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Iraq: On whose behalf? Reconstruction must ensure the human rights of Iraqis

On the eve of the International Donors' Conference for the reconstruction of Iraq, to be held on October 23 and 24, 2003 in Madrid, Spain, Amnesty International called upon its participants to make the protection and fulfillment of human rights of Iraqi citizens their uppermost criterion, and to ensure greater transparency in the reconstruction process.

"Projects should prioritize Iraqis' human rights: including their right to personal security, health, education, work and the reform of the judicial system," said Amnesty International.

"The goal of reconstruction should be to ensure the effective protection and realization of all human rights for all Iraqis. Iraqis themselves, ideally through representative institutions, ought to make the decisions on rebuilding, on foreign investment, and on the selling of state assets."

In assessing Iraq's needs, the donor countries will be guided by the *Joint Iraq Needs Assessment* (JINA), which contains a macroeconomic analysis of reconstruction and rehabilitation needs, and the most urgent requirements, in 14 key sectors in Iraq. The assessment calls for resources amounting to US\$36 billion in the medium term, of which US\$9 billion are needed for 2004. Known pledges, however, amount to only about \$5 billion to \$6 billion at the moment. The JINA also notes the importance of addressing human rights issues in Iraq, and of involving Iraqis in the reconstruction process.

The reconstruction process in Iraq is guided by the United Nations Security Council Resolution 1483, which obliges the occupying powers to "promote the welfare of the Iraqi people," and to disburse funds for reconstruction for purposes "benefiting the people of Iraq". The Resolution calls for the creation of a Development Fund for Iraq (DFI), at present under US control, to be overseen by an International Advisory and Monitoring Board (IAMB) which will include members from international financial institutions, such as the World Bank, the International Monetary Fund, the UN, and the Arab Fund for Social and Economic Development. The IAMB is required to ensure that disbursements from the Fund are used "in a transparent manner".

"Yet, nearly five months after Resolution 1483 was passed, the International Advisory and Monitoring Board had not been yet set up. This was a regrettable failure of the Coalition Provisional Authority (CPA) which is only now, on the eve of the Donors' Conference, being remedied", said Amnesty International. Although the IAMB will not itself report to the Security Council, the UN Secretary General should report to the Security Council on its activities. A further important step towards accountability would be making IAMB reports public, as promised in the draft terms of reference.

The need for greater accountability is clear. For instance, Security Council Resolution 1483 underlines that "the Development Fund for Iraq (DFI) shall be used in a transparent manner," for purposes "benefiting the people of Iraq" and that "all export sales of petroleum, petroleum products and natural gas from Iraq ... shall be made consistent with prevailing international market best practices". The U.S. Government has since passed an Executive Order (EO) 13303 which can exempt U.S. companies or individuals from international or domestic civil or criminal prosecution, if they have done any business involving Iraqi oil. This shields individuals and businesses beyond anything related to the sale of oil, and goes beyond the limited immunity granted in dealing in petroleum products by Resolution 1483. Nor is there any cutoff date.

"While transparency and accountability are always important," said AI, "they are especially important in the context of Iraq." A lack of transparency, and any perception of corruption in the awarding of major contracts, will undermine support for the rule of law. Iraq has had a long enough tradition of opaque governance, a point noted by the JINA. In order to build an Iraqi society where the rule of law is paramount, and access to justice is not denied, nor arbitrary, the effective and meaningful consent of Iraqis in the development process is necessary.

The IAMB which, when established, will be authorized to monitor transparency in the use of oil revenues from Iraq, should scrutinize the award of contracts, particularly in the petroleum sector, to ensure that they are awarded in a transparent, fair and open process, free of corruption or tied aid, and bearing in mind the needs of the Iraqi people.

Moreover, some of the contracts are awarded to build Iraq's soft infrastructure -- its school systems, judicial reform, policing, and so on. These matters touch on Iraq's fundamental rights -- they have the highest stake, and the right to participate. They cannot do so effectively or meaningfully, if information is kept from them, or if the tendering process is restricted.

For a full copy of the report *Iraq: On whose behalf?* please go to:
<http://web.amnesty.org/library/index/engmde141282003>

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