

SAVING THE WORLD FROM THE SCOURGE OF UNILATERALISM

By Marjorie Cohn*

In 1945, the United Nations Conference in San Francisco gave birth to the United Nations Organization. In the wake of two world wars that claimed 55 million lives, the Charter of the United Nations pledged to “save succeeding generations from the scourge of war.”¹

President Harry Truman, in his address to the final Plenary Session of the U.N. Conference, called the Charter “a victory against war itself.” He said, “No one nation, no regional group, can, or should expect, any special privilege which harms any other nation.” Referring to World War II, Truman observed, “Out of this conflict have come powerful military nations, now fully trained and equipped for war. But they have no right to dominate the world.”²

Although heralded as a product of consensus of the nations of the world, the Charter was conceived and drafted by the United States and ultimately reflected the agenda of the victorious military powers after World War II.³ Most significantly, they insisted on the veto power for themselves, the five permanent members of the Security Council – Great Britain, the Soviet Union, China, France and the United States, notwithstanding opposition from the smaller nations.⁴ Without that veto power, they would not likely have signed on to the U.N. Charter.

Struggles between the founding states set the parameters for the democratic body of the United Nations, the General Assembly. The Assembly has the power to discuss any matter within the scope of the Charter, including the maintenance of international peace and security.⁵ And, although the Charter gives the Security Council *primary* responsibility for the maintenance of international peace and security, the General Assembly can act when the Council is unable to agree, under the Uniting for Peace Resolution of 1950.⁶

* Professor of Law, Thomas Jefferson School of Law, San Diego, California; Executive Vice President, National Lawyers Guild; US Representative to Executive Committee, American Association of Jurists; Contributing Editor, www.truthout.org.

¹ Preamble, Charter of the United Nations, June 26, 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153; entered into force 24 October 1945.

² See STEPHEN C. SCHESLINGER, *ACT OF CREATION: THE FOUNDING OF THE UNITED NATIONS – A STORY OF SUPERPOWERS, SECRET AGENTS, WARTIME ALLIES AND ENEMIES, AND THEIR QUEST FOR A PEACEFUL WORLD* 289-94 (2003).

³ See generally, PHYLLIS BENNIS, *CALLING THE SHOTS: HOW WASHINGTON DOMINATES TODAY'S UN* (2000). Secretary of State Edward Stettinius “was well aware that the U.N. meeting was, from the beginning, a project of the United States, devised by the State Department, expertly guided by two hands-on presidents, Roosevelt and Truman, and propelled by U.S. power.” Scheslinger, *supra* note 2, at 174.

⁴ See Bennis, *supra* note 3, at 4-5; Scheslinger, *supra* note 2, at 193, 221.

⁵ U.N. Charter, *supra* note 1, arts. 10-11.

⁶ G.A. Res. 377, U.N. GAOR, 5th Sess., Supp. No. 20, at 10, U.N. Doc. A/1775 (1950). See Marjorie Cohn, *Why The U.N. General Assembly Has Authority To Speak on the War on Iraq In The Event of Security*

The membership of the General Assembly has grown, and its political dynamic has radically transformed since the founding of the U.N. in 1945. A majority of its members are countries of the South. The Assembly annually condemns Israel's treatment of the Palestinians, and the United States' embargo of Cuba, usually with a lone dissent by the U.S.

The Charter allows a state to use armed force in individual and collective self-defense, and provides for regional arrangements for the peaceful settlement of regional disputes, both subject to the ultimate enforcement authority of the Security Council.⁷ The self-defense and regional arrangement provisions were included in the Charter at the insistence of the Latin American countries at the San Francisco conference. Ironically, the U.S. government has misused and perverted them to justify its unilateral use of armed force.⁸

Creating the United Nations Charter was an incredible accomplishment. Its dual character of theory and practice, both moral standard and legal system, was explained by Secretary of State Edward Stettinius in his report to Truman on the results of the San Francisco Conference. He wrote:

Its outstanding characteristic and the key to its construction is its dual quality as declaration and as constitution. As declaration it constitutes a binding agreement by the signatory nations to work together for peaceful ends and to adhere to certain standards of international morality. As constitution it creates four overall instruments by which these ends may be achieved in practice and these standards actually maintained. The first function of the Charter is moral and idealistic; the second realistic and practical.⁹

The protection of fundamental human rights, and the maintenance of international peace and security are the two guiding principles of the Charter.¹⁰ Its crowning achievement is the commitment to resolve international disputes by peaceful means, consistent with the principles of justice and international law, and to suppress acts of aggression and other breaches of the peace.¹¹

An auspicious record

The U.N. Charter recognizes the links between the political, the socio-economic and the military aspects of achieving international peace.¹² In the nearly sixty years since the United Nations was founded, there has been an astounding decolonization of the

Council Stalemate, Findlaw, Mar. 27, 2003,
http://writ.news.findlaw.com/commentary/20030327_cohn.html.

⁷ See Scheslinger, *supra* note 2, at 175-92; U.N. Charter, *supra* note 1, arts. 51-54.

⁸ When a state uses armed force against another without the sanction of the Security Council, it has engaged in a *unilateral* use of force.

⁹ Edward Stettinius, Excerpt from a Report to the President on the Results of the San Francisco Conference, by the Chairman of the United States Delegation, the Secretary of State, DEP'T. ST., PUB. 2355, CONF. SER. 72, Jun. 26, 1945, at 4.

¹⁰ U.N. Charter, *supra* note 1.

¹¹ *Id.*, art. 1.

¹² See Bennis, *supra* note 3, at 7.

world, despite the strength of the former colonial powers. During this period there have been only four attempts at annexation of one state by another.¹³ And fortunately, there have been no nuclear conflicts since the founding of the U.N.

In its six decades of existence, the United Nations has provided humanitarian relief to millions of people, aided in reconstruction following the ravages of war, fought apartheid, and protected the rights of children.¹⁴ U.N. Secretary General Kofi Annan wrote in the *Los Angeles Times*:

I know that over the years our record has been far from perfect. The Security Council has been unable to prevent horrendous atrocities – the rule of the Khmer Rouge in Cambodia, ethnic cleansing in the former Yugoslavia, genocide in Rwanda. But, to paraphrase Henry Cabot Lodge, the United Nations may not have brought us to heaven but it played a vital role in saving us from hell.

Peace was brought to many lands through the U.N. – Cambodia, El Salvador, Guatemala, Mozambique. We helped protect against a drift toward nuclear holocaust, including during the Cuban missile crisis. We served as a vehicle for action against North Korea, against Iraq after the invasion of Kuwait. We've brought relief to millions affected by fighting, famine and floods, and we have helped reduce child mortality and eradicate smallpox. We were critical in helping the developing world thrown off the yoke of colonialism.¹⁵

Under the auspices of the United Nations, several major human rights treaties were born, including the Genocide Convention,¹⁶ the Convention Against Torture,¹⁷ the Race Convention,¹⁸ the Women's Convention,¹⁹ the Convention on the Rights of the Child,²⁰ the International Covenant on Civil and Political Rights,²¹ and the International Covenant on Economic, Social and Cultural Rights.²²

With inherent shortcomings

¹³ Turkey seized two-fifths of Cyprus, Morocco invaded Western Sahara, Iraq invaded Kuwait, and Indonesia took over East Timor. See Schlesinger, *supra* note 2, at 287.

¹⁴ See Shashi Tharoor, *Why America Still Needs the United Nations*, FOREIGN AFFAIRS 67, 78 (2003).

¹⁵ Kofi A. Annan, *Search for a New U.N. Role*, L.A. TIMES, Dec. 4, 2004, at B15.

¹⁶ Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, *opened for signature* Dec. 9, 1948 (*entered into force* Jan. 12, 1951).

¹⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 U.N.T.S. 85, 23 I.L.M. 1027 (1984), 24 b I.L.M. 535 (1985), *opened for signature* Dec. 10, 1984 (*entered into force* Jun. 26, 1987).

¹⁸ International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, 5 I.L.M. 352, *opened for signature* March 7, 1966 (*entered into force* Jan. 4, 1969).

¹⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 1249 U.N.T.S. 13, 19 I.L.M. 33, *opened for signature* March 1, 1980 (*entered into force* Sept. 3, 1981).

²⁰ Convention on the Rights of the Child, 1577 U.N.T.S. 3, 28 I.L.M. 1448 (1989), 29 I.L.M. 1340 (1990), *opened for signature* Nov. 20, 1989 (*entered into force* Sep. 2, 1990).

²¹ International Covenant on Civil and Political Rights 999 U.N.T.S. 171, U.N. Doc. A/6316 (1966), *opened for signature* December 19, 1966 (*entered into force* Mar. 23, 1976).

²² International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, 6 I.L.M. 360, *opened for signature* December 19, 1966 (*entered into force* Jan. 3, 1976).

Yet civilians are dying in much greater ratios to soldiers in armed conflicts since 1945. In World War II, the ratio was 1:1. In the Korean War, it was 8 civilians for every soldier. In Vietnam, and in the 100 civil wars since, 90 percent of the deaths have been civilians.²³ The returns on Iraq aren't yet in, but there are estimates of up to 100,000 civilians killed since Bush began the war in March.²⁴

At the behest of the veto-bearing United States, the U.N. sat on the sidelines during the genocide in Rwanda, when 800,000 people were slaughtered.²⁵ The United Nations, also at the urging of the U.S., put its imprimatur on the imposition of economic sanctions on Iraq, which were responsible for the deaths of one million Iraqis, mostly children.²⁶ The Security Council didn't condemn the "no-fly-zones" over Iraq, which it never sanctioned, and which were used by the U.S. and U.K. to bombard Iraq on nearly a daily basis in the years leading up to "Operation Iraqi Freedom."

The Security Council never condoned the recent U.S.-U.K. wars on Yugoslavia, Afghanistan and Iraq. But, because of pressure and the threatened veto by the United States, the Security Council never condemned them either. All three of these invasions were undertaken in violation of the U.N. Charter. The attack on Yugoslavia by the U.S.-led NATO was justified as "humanitarian intervention," a concept that flies in the face of the mandates in the U.N. Charter.²⁷ And, the Bush administration rationalized the invasions of Afghanistan and Iraq as self-defense, even though neither country ever posed an imminent threat to the United States or to any other country. None of these wars were lawful under the Charter. They were not undertaken in self-defense or approved by the Security Council, the only two instances where the Charter permits the use of military force.²⁸

Badgered by Bush on Iraq

It is true that even with the Bush administration's threats and bribes in its attempts to secure the passage of a resolution putting the U.N.'s imprimatur on an armed invasion of Iraq, the Security Council held firm. Bush then cobbled together prior Council resolutions, none of which, individually or collectively, authorized the use of force in

²³ Richard Goldstone, address at Joan Kroc Center for Peace and Justice, University of San Diego, Oct. 15, 2003.

²⁴ See Simon Jeffrey, *War may have killed 10,000 civilians, researchers say*, GUARDIAN, Jun. 13, 2003; see also John Daniszewski & Sergei L. Loiko, 'So Much Blood Everywhere' – A Baghdad hospital is overwhelmed after a missile hits an outdoor market, killing dozens, L.A. TIMES, Mar. 29, 2003, at A1.

²⁵ See Scheslinger, *supra* note 2, at 286.

²⁶ See James Petras, *The Politics of the UN tragedy*, Centre for Research on Globalisation, Sep. 3, 2003, <http://globalresearch.ca/articles/PET309A.html>.

²⁷ See Marjorie Cohn, *The Myth of Humanitarian Intervention in Kosovo*, LESSONS OF KOSOVO: THE DANGERS OF HUMANITARIAN INTERVENTION 137-39 (Aleksander Jokic, ed., 2003).

²⁸ The September 11 attacks were not armed attacks by a state. They were crimes against humanity. And although the Security Council resolutions passed shortly after September 11 recognized the right of self-defense in their preambles, those were non-specific references. See S/RES 1368 (2001), adopted 12 Sep. 2001; S/RES 1373 (2001), adopted 28 Sep. 2001.

Iraq. Although he claimed to be enforcing Security Council resolutions, the Charter empowers only the Council to enforce its resolutions.²⁹

Ultimately, the Council capitulated to pressure from the United States, when it authorized the U.S.-U.K as the occupying authority in Iraq,³⁰ and gave the U.S.-U.K. occupiers an international mandate to maintain troops in Iraq while a new government is established.³¹ Although Russia, France and Germany, the countries most opposed to the war, issued a joint statement expressing dissatisfaction with the resolution, they all voted for it.³²

Moreover, the General Assembly, which could have condemned the war under the Uniting for Peace Resolution, failed to do so. Although several nations advocated the Assembly convene and take action, they were evidently intimidated by pressure from the Bush administration, which mounted a preemptive campaign to prevent the Assembly from convening. General Assembly President Jan Kavan commented, "The United States is putting pressure on many countries to resist [a General Assembly meeting on the issue]." The U.S. government sent communications to several countries, stating, "Given the current highly charged atmosphere, the United States would regard a General Assembly session on Iraq as unhelpful and as directed against the United States."³³

Thus the Bush administration effectively neutralized both the Security Council and the General Assembly. George W. Bush's neoconservative-inspired strategy of so-called "preemptive" or "preventative" war violates the bedrock principles in the U.N. Charter. Moreover, it is clear there was never an imminent threat to preempt in Iraq.³⁴ Instead, Bush's war on Iraq has opened a Pandora's Box of terrorist activity, imperiling the peace and security of the region and the entire world.

Bush plays with fire

²⁹ Indeed, the Council did enforce its Iraq resolutions – with punishing sanctions and the most intrusive inspections regime any nation has endured. David Kay, the C.I.A.'s former chief weapons inspector, dispatched to Iraq by Bush to find the elusive weapons of mass destruction after the U.S.-U.K. occupation began, noted that Iraq had apparently abandoned its production of WMD "in large part because of Baghdad's concerns about the United Nations weapons inspection process." Kay said, "Baghdad was far more concerned about United Nations inspections than Washington had ever realized." Speaking about the United Nations Special Commission, "The Iraqis say that they believed that Unscm was more effective, and they didn't want to get caught," according to Kay. See James Risen, *C.I.A. Lacked Iraq Arms Data, Ex-Inspector Says: Recent Search Indicates Weapons Programs Were in Disarray*, N.Y. TIMES, Jan. 26, 2004, at A1.

³⁰ S/RES/1483 (2003).

³¹ S/RES/1511 (2003).

³² See Felicity Barringer, *Unanimous Vote By U.N.'s Council Adopts Iraq Plan: Interim Government Has 2 Months to Draft a Charter Timetable*, N.Y. TIMES, Oct. 17, 2003, at A1.

³³ See Cohn, *supra* note 6.

³⁴ David Kay concluded, "the administration was also almost certainly wrong in its prewar belief that Iraq had any significant stockpiles of illicit weapons." According to Kay, who resigned as chief weapons inspector in late January 2004, "The intelligence reports that Iraq was poised to use chemical weapons against invading troops was false." See Risen, *supra* note 29.

Bush is trying to neuter the nuclear capabilities of countries such as North Korea and Iran, while at the same time building up the U.S. nuclear arsenal, the largest in the world. The United States 2002 Nuclear Posture Review expands the options for using nuclear weapons against non-nuclear weapon states, which include “preemptive” attacks against biological or chemical weapons capabilities, and response to “surprising military developments.”³⁵ This policy violates the International Court of Justice’s advisory opinion, which says the threat or use of nuclear weapons would be generally contrary to the international law of armed conflict and humanitarian law.³⁶

The Bush administration has further imperiled world peace and security by rejecting the Anti-Ballistic Missile Treaty, the Kyoto Protocol and the Rome Statute of the International Criminal Court.³⁷

Bush plans to export his policy of “regime change” to countries besides Iraq. He has targeted the other members of the “axis of evil” – Iran and North Korea, and his neoconservative advisors are advocating expanding the “axis” to include Saudi Arabia, Syria and Libya.³⁸ Bush also formed a commission to “plan” for a change in Cuba’s government. Regime change violates the well-established principle of self-determination enshrined in the U.N. Charter³⁹ and the International Covenant on Civil and Political Rights.⁴⁰

But although Bush is more overt in his plan to dominate the world, prior administrations have engaged in covert regime change – in Chile, Iran, and Guatemala, to name a few – and have invaded countries in violation of the Charter. President Bill Clinton invaded Yugoslavia, Iraq, Afghanistan and the Sudan.

Globalized blackmail

The San Francisco conference that founded the United Nations Organization also created a set of agencies to reshape the economic order of the post-war world, consistent with the priorities of the U.S., Great Britain and France. These were the World Bank, the International Monetary Fund, and the General Agreement on Tariffs and Trade (which later became the World Trade Organization). But, although established as part of the U.N. system, accountable to the General Assembly, these agencies consciously took on a life of their own. They remain outside the U.N. system and oversight, and have been

³⁵ See RULE OF POWER OR RULE OF LAW? xviii (Nicole Deller, Arjun Makhijani & John Burroughs, eds., Apex Press, 2003), reviewed by Richard Falk in this issue of *Guild Practitioner*.

³⁶ Advisory Opinion of 8 July 1996, *Legality of the Threat or Use of Nuclear Weapons*, 1996 I.C.J. 15.

³⁷ See RULE OF POWER OR RULE OF LAW? *supra* note 35, at xvii-xxxv.

³⁸ See generally, DAVID FRUM & RICHARD PERLE, AN END TO EVIL: HOW TO WIN THE WAR ON TERROR (N.Y.: Random House, 2004) (reaffirming the blueprint for empire embodied in Paul Wolfowitz’ 1992 Pentagon Defense Planning Guidance draft, that the U.S. will tolerate no rivals to its unilateral hegemony). This policy, covert during the 1990s, has now become the overt policy of the U.S. in Bush’s National Security Strategy. See The National Security Strategy of the United States of America, Sep. 2002, <http://www.whitehouse.gov/nsc/nss.pdf>. See also, Marjorie Cohn, *Oil: Weapon of Mass Destruction*, BRIDGES (forthcoming 2004).

³⁹ U.N. Charter, *supra* note 1, art. 1.

⁴⁰ International Covenant on Civil and Political Rights, *supra* note 21, art. 1.

responsible for imposing cruel structural adjustment programs on developing nations, which have forced their impoverished populations to accept social cutbacks in order to receive World Bank loans or IMF assistance.⁴¹

In spite of the awesome power of these agencies, people in the developing countries and their supporters throughout the world have fought back, paralyzing the WTO meetings.

The U.N. reaps what the U.S. has sown

In 1995, in a moment of candor, then Ambassador to the U.N. Madeleine Albright declared that “the U.N. is a tool of American foreign policy.”⁴² The day after the August 2003 truck bombing of the United Headquarters in Baghdad, U.N. Secretary General Kofi Annan remarked, “The blue flag has never been so viciously assaulted as it was yesterday.” Whether executed by remnants of Saddam Hussein’s Ba’ath Party, or foreign *ihadis*, or both working in concert, the attack was the result of a steady evisceration of the United Nations and international law by the United States.⁴³

There is understandable resentment against the U.S. for the devastating bombings and military attacks against the people of Iraq. The occupiers have been unable to deliver security, clean water, electricity, jobs, and they conduct heavy-handed searches of the population as they seek to quell the ongoing resistance to the occupation.

To many in the Arab world, the United States and the United Nations are indistinguishable. They feel the U.N. is a tool of the U.S. Mohammed Hindawi, an engineer in Cairo, said, “The U.N. did nothing for the Iraqis during the war. They arrived in Baghdad when the coast was clear. People expected the U.N.’s support, and they didn’t get it. It’s payback time.” Mohsen Farouk, a carpenter in Cairo, noted, “It was just a matter of time. The U.N. is just a puppet of the U.S., and anyone who is angry with the U.S. is likely to consider the U.N. a target.”⁴⁴

The United States blocked the adoption of a Security Council resolution which would enhance the protection of U.N. and other humanitarian aid workers, because it called for the prosecution of war criminals in the International Criminal Court. The Council then adopted the resolution once reference to the ICC was deleted.

Bush resists the International Criminal Court

⁴¹ See Bennis, *supra* note 3, at 11-16.

⁴² See Catherine Toups, *Albright cites ‘moral imperative’ for Bosnia mission: says public needs to be sold on plan*, WASH. TIMES, Dec. 13, 1995, at A1.

⁴³ See Marjorie Cohn, *The Thin Blue Line between the US and the UN: United States Occupation of Iraq Imperils International Law*, Centre for Research on Globalisation, Aug. 2003, <http://globalresearch.ca/articles/COH308A.html>.

⁴⁴ See , Megan K. Stack, *Turmoil in Iraq. To Many Arabs, the U.S. and U.N. Are One Entity. The invasion of Iraq put the world body in danger by rendering it irrelevant, some argue*, L.A.TIMES, Aug. 21, 2003, at A10.

Non-governmental organizations and individuals from sixty-six different countries filed 499 “communications” – or complaints – with the ICC, between July 2002 and July 2003. Many of them allege the United States and the United Kingdom committed aggression against Iraq.⁴⁵ The ICC has jurisdiction to punish the crime of aggression. But this crime remains undefined in the ICC’s statute due to disputes among the states parties about how to define it.

Moreover, the United States is not a party to the ICC treaty. In fact, Bush has consistently acted to undermine the Court. He removed the United States’ signature from the treaty, urged Congress to pass the American Servicemen’s Protection Act, extracted bilateral immunity agreements from 100 nations,⁴⁶ and rammed resolutions through the Security Council which grant immunity to peacekeepers from countries not party to the ICC. As of May 12, 2005, ninety-nine countries have signed on as parties to the ICC treaty.⁴⁷ The Bush administration has resisted the Court, likely prescient about how the world would react to its illegal invasion of Iraq. Bush and his henchmen probably knew they might be vulnerable to prosecutions for their unlawful killing of thousands of Iraqi civilians, their destruction of the civilian infrastructure, and their use of weapons of mass destruction – cluster bombs and depleted uranium.

The U.N.’s role in Iraq

Before its invasion of Iraq, the Bush administration frequently threatened the United Nations with becoming “irrelevant” if it did not give its blessing to the war.⁴⁸ As described above, although he failed to secure the Security Council’s imprimatur, Bush has succeeded in manipulating the Council to obtain resolutions legitimizing the U.S.-U.K. occupation of Iraq. Faced with an increasingly volatile situation created by the total disruption of that society by the “coalition forces,” Bush turned to the United Nations for help in legitimizing the elections.⁴⁹

When Kofi Annan, announced he would send a team of election experts to assess the feasibility of early elections, he noted: “When the U.N. goes back into Iraq, it has got to get there with two things. One, a clear identity of its own, and two, to go there with only the agenda of the United Nations, which is ... helping the people of Iraq out of their plight. Otherwise it will be of no use to anybody.”⁵⁰ Annan had said the month before: “We cannot have a situation where the U.N. is subjugated to the occupying power.”⁵¹

⁴⁵ See Communications Received By the Office of the Prosecutor of the ICC, GLOBAL POLICY FORUM, Jul. 16, 2003, <http://www.globalpolicy.org/intljustice/icc/2003/0716ocampo.htm>.

⁴⁶ As of May 3, 2005, the U.S. government has reported concluding 100 bilateral immunity agreements. See http://www.amicc.org/usinfo/administration_policy_BIAs.html.

⁴⁷ See Coalition for the International Criminal Court, <http://www.iccnw.org/> (visited May 29, 2005).

⁴⁸ See Glenn Kessler, *U.S. in a Tough Position As Isolation Increases: Setbacks Raise Stakes for Administration*, WASH. POST, Mar. 6, 2003, at A01.

⁴⁹ See Paul Richter & Maggie Farley, *U.N. to Send Team to Assess Elections in Iraq*, L.A. TIMES, Jan. 24, 2004, at A1.

⁵⁰ See Maggie Farley & Sonni Efron, *U.N. Faces New Dangers in Iraq*, L.A. TIMES, Jan. 28, 2004, at A8.

⁵¹ See Maggie Farley & Jessica Garrison, *Annan Charms L.A., Chides U.S. for Unilateral Approach on*

Nevertheless, the U.N. acted only in a technical and advisory role during the January 30, 2005 Iraqi elections. Although Annan praised the elections, the absence of foreign election observers on the ground in Iraq distinguished them from all prior "transitional elections" over the past two decades.⁵²

Moreover, this was not a legitimate election, as it was conducted under foreign occupation, and was run by a puppet government put in place by the occupying power. The war prevented participation of large segments of the population, especially the Sunnis. Although the United Nations claimed the 1999 U.N.-run election in East Timor was precedent for elections held under occupation, there were significant differences between that election and the January Iraqi election. For 23 years, U.N. resolutions had officially designated the Indonesian occupation illegal and called on Indonesia to withdraw from East Timor. And the 1999 vote was a direct referendum on whether or not to end the occupation. That choice was never presented to Iraqis on January 30. Also, the East Timor balloting was run directly by the U.N., with thousands of U.N. election workers and many international monitors.⁵³ That was a stark contrast from the Iraqi election, as stated above.

With approximately 150,000 troops on the ground,⁵⁴ the United States remains the *de facto* occupying power in Iraq. The Iraqi people continue to challenge the U.S. occupation with armed resistance. Unless Washington withdraws from Iraq, and turns over the real power to the Iraqi people, with support from the U.N., the war will continue to claim thousands of lives.

On 15, September 2004, Kofi Annan finally stated for the first time that the Iraq war is illegal. He said the invasion was not sanctioned by the Security Council as required by the U.N. Charter. In an interview with the BBC World Service, Annan was asked outright if the war was illegal. He replied: "Yes, if you wish." Annan then added unequivocally: "I have indicated it was not in conformity with the UN Charter. From our point of view and from the charter point of view it was illegal."⁵⁵

There is a strong move by the neoconservatives close to Bush to force the United Nations to alter its very structure or abandon United States' membership in the U.N. organization. David Frum and Richard Perle advocate expanding the definition of *aggression* in the U.N. Charter beyond armed attacks, to include the provision of assistance to terrorists.⁵⁶ In his 2004 state of the union address, in a direct jab at the

Issues: The U.N. secretary, on a two-day visit, reiterates the need to tackle AIDS and poverty, L.A. TIMES, Dec. 4, 2003, at A3.

⁵² See Robin Wright, *No Foreign Observers to Monitor Iraq Vote*, WASH. POST, Jan. 22, 2005, at A12.

⁵³ See Phyllis Bennis, *Iraqi Elections*, ZNET, Dec. 20, 2004, <http://www.zmag.org/content/showarticle.cfm?SectionID=15&ItemID=6899>; Scott Ritter, *Hijacking Democracy in Iraq*, ALTERNET, Mar. 23, 2005, <http://www.alternet.org/waroniraq/21566/>.

⁵⁴ See http://www.globalsecurity.org/military/ops/iraq_orbat.htm.

⁵⁵ See Ewen MacAskill and Julian Borger, *Iraq war was illegal and breached UN charter, says Annan*, GUARDIAN (U.K.), Sep. 16, 2004, <http://www.guardian.co.uk/print/0,3858,5017264-103681,00.html>.

⁵⁶ See FRUM & PERLE, *supra* note 38, at 266-73; David Frum & Richard Perle, *U.N. Should Change – or U.S. Should Quit*, L.A. TIMES, Jan. 23, 2004, at B13 ("If the U.N. is not part of the anti-terror fight, the

United Nations, Bush said, "America will never seek a permission slip to defend the security of our people."⁵⁷

In no way has W. Bush shown his contempt for the United Nations more than with his nomination of John Bolton for United States ambassador to the U.N. In 1994, Bolton declared, "There is no such thing as the United Nations." He also said contemptuously, "The Secretariat building in New York has 38 stories. If it lost ten stories, it wouldn't make a bit of difference."⁵⁸ As of this writing, the Democrats in the Senate have succeeded in stalling a vote on Bolton, which would likely result in his confirmation.

The United Nations will celebrate its 60-year anniversary in San Francisco this month. U.S. Secretary of State Condoleezza Rice and former President George H.W. Bush will not attend. It is still unclear whether George W. Bush plans to travel to San Francisco to herald this momentous occasion.⁵⁹

The Security Council didn't sanction Bush's war on Iraq and it was not undertaken in self-defense, which makes it illegal. But what if the Council had succumbed to his pressure and voted to authorize it? Would that have legitimized Operation "Iraqi Freedom"? Wouldn't the Security Council have violated its authority under the U.N. Charter because Iraq did not pose a threat to international peace and security?

In spite of way in which the U.S. government has thrown its vast weight around, there is widespread resistance to its unilateralist policies throughout the world. Millions marched in the streets to protest Bush's war on Iraq. It remains to be seen if the Security Council can and the General Assembly will stand up to the United States, and fulfill the promises enshrined in the United Nations Charter.

United States should not be part of the U.N.").

⁵⁷ *President's State of the Union Message to Congress and the Nation*, N.Y. TIMES, Jan. 21, 2004, at A14.

⁵⁸ See Marjorie Cohn, *Bolton Nominated to Destroy UN*, Apr. 4, 2005,

http://www.truthout.org/docs_2005/040405B.shtml.

⁵⁹ See Dean E. Murphy, *U.N. Party Planners Wonder, Will Bush and Friends Attend?*, N.Y. TIMES, May 29, 2005, at 14.