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Health & Human Rights Consequences of War in Iraq A Briefing Paper

I. Executive Summary

The United States has spent many months planning for a concerted attack on Iraq, and in recent weeks, has revealed information about its massive military preparations. During this same period, there has been little public indication of plans and preparations to avoid civilian and “dual use” targets, minimize civilian casualties, or prepare for what may well be an enormous humanitarian crisis. Physicians for Human Rights (PHR) has concluded that preparing for such extraordinary use of military force to be deployed in a manner that will likely risk huge damage to infrastructure and civilian life, without due consideration for the consequences to the highly vulnerable population of Iraq, is intolerable.

When a power like the United States contemplates war, it must not only comply with the Geneva Conventions in the field that assure protection of the civilian and non-combatant population, but also engage in planning to avoid acts which are likely to harm the population. Under the terms of the Conventions, a warring party must adhere to the principle of proportionality and avoid fixing military targets in populated areas; it must refrain from attacking those systems that are vital to the health and welfare of the population; and it must assure food and medical supplies to the population once it becomes an occupying power. In the case of Iraq, issues like proportionality and mixed targets have enormous implications. Yet the US government has heretofore given little indication of taking this into account or assuring protection during and in immediate aftermath of military action.

Physicians for Human Rights (PHR) is gravely concerned about the potential for loss of life on a large scale and serious risk to the health and human rights of the Iraqi people and others in the region should a war take place. The combined effects of more than 12 years of economic sanctions, destruction of vital infrastructure, misrule by Saddam Hussein, and severe restrictions on civil and political liberties have left the Iraqi people extremely vulnerable in the event of war. Adverse affects of war on health and human rights that may result would not only manifest in the immediate aftermath of military intervention, but are likely to persist for a considerable period of time.

PHR joins in the call issued by other human rights organizations for the U.S. and its allies to be much more transparent about the anticipated consequences for the population during and following a war with Iraq and preparations for the anticipated humanitarian crisis.

Background to Assessment

PHR sponsored the travel of two health professionals to Iraq in January, 2003 to assess the health and human rights consequences of a possible United States-led military intervention in Iraq.

The PHR research team consisted of three experts in health and human rights. Two of the researchers, Charles Clements, M.D. and Ron Waldman, M.D. MPH, visited Iraq as researchers participating in a Center for Economic and Social Rights (CESR) delegation and conducted interviews in Baghdad, Kerbala, Kut, Basra, Tikrit, Beiji, Mosul, Kirkuk, and Amman, Jordan. A third PHR representative, Richard Garfield, R.N. traveled to Iraq independently during the same period of time and conducted interviews in Baghdad, building on his four previous visits to Iraq where he visited Erbil and Mosul, interviewed UN agencies and NGOs and took part in primary data collection.

The researchers collected information from Iraqi civilians, health personnel, government officials, and representatives of governmental and non-governmental humanitarian assistance organizations.

The researchers were able to access health clinics and hospitals, nutrition and food distribution sites, water treatment plants and electrical generation installations despite considerable logistic and political constraints. The assessment also utilizes existing data, including published and unpublished documents from academic sources and non-governmental organizations. The researchers also had access to a number of unpublished United Nations documents. The analysis and interpretations contained in this brief report reflect PHR's independent assessment of information obtained in Iraq and through secondary sources.

Issues of Concern

PHR's assessment underscores the vulnerabilities of the population, including the following:

- Most of Iraq's 26 million people are almost entirely dependent for daily survival on the monthly rations distributed under the Oil-for-Food Program (OFFP). A disruption in the OFFP is likely to have extraordinary health consequences unless a comprehensive and effective food distribution plan is rapidly in place. In addition, war in Iraq is likely to disrupt supplies of other essential goods such as medicine, water and energy. In recent days, the UN has confirmed that OFFP personnel will be evacuated from Iraq should a war commence. In mid-February the UN emergency relief coordinator announced that the UN was ready to feed 250,000 people for 10 weeks. However, the anticipated need may be 40-times greater.
- The combination of a rapidly deteriorating health infrastructure, decline in access to public health and medical services, and a marked decline food availability to

the Iraqi population for more than twelve years have contributed to a sustained deterioration of health status. During the past decade, infant mortality more than doubled to 107 deaths per 1000 live births per year, and the under-five mortality rate also more than doubled to 131/1000 live births per year.¹ War will compound the precarious nature of the health infrastructure and fragile health of the most vulnerable within the population.

- Preventative public health and curative medical services in Iraq are inadequate for the health and medical emergencies that are likely to result in the event of armed conflict. The number of primary health care (PHC) and maternal and child clinics, the principal providers of basic health care in Iraq, have declined by nearly half since the Gulf War in 1991 -- according to UNICEF, there are 929 PHC centers remaining out of a pre-Gulf War network of 1,800. Most of the health facilities are in poor physical condition. They often lack water and electricity and, hence, severely limit the quality of patient care.
- The water, sanitation, and electricity infrastructures in Iraq have not recovered from the previous war. This is in part due to sanctions, which have denied parts for much of the machinery used in these infrastructures as well as denial until recently of chemicals necessary for water treatment such as chlorine and aluminum sulfate. It is also clear that government of Iraq has not invested any significant resources in these sectors.
- Water treatment plants and sanitation facilities such as wastewater treatment and pumping stations operate at anywhere from 25 to 50% of design capacity. Capacity has been sacrificed due to cannibalization as well as steady deterioration that occurs when there is insufficient maintenance and no spare parts. UNICEF and the United Nations Development Program report that 40% of water samples fail tests either for contamination by solids or sufficient disinfection.
- Water treatment, water distribution, sewer treatment, and sewer pumping are all highly dependent upon electricity in the largely urbanized country (70% of the population lives in cities). While these systems have back-up generators, they are designed for short-term power failures, have insufficient capacity to operate for long periods of time, and are themselves slowly becoming dysfunctional. Today 50% of the sewage in Baghdad's largest treatment plant is shunted directly into a river and estimates are that 500,000 tons of raw sewage enter waterways daily in Iraq.
- The electrical generating and distribution system is only marginally functional. Electrical black-outs due to insufficient power availability

¹ The Situation of Children in Iraq: An Assessment Based on the United Nations Convention on the Rights of the Child " UNICEF, February 2002 available at <http://www.casi.org.uk/info/unicef0202.pdf>

range from 6 to 14 hours per day in many cities. As observed by the PHR investigators, the electrical system is held together with 'bailing wire' as it has been deemed dual use and spare parts delayed for years or denied.

- According to UNICEF, some water borne diseases such as typhoid are now seen at incidences of 1000% compared to pre-Gulf War levels. Vulnerable sectors such as malnourished children, pregnant women, and the elderly will be immediately susceptible to epidemics of water borne diseases if the electricity system is paralyzed and water/sanitation systems cease to function.
- The current state of humanitarian preparedness is cause for great concern. Very few international agencies with large-scale emergency capacity are currently present in Iraq. Thus, far, the U.S. government's public statements on how it intends to conduct military actions in Iraq have not included sufficient information and/or support for humanitarian relief efforts for Iraqi civilians who are likely to be directly and indirectly affected by such actions. As of February 14, 2003, the U.N. stated that it has fewer than half of the resources it needs to cope with the anticipated humanitarian crisis.
- Internally Displaced Persons (IDPs) and refugees in Iraq and on its borders are at great risk. Turkey and Iran have already threatened to close their borders. Under such circumstances, IDPs will not be able to cross international borders to safety and will remain vulnerable to the effects of military actions, basic life-sustaining supplies and/or possible reprisal attacks by Iraqi forces. [XX] Many humanitarian organizations urge that preparations be made to accommodate larger numbers, perhaps as high as several million refugees.
- An attack on Iraq may unleash violent reprisals by the Government of Iraq against internal opponents, including the Kurds in the North and Shiite Muslims in the South, but also against perceived political opponents as well as military deserters.
- Antipersonnel mines may be used by both sides in this conflict and threaten to harm non-combatants. Similarly, cluster bombs in Iraq would, in all likelihood, maim and kill far more innocent civilians than soldiers, especially if they are used against Republican Guard forces, which are municipally based.
- Reports of the torture and ill-treatment of captured combatants in Afghanistan by both the United and its ally, the Northern Alliance, have created cause for serious concern. In the event of a war with Iraq, captured, surrendered, and wounded Iraqi military forces are entitled to Prisoner of War status in accordance with the Geneva Conventions and their rights must be protected.

Recommendations

To Prevent War

In the interest of protecting human life and health, PHR appeals to the U.S. Government the United Nations and the Government of Iraq to exert every effort to resolve the conflict with Iraq without a resort to military force.

To Protect Civilians and Non-Combatants in the Event of War

In the event that war occurs, concerted steps should be taken to assure that human rights and humanitarian law are respected. PHR calls upon the US Government and its allies to comply with their obligations under the Geneva Conventions, which is their duty at a minimum, and to take measures to protect civilians that, in some cases, exceed the strict requirements of international humanitarian law.

The U.S. Government must take crucial steps to protect the civilian population and captured combatants through strict compliance with international humanitarian law, including the Geneva Conventions. This includes scrupulously avoiding civilian targets, respecting the principles of proportionality, providing for the nutritional and health needs of the people of Iraq and others who may be affected by the conflict, protecting Iraqi citizens against reprisals by their own government, caring for refugees and displaced persons.

- The President should issue a military mission statement that ensures strict adherence to humanitarian law by the United States combatants and take responsibility for assuring compliance by local allies, assets and agents. The Pentagon must promulgate rules of engagement to carry it out.
- Weapons should be deployed in such a way that civilian casualties are avoided to the maximum extent possible. The U.S. should seek to avoid military operations in heavily populated areas, regardless of the military legitimacy of the targets, if large numbers of civilians could be harmed. The U.S. and its allies should eschew targets that are essential to civilian survival such as water supply, electricity, food storage facilities, and hospitals, even if some of this infrastructure has dual military-civilian use.
- The U.S. should have in place prior to going to war capacity to deliver basic humanitarian services to all in need, from the minute the war commences throughout the period of upheaval, including food, shelter, water, and access to health care. Declassified versions of US preparations should be made transparent to all humanitarian groups servicing the region.

- The United Nations appealed in mid-February 2003 for over \$100 million for humanitarian contingencies, of which \$60 million is allotted to United Nations High Commissioner for Refugees. The remaining funds are to be distributed to other intergovernmental organizations, including the International Organization for Migration. The United States has to date given approximately \$25 million to the UN for contingencies for humanitarian needs. The U.S. should ensure that the UN receives the full amount it needs before commencing a war. The U.S. should assure adequate food, water, medical supplies and shelter for Iraqis, both those in their homes and villages who are dependent on the oil-for-food program, and those who flee their homes as displaced people within Iraq or refugees in neighboring countries. A similar plan should be instituted to ensure constant supply and stock of essential medicines. The Government of Iraq must also assure passage of humanitarian supplies and enable assistance to be distributed in a neutral manner as required by the Geneva Conventions.
- The U.S. Government should immediately suspend the requirement that humanitarian groups and others must have OFAC licenses² to operate in Iraq and Iran. This will allow American groups to hire local staff, preposition supplies, and prepare for the massive numbers of people that are expected to flee hostilities. The U.S. Government must also facilitate the mobilization of international and American assistance in Iraq at every point before, during and after the war.
- The U.S. and allies must prepare for and develop a plan to prevent or stop reprisals by Saddam Hussein against Iraqi citizens in the midst of a conflict. This should include prevention of and preparedness for the burning of Iraqi oil fields and other elements of a scorched earth policy, as well as a chemical or biological attack against the Iraqi people, in addition to those in neighboring countries.
- The U.S. should not deploy antipersonnel landmines whose inherent indiscriminateness will otherwise cost many civilian casualties and should not use cluster bombs in populated areas. The U.S. and its allies should also make the demining of the Iran-Iraq border a priority if hostilities commence, in order to minimize civilian losses as refugees flee into the area, or minimally, to provide safe movement corridors.
- The U.S. and U.N. must gain, through diplomacy, assurances from Iraq's neighbors that they will fulfill their obligation of nonrefoulement as stated in the 1951 Refugee Convention and keep their borders open to those fleeing the war. The US should also provide required resources to UNHCR to address a large refugee influx on Iraq's borders.
- The U.S. and the U.N. must ensure that proper security arrangements are in place to control post-war aggressors and facilitate the establishment of a stable society

² The U.S. Treasury's Office of Foreign Assets Control (OFAC) has not issued licenses required for Americans to travel to Iraq. In addition OFAC restrictions have prevented American groups from operating in neighboring Iran.

operating under the rule of law with respect for human rights of all inhabitants of a post war Iraq.

- The U.S. military should set in place a system for reporting and investigating violations of the laws of war that are committed by U.S. personnel as well as their local allies, agents, and operatives in Iraq. They must establish means of accountability for such abuses.
- PHR insists that the U.S. Government and its allies take full responsibility to ensure that prisoners of war be treated according to the Third Geneva Convention.³ In the event of a war with Iraq, captured, surrendered, and wounded Iraqi military forces are entitled to Prisoner of War status in accordance with the Geneva Conventions. The U.S. must also ensure that its local allies and agents who may have authority over wounded or surrendered combatants treat them in accordance with Geneva standards. Failure to do so in the war in Afghanistan resulted in U.S.-backed Afghan forces reportedly allowing hundreds of surrendered Taliban combatants to die under their watch.⁴ All conflicts provide opportunities for violations of laws of war by combatants. The US government and its allies must develop a system for reporting and investigation of the laws of war that are committed by US personnel, their local allies, agents and operatives in Iraq. The US government must also establish means of accountability for such abuses.
- Abuses perpetrated by any party to a conflict must be addressed. In recent decades, accountability mechanisms have been developed to tackle violations of human rights and humanitarian law during conflict. These include international tribunals such as those created in the aftermath of the conflicts in Rwanda, the Former Yugoslavia and most recently, Sierra Leone and the establishment of an International Criminal Court. The international community must demand accountability for violations of the laws of war by all parties to the conflict. The US and its allies must not stand in the way of such efforts.

II. Health and Human Rights Consequences of War in Iraq

War in Iraq is likely to have devastating short and long-term health and human rights consequences. The combined effects of more than 12 years of economic sanctions, destruction of vital infrastructure, misrule by Saddam Hussein, and severe restrictions on civil and political liberties have left the Iraqi people extremely vulnerable in the event of war. The following discussion outlines some of the humanitarian and human rights threats that a war in Iraq poses.

³ 1949 Geneva Convention III

⁴ See Special Report on “The War Crimes of Afghanistan Report” published in Newsweek, August 26th, 2002. See also Report by Physicians for Human Rights on Preliminary Assessment of Alleged Mass Gravesites in the Area of Mazar-I-Sharif, Afghanistan: January 16-21 and February 7-14 available at http://www.phrusa.org/research/afghanistan/report_graves.html

Health Consequences of a Disruption in Food, Water, and Electricity

Access to Food and Effect on Nutrition

The consequence of war on the health of the Iraqi people could be disastrous. The Government of Iraq has been distributing food rations to its people periodically since 1991. Today, most of Iraq's 23 million people are almost entirely dependent for daily survival on the monthly rations distributed by the Iraqi government under the Oil-for-Food Program (OFFP).⁵ The OFFP ration is reasonably adequate in food energy and total protein but it is lacking in vegetables, fruit, and animal products and thus deficient in micronutrients and animal protein. The greatest problems of accessing a balanced diet are among those from rural areas, poor urban, or female-headed households.

With war anticipated, the Government of Iraq has been distributing two-month food rations at a time since July 2002. The outbreak of war will almost certainly severely disrupt the Oil-for-Food Program as Iraqi officials are likely to abandon their posts and supply routes may be blocked. Given that most of the Iraqi people are reliant on this program for their daily rations, a comprehensive food supply and distribution plan cannot wait for the cessation of hostilities. A neutral and effective food distribution program, possibly under United Nations auspices must be initiated as soon as supplies are exhausted and/or distribution mechanisms disrupted.

In the event of military action, most civilian trade will likely be interrupted. This would severely disrupt the pipeline of OFFP-based international supplies as well as the limited market-based stocks available in country. Widespread provision of foodstuffs within weeks would be required to avoid further deterioration of malnutrition and even famine on a large scale.

Airdrop of food parcels, like during last year's war in Afghanistan, would not likely be capable of distributing more than a fraction of the 350,000 metric tons of food per month provided by the current Iraqi Government food ration program.

People in Iraqi Kurdistan now have more food and better living conditions than those in South/Central Iraq. NGOs involved in the development projects would likely continue operations, albeit without expatriate staff, unless fighting broke out in that region.

Although OFFP rations in Iraqi Kurdistan are distributed by the UN, they are stored in warehouses in South/Center. In February 2002, Save the Children UK, an NGO working in Iraqi Kurdistan since 1991, warned that Iraqi Kurds were highly dependent on the ration system for their food and that its diminution could, "send Kurds living in Northern Iraq over the edge into a humanitarian catastrophe."⁶

⁵ ICRC Update, Iraq: Overview of humanitarian action in 2002. Available at http://www.icrc.org/Web/Eng/siteeng0.nsf/html/5EHGOV?OpenDocument&style=custo_final.

⁶ 4 February 2002. "Save the Children warns of potential humanitarian crisis in Iraq". Press Release.

Infant and Child Mortality and Morbidity

Following the Gulf War, a number of studies documented a three-fold increase in under-five mortality.⁷ In 1999, another study (Iraqi Ministry of Health, UNICEF and WHO) determined that under-five mortality had increased from 56 deaths per thousand for the period 1984 to 1989 to 131 deaths per thousand for the period 1994-1999. For the same period, infant mortality increased from 47 per 1000 live births to 108 deaths per 1000 live births.⁸

Childhood Malnutrition

Between 1991 and 1996, chronic malnutrition among children under five, nearly doubled from 18.7% to 32%; underweight children increased from 9.2% to 23.4%, and acute malnutrition increased from 3% to 11%.⁹ A preliminary survey of Iraqi children, conducted in February 2002¹⁰ has demonstrated improvements in these health indicators, and have improved since initiation of the Oil for Food Programme (OFFP) For example, chronic malnutrition, underweight children, and acutely malnourished children have all decreased (23.1%, 9.4% and 4% respectively) to levels that are only modestly above what they were in 1991.

Childhood Diseases

Improvements in food supply and availability of potable water may be responsible for recent improvements in some childhood diseases. For example, between 1998 and 2001, the number of cases of diarrhea in children under five years old fell by 19%.¹¹ It is likely that the improvement is the result of increases in both the caloric content of the government-distributed ration, local food production, and a 30% increase in the availability of potable water. These improvements are likely to be reversed in the event of war.

Electricity

Iraq's electrical grid is likely to be one of the first targets of US military action. In 1991, "electrical power was the most severely damaged component of the whole Iraqi target system" with Baghdad losing power 10 minutes after initiation of the air war. Power did not return to most areas until after the cease-fire, nearly three months later. (8) This caused the loss of perishable foods, vaccines, laboratory reagents, and some medicines.

⁷ International Study Team: Ascherio A, Chase R, Cote T, et. al. Effect of the Gulf War on infant and child mortality in Iraq. *New England Journal of Medicine*. 1992; 327:931-936.

⁸ UNICEF/GOI Child and Maternal Mortality Survey 1999

⁹ UNICEF November 2002

¹⁰ UNICEF Working with Children to Build a Better Future, 2002)

¹¹ Overview of Nutritional Status of Under-fives in South/Centre Iraq

Orders were given in 1991 that “electrical targets will be targeted to minimize recuperation time,”¹² including by the use of carbon-fiber warheads to short-circuit facilities. Nevertheless, post-war assessments estimated that it would take 5-9 years to restore Iraq’s electrical power system. Initial repairs were conducted more quickly than anticipated,¹³ due to access to duplicate supplies of generators and other major equipment. Yet by 2001 Iraq’s electrical generating capacity had slowly deteriorated to 38% of previous capacity during peak summer load.¹⁴

Iraq remains “dependent on electrical power for water purification and distribution, sewage treatment, and the functioning of hospitals and health care centers”¹⁵ Importation of electric generation equipment in the last 18 months under OFFP has greatly increased production capacity in the national grid. The shortfall in production is estimated to be 10-15% during winter 2003, when for the first time since 1991 rolling blackouts are no longer common in Baghdad. More importantly, an estimated 70% of health institutions and water pumping stations have back-up generators that received frequent use during blackouts in recent years. If these generators are supplied with fuel and maintenance they will be capable of supporting some essential services in urban areas throughout the country even if the national power grid is down.

The use of air power to destroy the command and control systems of the Iraqi military (that would include dual-use electrical circuits and grids) could destroy the power supply in most parts of the country.¹⁶ New U.S. military means of temporarily disabling power grids could obviate long-term damage to infrastructure. Even temporary loss of electrical power, however, including for water pumping stations, sewage treatment plants and health facilities, may have a profound impact on the health of the civilian population.

Water & sewage

Damage to water treatment plants removed 2.5 million people from water supply after 1991. Iraqis received one quarter of pre-war water levels and water quality declined rapidly. This contributed to a rapid increase in incidence of diarrhea, typhoid and cholera. Iraq’s medical care system had neither the supplies nor the expertise to deal with this situation.⁽¹³⁾ While expertise has gradually improved in treating these ‘diseases of underdevelopment’, the supply situation remains dependent on continuing access to OFFP supplies. A return to a rapidly deteriorated epidemiological picture could be expected if large-scale bombings of civilian infrastructure occurs again.

¹² *The Generals’ War: the Inside Story of the Conflict in the Gulf*, Michael R. Gordon and Gen. Bernard E. Trainor, Little Brown, 1995. p. 316.

¹³ Report from the Electricity Working Group to the Iraq Sanctions Committee, 20 November 2001. Slide6.

¹⁴ “The Effect of the Gulf Crisis on the Children of Iraq”, Harvard Study Team, *New England Journal of Medicine*, 26 September 1991. pp. 977 – 980.

¹⁵ “Report to the Secretary-General dated 15 July 1991 on humanitarian needs in Iraq prepared by a mission led by the Executive Delegate of the Secretary-General for humanitarian assistance in Iraq”, Sadruddin Aga Khan, S/22799, 17 July 1991. para. 16 – 17.

¹⁶ Paul Rogers, “Consequences of a War” available at www.cafod.org.uk

Water pumping capacity in Baghdad increased from 166 liters per person per day in 1997 to 197 liters in 2002. Moreover, loss to leakage is estimated to have declined from 40% to 30% in the last year with the use of new OFFP-supplied pipe. Virtually all-urban water systems are chlorinated and a 6-month supply of chlorine is in place.

PHR researchers discovered that back-up generators in water treatment plants may generally provide 20-25% of the power necessary to run pumps. In such circumstances, however, the plant operator must choose which parts of the plant receive power—the intake pumps, the pumps through the settling chambers, or the pumps in the filters. These back-up generators are designed to work for short period during electrical outages and cannot run continuously. Lift station pumps often fail in Baghdad leading to streets filled with sewage. Only 10% of lift stations have back-up generators and massive flooding of sewers is expected within a few days from the time an electrical grid shuts down. Back-up generators only have limited fuel supplies and if transportation is severed, then re-supply will not be possible.

If power grid is incapacitated, there is still the possibility of keeping essential services like water and health care in service *if* the U.S. military provides fuel, supplies, security, and engineers to assist in running generators to ensure that these services are not disrupted. This should be among the top priorities in any military planning now.

Effects on Public Health and Preventive Medicine

Before the Gulf War, Iraq had an extensive national health care network. Primary care services were available to 97% of the urban population and 71% of the rural population.¹⁷

Prevention and curative services have suffered considerably from more than 12 years of economic sanctions and damage to health infrastructure that occurred during the Gulf War. According to UNICEF, 300 out of all 900 primary health care centers are in urgent need of rehabilitation.¹⁸

Control of Communicable Diseases

During the past ten years, there have been outbreaks of communicable diseases such as typhoid fever, cholera, measles, diphtheria, poliomyelitis and, most recently, leishmaniasis (kala-azar). It is not clear the extent to which any of these diseases may or may not be related to economic sanctions and/or prior destruction of health infrastructure.

The Primary Health Center Network

Preventative public health and curative medical services in Iraq are inadequate for the health and medical emergencies that are likely to result in the event of armed conflict. The number of primary health care (PHC) and maternal and child clinics, the principal providers of basic health care in Iraq, have declined by nearly half since the Gulf War in

¹⁷ United Nations 1/20/03

¹⁸ UNICEF Briefing South/Center Iraq Health

1991. According to UNICEF, there are 929 PHC centers remaining out of a pre-Gulf War network of 1,800. Most of the health facilities are in poor physical condition. The often lack water and electricity and, hence, severely limit the quality of patient care.

Following the Gulf War, the primary health clinics operated with limited supplies of medicines and equipment. With the advent of the OFFP, the situation has improved. Although medical equipment is often in a state of disrepair and availability of laboratory tests unavailable, basic medicines are available for common medical problems.

In 1999, the Ministry of Finance instituted a user fee program for hospitals and primary health clinics to generate revenue for health sector costs.

Iraqi physicians and dentists are allowed to maintain a private practice and typically derive most of their income from this type of work.

PHC Preparedness for Conflict

Most of the PHCs visited by PHR have prepared emergency plans in case of war. All of the clinics visited had generators, and stockpiles of fuel. Additional stockpiles of medicines and other supplies are maintained by the Ministry of Health. For the most part, the health professionals the PHR researchers encountered were resigned to expecting the worst, but hoping for the best. In December 2002, WHO officials have conducted a training for trainers course on public health in complex for Iraqi health personnel on disease surveillance and communicable disease control in emergencies.

Inadequate Capacity for Medical Response

The medical infrastructure in Iraq is inadequate and unable to deal effectively with the medical emergencies that may result in the event of armed conflict. A Report on the Health Situation in Iraq, released by the World Health Organization states that:

Many essential public health services such as blood transfusion and water quality control services cannot function due to lack of laboratory reagents and kits. Emergency and ambulance services for the referral of patients cannot carry out their functions, due to lack of or inadequate provisions of equipment and supplies. Most of the health facilities are in poor physical state, lacking water and often without power supply, making them unsafe and unsuitable for good patient care. Significant quantities of medicine and medical supplies and equipment have reached the country under Security Council Resolution 986. Their utilization remains, however, not optimal. The installation and transportation to locations where they are needed has been and is still often prevented by logistic or financial constraints.¹⁹

¹⁹ World Health Organization. Health Situation in Iraq. Presented by Dr. W. Kreisel, Executive Director of the European Union to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy. Brussels, 26 February 2001 Available at: <http://www.who.int/disasters/country.cfm?countryID=28&DocTypeID=2&archive=no>

In a move likely to degrade the supply of medicines still further, the United States has recently proposed tightening sanctions against Iraq so as to restrict pharmaceuticals such as ciproflaxin, doxycycline, and gentamicin. All of these are necessary to fight disease, but may also protect against a biological attack.

As mentioned above, reprisal attacks by Saddam Hussein's forces on the regime's opponents including populations of Kurds in the North and Shiite Muslims in the South are a distinct possibility in the event of a US military attack. The use of biological or chemical agents by Saddam Hussein against U.S. forces, which could indirectly jeopardize Iraqi civilians, or even directly against Iraqis perceived as enemies of the state cannot be ruled out.²⁰ The medical facilities in Iraq and the international relief organizations working in the area are not currently in a position to deal with the effects of weapons of mass destruction on the civilian population. A plan to provide emergency medical assistance to the sick and wounded in Iraq in the midst of a conflict urgently needs to be addressed before the U.S. Government wages war in Iraq.

The Use of "Precision" Weapons Against Civilian or "Dual Use" Targets

Precision weapons will likely be among those used in Iraq. However, even with these sophisticated weapons, civilian death and casualties will be difficult to avoid in cities like Baghdad. In its assertions of how it intends to conduct military action in Iraq, the U.S. Department of Defense has indicated that there will be a forty-eight hour rain of cruise missiles on Iraq.²¹ According to reports these missiles will target intelligence and security forces such as the Republican Guard units that are largely based in urban areas.

Civilian vulnerability is dramatically enhanced by Saddam Hussein's possible use of human shields and the illegal placement of military targets in densely populated areas or placement of civilians near military targets. Moreover, even precision weapons can be directed at improper targets and kill and maim noncombatants. Accidents such as those that occurred in Afghanistan in which civilian facilities were mistakenly targeted in U.S. air strikes must be avoided scrupulously.

As in the 1991 Gulf war, casualties due to loss of essential infrastructure would likely be much larger than the number of deaths directly attributable to bombings. An impaired infrastructure is likely to exacerbate the Iraqi population's vulnerability to disease and hunger leading to a public health emergency. This is especially serious given the already degraded condition of health facilities, lack of access to potable water, and limited food supply. This can be avoided only if bomb targeting assiduously avoids targets including water pumping and chlorination stations, water sanitation plants, clinics, and hospitals. Similarly, collateral damage to such installations should be repaired immediately to limit

²⁰ See Report by Medact, the UK affiliate of International Physicians for the Prevention of Nuclear War, titled "Collateral Damage: The Health and Environmental Costs of War on Iraq" available at www.medact.org. See also Christine Gosden and Mike Amitay, "What We Do not Know" Washington Times, October 3, 2002

²¹ [Newsweek](http://www.newsweek.com), February 17, 2003

humanitarian impact or alternative sources of water, food, and health care should be set up immediately following the securing of an area. Otherwise war would be seen to have considerable adverse effects on the country's 26 million people could be expected if large-scale bombings of civilian infrastructure occurs again.

Reprisals During the Conflict and Post-Conflict Retribution and Civil War

An attack on Iraq may unleash violent reprisals by the Government of Iraq against internal opponents, including the Kurds in the North and Shiite Muslims in the South, and also against perceived political opponents and military deserters. These individuals and groups must be protected in the event of a U.S. incursion into Iraq. The U.S. Government must also ensure that proper security arrangements are instituted in Iraq during and after a war to ensure that victims of the Baath regime of Saddam Hussein do not themselves become aggressors and engage in violent acts of revenge. As the post-liberation histories of Romania, Kosovo, and most recently Afghanistan indicate, if firm leadership and sound security measures are not instituted promptly, there is the potential for retribution and violence. Situations that should be anticipated in the context of war with Iraq include: the possibility of the Shiite Muslims seeking revenge for all the atrocities committed against them by the ruling Baath party; efforts by the Kurds to seek independence; a struggle for Kirkuk by the Kurds; the Turkish backed Turkmen and the Iraqi Arabs or the Shiite Government in Iran trying to 'reclaim' the southern districts of Iraq in which fellow Shiites live.

The US military has specified that it is not going to perform police functions, ie, security from riots, vengeance attacks, and other rear guard violence. No other plan has been put forward about if or how these essential functions will be carried out. It is essential that the U.S. and its allies assure these rear-guard police functions, assuring security needed for markets to function and essential services to be provided during an initial period.

Landmines and Cluster Bombs

Recent reports indicate that the U.S. military is storing antipersonnel landmines in Qatar, Kuwait, Saudi Arabia, Oman, Bahrain, and Diego Garcia, and is preparing to use them in Iraq. The U.S. military last used antipersonnel landmines during the 1991 Persian Gulf War, which occurred before the majority of the world banned the weapon through the 1997 Mine Ban Treaty. Though the U.S. is not party to the Treaty, all other NATO nations have embraced this Convention and have recognized that antipersonnel mines have limited military utility and do not distinguish between soldiers and non-combatants. Any allies of the United States that are party to the landmine ban treaty are legally prohibited from engaging in any military activities that include the use, transfer, or stockpile of any antipersonnel landmines, including those that self-destruct or self-deactivate. Both "smart" and "dumb" antipersonnel landmines pose unacceptable risks and costs to civilians and deminers. The presence of new U.S. antipersonnel landmines in Iraq—in addition to the untold numbers of landmines left unexploded from the Iran-Iraq and Persian Gulf wars—would threaten the lives and limbs of both U.S. and allied

soldiers and innocent civilians. These antipersonnel landmines should, therefore, not be used.

Land mines and unexploded ordnance (UXO) are problems, especially in the north and south of Iraq. There is insufficient information regarding the placement of mines and the existence of UXO, however. As of January 2003, there are no longer daily reports of casualties, but if large populations are displaced to uninhabited areas because of hostilities, it is possible that the problem will re-emerge.

Cluster bombs, which were used extensively by NATO in Kosovo and by the United States in Afghanistan, pose a similar problem for non-combatants. Dud bomb-lets within the cluster canister that fail to detonate on contact are likely to be picked up or stepped on later by children or other non-combatants and can explode on contact, making them, in effect, like antipersonnel landmines, yet with an even more dangerous fragmentation radius. The deployment of antipersonnel landmines and cluster bombs in Iraq would, in all likelihood, maim and kill far more innocent civilians than soldiers. According to some reports U.S. forces are planning to use cluster bombs against troop concentrations of Republican Guards, which are municipally based.²²

PHR strongly urges the U.S. Government to block the use of antipersonnel landmines and to avoid use of cluster bombs in areas where civilians might be harmed in Iraq.

III. Humanitarian Assistance Concerns

Inadequate Presence of International Humanitarian Organizations in Iraq

The current state of humanitarian preparedness in Iraq and the surrounding areas is cause for great concern. Very few international agencies with large-scale emergency capacity are currently present in Iraq.²³ Although UN agencies and others have, in recent months, concentrated on developing contingency plans for a war, it is unclear whether there is currently capacity in the region to mount a humanitarian response to the conflict. Planning may have been further hampered by the inability of any American relief organization to enter Iraq since the imposition of sanctions. Through the last decade the U.S. Treasury's Office of Foreign Assets Control (OFAC) has not issued licenses required for Americans to travel to Iraq. In addition OFAC restrictions have prevented American groups from operating in neighboring Iran. European groups, however, have been able to operate in Iran. Not having worked in Iraq for over a decade, U.S. based NGO's are at a significant disadvantage.

²²Paul Rogers, "Consequences of a War" available at www.cafod.org.uk

²³ IRC states that fewer than 10 international NGO's have permission to operate in government controlled Iraq. See "An in-depth IRC background paper, "Iraq: the Urgent Need for Humanitarian Coordination and Dialogue," available at <http://www.theirc.org/?resID=2101>

Ensuring the rapid and consistent supply of essential goods including food, water, medicine and energy supplies may prevent some of the worst health consequences to the civilian population of military action in Iraq. In order for these vital goods to be available when needed, the US government and its allies must provide appropriate funding.

In addition to providing funds to allow for appropriate and immediate humanitarian assistance, the US Government must remove bureaucratic obstacles that hinder the work of humanitarian groups in Iraq. The U.S. Government should immediately suspend the requirement that humanitarian groups and others must have OFAC licenses to operate in Iraq. The process for acquisition of OFAC licenses is fraught with unnecessary delays. Several US based NGOs are in Jordan but are unable to spend any US funding in Iraq since the US OFAC won't give them permits to spend any of the money in Iraq 'due to sanctions.' OFAC sanctions are preventing unfettered access by US nationals and US based humanitarian agencies to adequately prepare and plan for potential humanitarian disaster in Iraq. This obstacle could be resolved by an Executive Order providing for an amendment for US emergency assistance

Danger to Refugees and Internally Displaced Persons

Internally Displaced Persons (IDPs) and refugees in Iraq and on its borders are at great risk. Turkey and Iran which took in more than 3 million displaced Iraqis a decade ago have already threatened to close their borders²⁴. According to interviews with ICRC conducted by PHR in Iraq, refugee camps must be set up inside the Iraqi borders. Under such circumstances, IDPs will not be able to cross international borders to safety and will remain vulnerable to the effects of military actions, basic life-sustaining supplies and/or possible reprisal attacks by Iraqi forces.

Neighboring countries are reluctant to let Iraqis seek refuge in their respective countries. This stance could endanger Iraqis who may flee as a result of the anticipated war. The United Nations High Commissioner for Refugees (UNHCR) has announced their preparedness to facilitate services for 250,000 anticipated refugees. But many humanitarian organizations urge that preparations be made to accommodate far larger numbers, perhaps as high as several million. Countries bordering Iraq must accept refugees and the UNHCR must be provided adequate support to care for those fleeing their homes within the country and pressing on its borders.

As mentioned above, the heavily mined Iraqi borders²⁵ will further threaten internally displaced and fleeing refugees and will also greatly hamper aid reaching camps along the borders. Humanitarian demining of regions likely to receive refugee outflows is critically

²⁴ "Agencies preparing to help Iraqis fleeing in case of war; neighbors fear flood of refugees" published in the San Francisco Chronicle on November 4th, 2002. Also Published as "Agencies prepare for Iraqi refugees" in Boston Globe on November 5th, 2002

²⁵ The International Campaign to Ban Landmines includes Iraq in the list of countries most affected by Landmines

important to minimize deaths and maiming of both fleeing Iraqi civilians and humanitarian workers in the region.

IV. APPLICATION OF RELEVANT INTERNATIONAL LAW

Human Rights Law

Human rights law recognizes rights that must be respected at all times, including in times of crises such as war. The International Covenant on Civil and Political Rights, to which Iraq is a party, ensures protection from torture, ethnic or religious persecution, arbitrary deprivation of life; freedom of religion and thought, and recognition as a person before the law.²⁶ Although some rights, such as freedom of movement, expression, association and assembly and right to privacy, are subject to limitations by governments in times of public emergency; freedom from persecution, from arbitrary deprivation of life and other rights listed in the preceding paragraph are non-derogable and not subject to such limitations.²⁷

The Convention on the Rights of the Child (CRC) , which permits no exceptions in times of conflict, recognizes the right of the child "to the enjoyment of the highest attainable standard of health"²⁸ including the diminishment of infant and child mortality²⁹ and the provision of primary health care and food and water.³⁰ The full; implementation of this right includes ensuring that pre and post natal care is available to mothers.³¹ The convention recognizes that developing countries may require assistance in ensuring this right and obligates parties to "promote and encourage international cooperation " to achieve this.³²

The CRC also prohibits the recruitment and use of children as combatants and requires that "States Parties take all feasible measures to ensure protection and care of children who are affected by armed conflict." ³³ States are further obligated to "promote physical and psychological recovery and social integration of a child victim of...armed conflicts"³⁴

²⁶ International Covenant on Civil and Political Rights, done at New York ,December 16, 1966, arts. 6,7,8,16,18.

²⁷ ICCPR, articles. 4,12,17,19,21,22. Article 4(1), says states may derogate obligations with regard to some rights, "in time of public emergency which threatens the life of the nation..."

²⁸ UN Convention on the Rights of the Child 1989 Article 24 (1)

²⁹ CRC Art 24 (2)(a)

³⁰ CRC Art 24 (2) (c)

³¹ CRC Art 24 (2) (d)

³² CRC Art 24 (4)

³³ CRC Article 38

³⁴ CRC Article 39

International Humanitarian Law

The legal instruments that constitute what is referred to as international humanitarian law (also known as the laws of war) govern the conduct of war and set out protections that apply in times of conflict. These overlap and supplement the protections offered by human rights law.

The four 1949 Geneva Conventions form the basis of protections afforded to civilians³⁵ and others³⁶ during conflicts. These are expanded upon in the later Additional Protocol I that applies in the case of international armed conflicts. Much of the international humanitarian law aims to limit the adverse effects of conflicts on civilians. The Fourth Geneva Convention exclusively addresses the protection of civilians. Measures set out in this Convention include protections of the sick and infirm³⁷ prohibitions on attacks against civilian hospitals and medical personnel,³⁸ obligations of occupying powers towards civilian internees, and responsibilities of occupying powers³⁹ to ensure- among other things, access to food and medical supplies for those under occupation.⁴⁰

Additional Protocol I further elaborates protections that must be accorded to civilians in International armed conflicts. This Protocol explicitly sets out the distinction between civilian and combatant that is a core principle of humanitarian law that seeks to limit harm to civilians. Article 48 of the Protocol states:

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.⁴¹

Another core principle of humanitarian law is proportionality. Additional Protocol 1 prohibits indiscriminate attacks that include:

an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.⁴²

³⁵ 1949 Geneva Convention IV

³⁶ 1949 Geneva Convention 1 (wounded and sick on land); Geneva Convention 2 (Wounded sick and shipwrecked at sea) and Geneva Convention 3 (Prisoners of War)

³⁷ Geneva Convention IV, Art 16 & 17

³⁸ Geneva Convention IV, Art 18-23

³⁹ Geneva Convention IV, section 3

⁴⁰ Geneva Convention IV, Art. 55

⁴¹ Additional Protocol 1, Art. 48

⁴² Additional Protocol I, Art.51(5)

The Additional Protocol further obligates parties to take "constant care... to spare the civilian population, civilians and civilian objects"⁴³ This requires both careful planning and conduct of attacks⁴⁴ as well as precautions against the effects of attacks including the placement of military targets away from civilians.⁴⁵

The Additional Protocol further prohibits starvation of civilians⁴⁶, forbids attacks or destruction of "objects indispensable to the survival of the civilian population" such as food or water⁴⁷, and obligates parties to protect civilian medical units and medical staff, supplies and transports⁴⁸

Physicians for Human Rights

Physicians for Human Rights (PHR) is a U.S.-based organization that promotes health by protecting human rights. Since its inception in 1986, PHR has investigated and reported on violations of human rights in times of peace and monitored adherence to international humanitarian law and human rights law during armed conflict. As health professionals, we have witnessed and documented the physical and mental suffering inflicted on both military and civilians during wars. We have documented mass killings, torture, and maiming by indiscriminate weapons in conflicts on four continents during the past decade. We have reported on the death, hunger, disease and psychological trauma caused by massive dislocation of peoples during armed conflict. We have uncovered the brutal treatment of prisoners of war and civilians captured by parties to conflicts, and we have worked aggressively to uphold the right to receive and the obligation to provide medical care regardless of one's side in a conflict.

As one of the original steering committee members of the International Campaign to Ban Landmines, PHR shared the 1997 Nobel Peace Prize. PHR currently serves as coordinator of the US Campaign to Ban Landmines.

In addition, Physicians for Human Rights was one of the first organizations to document Saddam Hussein's use of chemical weapons against his own population, and in 1988 testimony before the United States Senate we concluded that the massacres of Kurds and destruction of thousands of their villages amounted to genocide.

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⁴³ Protocol I, Art.57 (1)

⁴⁴ Protocol I Article 57

⁴⁵ Protocol I Article 58

⁴⁶ Protocol I Art 54 (1)

⁴⁷ Protocol I Art 54 (2)

⁴⁸ Protocol I Article 12 -30

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For more documents on PHR's past work in Iraq and current position on a war in Iraq, visit www.phrusa.org

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