (1991) and 712(1991) and Security Council Resolution 986 (1995), the net maximum revenue from Iraqi oil exports - available for humanitarian items - was to be approximately \$1700 million per year. This ceiling increased substantially, though inadequately, only at the end of 1999 through the provisions of Security Council Resolution 1284(1999).

41 FAO/WFP, see *supra* note 32 (Overview)

By U.N. Security Council resolution 1284 (1999), which the U.S. approved, the Sanctions Committee was directed to ease the flow of civilian goods to Iraq, including foodstuffs, by “accelerated approval procedures”[42]. Such decision belies the widely stated claim that foodstuffs were exempt from the sanctions.

6 Denying equipment for the health system

The U.N. mission to Iraq (1991) led by Prince Aga Khan ascribed the degradation of medical equipment in Iraqi health centres and hospitals to the dilapidation of infrastructure and to the lack of external funds, both resulting from the sanctions:

It is estimated that less than half of the diagnostic and medical equipment present in health-care facilities is still in operable condition. Some of it has been damaged by frequent power fluctuations or inadequate supply. Other machines are still awaiting repeatedly postponed major maintenance operations.

Most hospitals have now had to function for months partly on electricity provided by generators that had largely exceeded their recommended usage time. Two thirds of the generators in the hospitals visited were out of order. The fleet of vehicles had suffered major losses. Some had been taken away, others destroyed, others needed repair. Frequently, governorates were left with a dozen vehicles out of an initial pool of over 100.

Heavy equipment, such as X-ray machines, CAT scans, laboratory apparatus and generators have been procured through a national authority. This authority has relied heavily on international sources for the supply of spare parts and for many major repair and maintenance operations. An effect of the current sanctions and other international restrictions has been to limit markedly the provision of these items and services[43].

After the lifting of secrecy on the operations of the Sanctions Committee[44], France’s Mission to the U.N. publicized on its web site holds on contracts forwarded to the Committee by the French authorities on behalf of French suppliers. According to one such list[45], numerous items for the health system have been blocked or delayed by the United States, including unspecified types of medical equipment and supplies, veterinary vaccine, photometers, laboratory materials, medicines, mobile laboratories, laboratory testing equipment and diagnostic kits.

By U.N. Security Council resolution 1284 (1999), the Sanctions Committee was directed to ease the flow of civilian goods to Iraq, including medical equipment, by “accelerated approval procedures”[46]. New procedures for medical equipment were approved on 29 March 2000.

42 Kenneth Katzman, *supra* note 19.

43 Aga Khan Mission report, *supra* note 9.

44 Access to most records of the Sanctions Committee for the years 1990-1995 has remained closed to the public (the author’s telephone conversation with the Committee’s Secretary, Jingzhang Wan in August 2001). Such classified records include the decisions of the Sanctions Committee on individual requests for humanitarian waivers and summaries of the Committee’s deliberations. This secrecy has cast a long shadow on the claim of Security Council members to act in good faith with regard to the sanctions on Iraq.

45 Iraq oil-for-food programme, French Government’s Web Site: *Liste des contrats français de biens humanitaires mis en attente au 1er decembre 2000*. <http://www.un.int/france/informations/Irak/bienschumanitaires/phase7.html>

46 Kenneth Katzman, *supra* note 19

7 Denying transportation and communications equipment for the health system

The Humanitarian Panel established by the Security Council in January 1999 ascribes the degradation of the “functional capacity of the health care system”, *inter alia*, to the “collapse of the telecommunications system”[47]. Such conclusion is not new. In 1991 the Ahtisaari mission noted that

the total lack of telephone communication and drastically reduced transport capability pose other problems to the health system since basic information on communicable diseases cannot be collected and disseminated, and essential drugs, vaccines and medical supplies cannot be distributed efficiently to the country.” [48].

As late as in the year 2000, the United States representative in the Sanctions Committee blocked requests for the sale of telecommunications equipment to Iraq[49]. On 4 July 2001 the U.S. unblocked five telecommunications contracts worth more than \$18.6 million, including one Chinese contract worth \$15.5 million for nine digital exchange systems with 215,000 lines, which had been on hold since 1999[50].

The International Telecommunications Union, the agency that monitors Iraq's use of telecommunications on behalf of the United Nations, told the Security Council in May 2001 that Iraq's national telephone system was barely functioning and would require an investment of more than \$1 billion over the next decade[51].

As with telecommunications, the dilapidation of *transportation* and the ban on spare parts imposed by the Security Council compounded the effects of the allied bombing campaign of 1991.

The Aga Khan mission mentioned in 1991 that before August 1990,

the health care system in Iraq was based on an extensive and developing network of primary-, secondary- and tertiary-care facilities, both governmental and private. These facilities were linked among themselves and with the community by a *large fleet of ambulances and service vehicles and by a good communication system*[52]. (emphasis added)

The authors note that the

functional capability of the [health] system was (...) greatly diminished (...) by the *lack of vehicles* and the collapse of the telecommunication system[53]. (emphasis added)

The mission recommended to the Security Council that Iraq be permitted to obtain “spare parts and new ambulances” as well as “services of firms from abroad” for certain “repair operations”[54]. These recommendations remained unheeded.

47 U.N. Doc. No. Annex II of S/1999/356 30 March 1999, para. 21

48 Ahtisaari Mission report, *supra* note 28, para 25

49 Report by the France’s mission to the U.N., as of 1 Dec. 2000 (website)

50 Financial Times, 4 July 1999, p. 4

51 Washington Post, 5 September 2001

52 Aga Khan Report, *supra* note 9, para. 61

53 Id., p. 23, para. 62

54 Id. p. 29, para. 92(c)

As late as in 1998 the lack of ambulances is mentioned in the periodical report by the U.N. Secretary-General:

The critical lack of functioning ambulances in all 18 governorates has caused preventable deaths in emergency cases, especially in rural areas[55].

Denis Halliday, former U.N. Humanitarian Coordinator in Iraq, mentions that when the Government of Iraq asked for the permission to import 500 ambulances (no date given), a request apparently approved by the WHO as “minimal under the circumstances”, these were “initially blocked in their entirety by the Sanctions Committee and then slowly, over a period of six to nine months, were released -100, 200 ambulances - really picayunish stuff...”[56].

Felicity Arbuthnot, a journalist based in the U.K., noted that to “transport medication in an unrefrigerated truck, to an unrefrigerated warehouse, without even knowledge of which are the most vital items needed in an area is tantamount to destroying it”[57]. Refrigeration equipment was banned by the terms of the U.N. sanctions.

8 Denying medical supplies and equipment

While medicines were generally[58] allowed, the Iraqi authorities charged the United States and the U.K. of blocking cancer medicines under the claim they were so-called dual-use goods[59] for their potential dual-use or because they were not considered by the Committee as “essential”[60].

As late as 17 January 2001, various medical and dental equipment and supplies were “held” by the Sanctions Committee at the behest of the United States, sometimes flanked by the United Kingdom[61]. John Pilger cites Karol Sikora, former head of the World Health Organisation cancer programme to the effect that “[r]equested radiotherapy equipment, chemotherapy drugs and analgesics are consistently blocked by the U.S. and Britain.”[62]

55 U.N. Doc. S/1998/194, para. 58.

56 Arnove, *supra* note 36, p. 36.

57 Felicity Arbuthnot, *Silent decimation - Iraq under sanctions*, Middle East International, 3 September 1999, p. 19.

58 Some medicines were alleged to contain ingredients that could be used for protecting soldiers against the effect of chemical/biological warfare and were vetoed on this account. See, *Revised U.N. Goods Review List Strengthens Scrutiny over Exports to Iraq*, 14 January 2003, U.S. Department of State, at <http://usinfo.state.gov/regional/nea/iraq/text2003/0114list.htm>

59 Reuters, 15 April 2002, *Iraq says UK and US blocking cancer drugs*, <http://www.converge.org.nz/pma/cra0384.htm>.

60 Geoff Simons, *Imposing Economic Sanctions: Legal Remedy or Genocidal Tool ?* Pluto Press, London (1999) p. 173

61 List on “holds” can be found on the following websites:
<http://www.un.int/france/informations/Irak/bienshumanitaires/phase7.htm>
<http://www.nonviolence.org/vitw>

62 <http://pilger.carlton.com/iraq/myths2>; also *Br. Med. J.* 1999; 318: 203. Reported on http://www.mja.com.au/public/issues/173_08_161000/wareham/wareham.html (Economic sanctions and public health: the case of Iraq, by Susan J. Wareham)

Clark reports that “[t]hree to thousands of bags of blood spoiled at Iraq’s Kindi Hospital because they could not be refrigerated”[63]. A WHO report of 1996 indicates “[d]ifficulties in maintaining immunisation coverage owing to the disruption in the cold-chain of the Expanded Programme on Immunization, difficulty in maintaining vaccine stocks and above all, the inability of the staff to maintain the immunization programme at an adequate level.”[64]. It was not indicated whether this was due to the lack of electrical power for refrigeration, or shortages of refrigeration equipment, supplies and parts.

9 Restricting imports of medicines and vaccines

According to Alexander Cockburn and Jeffrey St. Clair the “British government [...] banned the export of vaccines for tetanus, diphtheria and yellow fever on the grounds that they [...] might find their way into the hands of Saddam’s biological weaponeers.”[65].

Felicity Arbuthnot reports having attempted to send her Iraqi friends a small package of urgently needed antibiotics. Representatives of international courier companies and senior personnel of airlines flying into Amman (from where the package would have been fetched by land to Baghdad) told her they could not carry such a personal package because it would be illegal under sanctions regulations. She comments: “If someone is dying one cannot wait weeks for a ‘licence to negotiate’, then a minimum of twenty weeks for an export licence for antibiotics, the wherewithal for chemotherapy, ventalin for asthma, that needed for dialysis, angina, or other stabilising medication.”[66]. Elsewhere she reported that the U.N. Sanctions Committee had vetoed surgical clamps and the medications which prevent or stop haemorrhaging (in child birth)[67].

The mechanism set up by the United Nations effectively barred any private arrangements that individuals in Iraq could make in order to secure medicines for themselves and their families. Individuals in Iraq were thus forced by the United Nations to rely on the Government of Iraq - or on the black market - for the provision of medicines.

The British government apparently denied licences to British companies for the shipment of medicines to Iraq that were reportedly allowed by the Sanctions Committee[68]. The Guardian reported in 1994 that “aid agencies have complained of considerable practical difficulties in ensuring [medical] supplies [to Iraq].”[69] There are reports that also the German authorities impeded the shipment of medicines to Iraq, or placed administrative hurdles on such shipments, including by humanitarian organisations[70].

63 Clark, *supra* note 27, p. 81

64 *The Health Conditions of the Population in Iraq*, World Health Organisation, Geneva, 1996. Doc. WHO/EHA/96.1

65 Counter Punch, 21 February 2001, at <http://www.counterpunch.org/bushbombs.html>

66 Letter by Felicity Arbuthnot, 9 July 1994, to Mr. Sedgemore, MP, House of Commons, London (in the possession of the author).

67 Arbuthnot, *supra* note 57, p. 20

68 Telex by the Wellcome Foundation Ltd. to the import manager of Kimadia, 16 March 1993, regarding the refusal by the UK Department of Trade and Industry (DTI) to grant a licence for the export of Angised tabs to Iraq (copy of telex in the possession of the author).

69 Victoria Brittain, *Children of Iraq suffer as medical supplies dwindle*, The Guardian, 14 July 1994

70 Victoria Brittain, writing in Jordan times, 24 July 1994, reports that “aid agencies have complained of considerable practical difficulties in ensuring [medical] supplies [to Iraq].”; See

The Harvard Study Team also reported in 1991

All the health facilities we visited reported major shortages of drugs. These shortages, which allegedly began in the second half of 1990, included antibiotics, antiparasitic agents, local anaesthetics, vaccines, intravenous fluids, and medications such as insulin and digoxin[71].

By U.N. Security Council resolution 1284 (1999), pharmaceuticals and medical supplies were not longer subject to Sanctions Committee review, and therefore not longer vulnerable to “holds.”[72] This decision belies the widely held claim that Iraq could freely import medicines and medical supplies throughout the sanctions period.

10 Denying raw materials for the production of medical items

According to the WHO/UNICEF report of 1991, about “25 per cent of national drug and medical needs (...) were met by local production before the crisis.” Such production was stopped because of the general “stoppage of industrial production, the absence of raw materials, and the lack of electricity.”

Equally the “production [in Iraq] of disposable plastic bags for intravenous fluids, as well as disposable syringes[73], has been brought to a halt.”[74].

As materials for the domestic production of drugs or other health items were not deemed “humanitarian” items by the Security Council, the general rule was that such materials were prohibited under the terms of the sanctions. Nominal quantities of such items may have been reached Iraq, though there is little evidence of it[75].

11 Denying items to ensure a safe living and working environment

Most fatal accidents occur in homes, work places and on the road. Such occurrences are not specific to Iraq. There are however a number of specific fatal accidents that would probably not have occurred, had the sanctions not been imposed. A number of examples have been provided by visitors to Iraq, suggesting the existence of causality between the sanctions and the ultimate injury suffered.

In a report by a FAO Mission to Iraq of 1995, work accidents caused by sanctions-enforced lack of maintenance are mentioned:

Mission members also observed machinery in such poor condition that could cause serious injuries to the operators at any time during usage[76].

Worn out car tyres and other essential spare parts for cars[77] have been a death trap for many motorists. Jo Wilding describes:

also *Niederlage für den Gesundheitsminister Iraks*, in *Aertzte Zeitung* (German medical journal), 11 May 1994, p. 7

- 71 The Harvard Study Team. *The effect of the Gulf crisis on the children of Iraq*. Special report. *N Engl J Med* 1991; Vol. 325, No. 13, p. 980.
- 72 Kenneth Katzman, *supra* note 19
- 73 Clark, *supra* note 27, p. 67, reports: “A major hypodermic syringe factory in Hilla was destroyed by laser-guided rockets”
- 74 WHO/UNICEF report, February 1991, U.N. Doc. S/22328.
- 75 Due to the secrecy that has surrounded the work of the Sanctions Committee until 1996.
- 76 FAO report (1995), *supra* note 31, at 5.

The desert highway from Jordan to Baghdad was littered with torn tyres, We didn't understand what they meant until we spent a few hours protesting at the UN building in Baghdad. We saw three cars wrecked in accidents caused by bald tyres bursting, careening wildly across the road until a wall or another car brought them to a standstill. Two of the cars were taxis and their drivers' entire livelihoods.[78]

Normally, such accidents do not occur frequently in countries where owners are permitted to maintain their cars. The allied forces had bombed the only tyre factory in Iraq and the Sanctions Committee has prevented Iraq from importing tyres and other spare parts necessary for safe driving[79].

The unreliability of electrical power has led people to

buy (if they can afford it) these very dangerous lamps which routinely explode, or they cook on makeshift [kerosene] stoves. It is easy to go wrong there, and often if somebody bends forward their clothes catch fire. If they're very poor they just put a wick in a bottle of kerosene and often the bottle explodes. So the new, hidden disaster is burns accidents[80].

Burns caused by boiling water with unsafe equipment have been reported by various authors. The conductor of the Iraqi symphony orchestra, Mohammed Amin Ezzat, interviewed by John Pilger, lost his wife in such an accident. He himself suffered serious burns[81] Dr. David Levinson reports many such accidents[82]. The following general comment may be applicable to this situation:

The families of poor children are often characterized as negligent, but this ignores the full-time struggle for survival that the marginalized urban population faces and the resulting stress and frustration that often leads to abuse[83].

- 77 One journalist reports to have been driven for 200 km. in the night with only one flashlight. Light bulbs have been banned under the terms of U.N. sanctions.
- 78 Jo Wilding, *Iraq August 2001*, at <http://www.bristolfoe.org.uk/wildfire/iraq/iraqaug01.htm>. John Pilger ("Collateral Damage", in Arnove, ed.. ("Iraq Under Siege") *supra* note 36, at 59) writes: "The memories of my journey to Iraq are almost surreal. Beside the road to Baghdad from Jordan lay two bodies: old men in suits, unmarked, their arms stiffly beside them. A taxi rested upside-down beside them...The taxis' brakes had apparently failed and it had cut them down...Of course, brakes fail on rickety taxis everywhere, but the odds against survival here are shortened to zero. Parts for the older models are now nonexistent...And when [the taxi drivers] and their passengers are killed or maimed, they, too, become victims of the most ruthless economic embargo of our time."
- 79 Matthew Hay Brown, in a series of articles on Iraq under sanctions wrote in the Hartford Courant (CT), of 22 October 2000 ("A Society Ravaged"): "The windshield of nearly every decade-old Datsun, Toyota and Volkswagen in Baghdad is cracked; most ride on bald, hand-patched tires. Drivers keep headlights off well after dusk to conserve bulbs and batteries. With power frequently out, major intersections operate on the honor system."
- 80 Felicity Arbuthnot, *Experiencing Iraq Today*, in Arnove, ed. *supra* note 36, at 147; Jo Wilding, *supra* note 78, also writes: "We met a man whose wife was killed when one of the cheap paraffin lamps that people use during power cuts blew up and set their home on fire. Every aspect of normal life is utterly precarious for most Iraqi people"
- 81 See Pilger ("Collateral Damage", in Arnove, ed.. ("Iraq Under Siege") *supra* note 36) at 63.
- 82 Personal communication to the author
- 83 Geraldine Van Bueren, *Combating Child Poverty- Human Rights Approaches*, Human Rights Quarterly No. 21 (1999), p. 686

Although no figures are available on the number of fatalities from domestic fire accidents attributable to the sanctions, a study undertaken by the New Zealand Fire Service found that the “[r]ates of fatal fires in the most deprived decile [of the study] were 4.5 times the rates in the least deprived decile.”[84]. Such a finding would suggest a substantial increase in fatal fires as a result of widespread impoverishment in Iraq as a result of the sanctions.

12 Denying items for the educational sector

Educational materials and books were not deemed “humanitarian” items and have therefore been originally included in the overall prohibition of trade with Iraq, in 1990. According to Conlon, a “gentlemen’s agreement” emerged by 1992 within the Sanctions Committee, due to pressure by its non-aligned members, that covered, *inter alia*, “books, materials, and supplies for primary and secondary education”. Such supplies would be “invariably authorized” by the Committee[85]. As the Committee has refused to disclose its records for the early years of the sanctions[86], it is not possible to verify the above assertion. It is however acknowledged by the author that due to the enforced lack of external funds, the Government of Iraq could not import such items, even if formally permitted by the Committee.

As books became torn, school supplies dried up, stocks of paper and ink dwindled, printing machines broke down as a result of lack of supplies and spare parts, all levels of education suffered. Scientists, scholars and physicians stopped to receive their professional journals because of the sanctions, as enforced by Western governments[87]. University libraries could not update their holdings and books lent to students fell apart. Iraqi teachers and students were prevented from using copiers and computers because the United States government considered such items as dual-use or as non-essential and blocked requests for such items in the Sanctions Committee.

As late as in 1997, Iraq’s Ambassador to the U.N. said that Iraq had “not received any materials up to now relating to...education...”[88].

The extent of the deprivation may be gauged by the fact that it took 11 years of sanctions until the Security Council permitted Iraq to import adequate quantities of basic educational supplies such as school desks “to get rid of sitting on the ground” for the benefit of students all over Iraq[89].

13 Denying items for the oil industry

As long as Iraq was not permitted to export oil, the destruction of the oil industry in the "Gulf war" contributed only marginally to the humanitarian plight. The dilapidation of the Iraqi oil industry became a serious bottleneck when the OFF programme was put into

84 New Zealand Fire Service, Report #5, *Social and economic deprivation and fatal unintentional domestic fire incidents in New Zealand 1988-1998*, August 2000. http://www.fire.org.nz/more_info/reports/fund/reports/Report_5.htm

85 Conlon, *supra* note 4, p. 60

86 Personal communication from the Sanctions Committee, August 2001.

87 Iraqis could not transfer funds to publishers as all financial transactions between Iraq and the outside world were prohibited. But even when foreign friends were ready to pay for subscriptions, postal regulations in the U.S., the UK and other countries precluded the shipping of journals to Iraq.

88 U.N. General Assembly, 2 October 1997, U.N. Doc. A/527PV.22, p.8

89 Distribution Plan for Phase IX of the OFF programme, to be put in effect in the year 2001. <http://www.un.org/Depts/oip/dp9/dp9toc.htm>

effect. Thus, on 2 October 1998, Benon Sevan, the Executive Director of the U.N. Office of the Iraq Programme (OIP) indicated that at that date “no parts or equipment” for the rehabilitation of the oil industry have yet arrived in Iraq, impeding the purchase of humanitarian goods.

The state of the oil industry - that could not be repaired due to the sanctions - became the primary factor for the inadequacy of humanitarian imports under the OFF programme and the ensuing sufferings of the population. It was necessary to repair the Iraqi oil industry in order to ensure an adequate flow of humanitarian goods. It required great pressure by the Secretary-General and various members of the Security Council to have the United States agree to increased imports of supplies for the Iraqi oil industry.

Conclusions

The above account, based solely on publicly available evidence, suggests that numerous measures were adopted by the Sanctions Committee (and/or the Security Council) to deprive Iraq and its population of goods and supplies necessary for education, health, safety and survival.

Without prejudice to a comprehensive determination of facts, an exercise beyond the capabilities of the author, the above data strongly suggests the existence since August 1990 of a policy by the United States and its closest allies to deliberately cripple Iraqi society and/or prevent its rehabilitation with the knowledge that it would cause massive harm to civilians.

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