

@CHAPTER = IRAQ

State Department officials insist that human rights are a consideration in the formulation of U.S. policy toward Iraq. "We want as good relations with Iraq as are sustainable," one official said, "and human rights are a factor in what is sustainable." The stated intention is laudable, but U.S. actions have fallen far short. Except in the matter of Iraq's use of chemical weapons -- and even then with little consistency -- the Reagan and Bush administrations have paid scant attention to human rights in their dealings with Iraq. Both have put the nurturing of newly friendly U.S. relations with President Saddam Hussein's government well ahead of concerns over the violent and repressive nature of his regime.

In recent years there has been a dramatic turnabout in relations between the United States and Iraq. For more than two decades following the overthrow of the Hashemite monarchy in 1958, U.S.-Iraqi relations were marked by suspicion and hostility. By 1982, however, the Iraqi government was beginning to rethink its stand toward the United States. Iraq had suffered serious reverses in its war with Iran and was still smarting from the Soviet decision at the beginning of the war to stop supplying heavy arms to it. In 1982 and 1983, Iraq put out feelers to Washington.

These found ready acceptance, for the U.S., too, was beginning to reassess its view of Iraq. Human rights obviously were not a major part of this reassessment for, even putting aside Iraq's use of chemical weapons, the war brought an intensification of repression at home, including executions, disappearances, torture and widespread arrests of perceived opponents. Instead, geopolitical considerations were the moving force in Washington. Many in the Reagan administration had already begun to look at the Hussein regime as the main bulwark against Iranian domination of the entire Near East and its vital oil reserves. U.S. policy-makers are reported to have concluded that an Iranian defeat of Iraq would not only put Iraq's vast oil resources under the control of the regime of Ayatollah Khomeini but would also threaten the oil-rich, pro-Western governments of Saudi Arabia and the Persian Gulf emirates. In 1984 formal diplomatic relations were restored and the following year ambassadors were accredited in Washington and Baghdad.

The U.S. also weighed in heavily on Iraq's side in the war with Iran, a process that had begun even before diplomatic relations were restored. In the ensuing years, the U.S. led a campaign to cut off the flow of Western arms to Iran (while at the same time secretly providing sophisticated weaponry to Tehran), reportedly gave Iraq access to intelligence on Iranian military dispositions, spearheaded the drive for a U.N. Security Council resolution ordering a halt to the fighting, and provided naval escort for tankers of Iraq's neighbor and ally Kuwait. The naval escort operation led to clashes between U.S. and Iranian forces in the Gulf in 1987 and 1988.

With the warming of relations, the United States began providing Iraq billions of dollars in credits to purchase agricultural and industrial products. The war with Iran caused Iraq to borrow on a massive scale, which in turn caused Iraq's credit rating to drop. U.S. and other Western banks, concerned over Iraq's mounting foreign debt and increasingly uncertain whether the government in Baghdad would be able to withstand Iran's onslaught, became reluctant to loan to Iraq. In 1983, the U.S. government stepped in to ease Iraq's burden by providing credits through the United States Commodity Credit Corporation ("CCC") credit-guarantee program, for the purchase of U.S. agricultural products. Through 1988, Iraq acquired more than \$2.8 billion in U.S. agricultural products under the CCC credit-guarantee program. In 1989, the year following the Reagan administration's public rebuke of Iraq for using chemical

weapons against its Kurdish population, the Bush administration doubled the CCC program for Iraq, raising credits to a level exceeding one billion dollars in 1989. In addition to credit guarantees, the CCC program has also included some interest-free loans and some direct sales at prices subsidized by the U.S. government, according to U.S. Department of Agriculture officials.

In 1984 the U.S. Export-Import Bank began extending short-term -- up to one-year -- loans to Iraq for the purchase of U.S. manufactured goods. In the 1970s, the Export-Import Bank had been authorized to do business with Iraq, but that authority was terminated when, in 1979, the U.S. State Department placed Iraq on the list of countries found to be sponsoring terrorism. In 1983, the State Department removed Iraq from this list after Iraq expelled the Abu Nidal Black June terrorist group. By then, however, the Export-Import Bank shared many of the commercial banks' reservations about lending to Iraq. It resumed operations only at the insistence of the Reagan administration, under what one Bank official described to Middle East Watch as "political pressure." In 1984 and 1985, the Bank made some \$35 million in short-term loans to Iraq but discontinued the program after Iraqi borrowers failed to meet repayment schedules. In 1987, again as a result of administration pressure, the Bank resumed short-term lending to Iraq. In July of that year a \$200 million revolving fund was set up, out of which approximately \$235 million in short-term credit was made available in the next two years for the purchase of U.S. products, at U.S. government-subsidized interest rates. This time as well, the Bank found the Iraqi government delinquent in meeting some of its repayment schedules. The United States has long maintained an embargo on the sale of military equipment to Iraq. The ban appears to have been strictly enforced on weaponry itself. Around the periphery, however, there have been at least occasional breaches. In 1985, Washington approved the sale of 45 Bell helicopters to Iraq, a \$200 million deal. The sale was conditioned on Iraqi government assurances that the helicopters would be used only for civilian transport. In September 1988, it was learned that some, if not all, of the aircraft had been transferred to the Iraqi military. A group of U.S. reporters who visited the Kurdish areas of Iraq that month at Baghdad's invitation were flown in one of these helicopters. The craft was painted in military colors and piloted by an Iraqi military officer who, reporters noted, was clearly familiar with the terrain. The reporters saw another six to ten U.S.-made Bell helicopters parked on the aprons of military airfields in northern Iraq.

The State Department's annual country report on human rights practices in Iraq have, with minor exceptions, been candid and accurate since 1979, when reporting on Iraq began. The report on 1988, drafted by the Reagan administration and issued in February 1989, stated forthrightly: "Iraq's abysmal human rights record remained unacceptable in 1988." It pointed out that political killing, torture and disappearance were routinely practiced by the Iraqi government.

With regard to Iraq's actions against its Kurdish minority, the report noted "the grave human rights violations when the Iraqi armed forces moved to crush a longstanding Kurdish rebellion.... The campaign was marked by the use of chemical weapons against guerrillas and civilians alike." The report also pointed out that in 1988 the Iraqi government intensified its destruction of Kurdish and Assyrian villages in northern Iraq and its relocation of their inhabitants.

The report failed, however, to provide significant information on the conditions in which the estimated 500,000 displaced Kurds now live. Nor did it discuss the serious ramifications of their expulsion from their native homes and their resettlement in unfamiliar surroundings where few opportunities for

regular employment exist. The country report also failed to mention the proliferation of Iraqi laws that call for the death penalty, many of them for crimes clearly of a political nature or of insufficient gravity to warrant capital punishment under generally accepted international standards.

In a few instances, the report resorted to understatement. For example, political and individual rights were described only as "sharply limited" when in fact they are nonexistent. The same misleading term was used to describe the right of peaceful assembly and association. In the section on workers rights, the report merely noted that "no strikes have been reported for almost 20 years," rather than acknowledging that strikes are prohibited.

Despite the abuses described in the country reports on Iraq, the Reagan and Bush administrations have fallen disappointingly short when it comes to matching words with action. It is almost as though, having issued its annual report on Iraq, the administration considers its duty done and the matter dropped for the rest of the year, unless particularly egregious new violations take place.

During interviews with Middle East Watch, State Department officials, both in the Bureau of Near Eastern and South Asian Affairs, which has direct operational responsibility for relations with Iraq, and in the Bureau of Human Rights and Humanitarian Affairs, showed themselves keenly aware of the abusive and repressive nature of the Iraqi regime. One senior State Department official described the Iraqi government as "possibly the worst violator of human rights anywhere in the world today." Yet, when asked, these same officials expressed considerable reluctance to press Iraq on human rights issues. Some argued that the Iraqi government is "uniquely impervious" to criticism or pressure on human rights grounds. Others argued that despite the substantial political support and trade credits extended by the United States in recent years, there is little or nothing Washington can do that would make a difference.

As a result, the United States has failed to act, or has acted only inadequately, on a series of issues:

@BULLET = Despite the forthright statement in the most recent country report that Iraq's record is "abysmal" and "unacceptable, the Bush administration did not raise with Iraqi authorities the report's findings of murder, extra-legal detention, torture and disappearance of political opponents and government critics, according to State Department sources.

@BULLET = Although the U.S. government has repeatedly denounced forced internal relocation in Nicaragua and Ethiopia, for example, there has been no public expression of concern over the Iraqi government's relocation of at least 500,000 Kurds and Assyrians, although State Department sources said that the U.S. ambassador in Baghdad privately discussed this issue with Iraqi officials during 1988 and 1989.

@BULLET = So far as it has been possible to determine, no formal consideration was given to human rights criteria in the U.S. government's decision to provide CCC credit guarantees and Export-Import Bank short-term credits to Iraq. Section 112 of the Agricultural Trade Development and Assistance Act provides that human rights practices should be taken into account in decisions on financing the sale of agricultural commodities. Evidently this provision of the law was ignored.

@BULLET = The State Department chose simply to ignore and to excuse Iraq's prima facie breach of faith in transferring U.S.-supplied helicopters to military control, despite U.S. law barring military sales to "any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights." State Department officials took the position that the transfer was not a violation of the conditions of sale

because there was no evidence that the craft had been used in combat. When the issue became public, Representative Howard Berman pointed out that the painting of the helicopters in military colors clearly suggested military use. The State Department, however, did not file a protest with the Iraqi government over the transfer or seek to investigate it, according to officials interviewed by Middle East Watch.

Iraq's use of poison gas against its Kurdish citizens in late August and early September 1988 drew a vigorous protest from then Secretary of State George Shultz. During a visit to Washington on September 8 by Iraqi Minister of State Saadoun Hammadi, a member of President Saddam Hussein's inner circle, Shultz made known publicly, in extraordinarily candid and undiplomatic terms, his and the Reagan administration's dismay over Iraq's action. In the end, however, Shultz acceded to pressure from the State Department's Middle East professionals and approved a recommendation that the administration oppose Congressionally mandated sanctions against Iraq.<\$FA sanctions bill, which at first seemed assured of passage, died in the House.>

The U.S. took no other concrete step to manifest displeasure. The administration did not recall the newly arrived U.S. ambassador in Baghdad,<\$FBy contrast, on August 29, 1989, the State Department recalled Ambassador Sol Polansky from Sofia in protest of Bulgaria's mistreatment of its ethnic Turkish minority.> and U.S.-government trade credits and guarantees were not eliminated or reduced, but instead were doubled the following year.

Nonetheless, Shultz's protest to Hammadi, the September 8, 1988 press statement and the momentary threat of Congressionally mandated sanctions succeeded in capturing the attention of the Iraqi government. On September 17, 1988, Foreign Minister Tariq Aziz, speaking in Baghdad, declared that Iraq respects and abides by all provisions of international law, including the 1925 Geneva Protocol prohibiting the use of poison gas. Three days later, the State Department called this "a positive step" and added: "We take this statement to mean that Iraq foreswears the use of chemical weapons in internal as well as international conflicts." Assistant Secretary of State for Near Eastern and South Asian Affairs Richard Murphy told Congress on October 13 that Tariq Aziz had personally confirmed to Shultz that Tariq Aziz's September 17 statement meant that Iraq intended to renounce the use of chemical weapons against domestic and foreign enemies.

In the closing months of 1989, the State Department began an effort to show greater concern over the human rights situation in Iraq. In September, Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter met in Washington with the legal advisor to the Iraqi Foreign Ministry for a discussion of human rights. While information available to Middle East Watch suggests that the outcome of this meeting was far from satisfactory, it has been billed by State Department officials as a "broadening" of the U.S. "human rights dialogue" with Iraq. At the end of November, Schifter met with Iraq's ambassador to the United Nations for further talks on human rights issues. But in a major address on U.S. policy in the Middle East delivered on October 27, 1989, Assistant Secretary of State for Near Eastern and South Asian Affairs John Kelly ignored entirely the matter of Iraq's human rights violations. He stated simply: "Iraq is an important state with great potential. We want to deepen and broaden our relationship."

Despite the defeat of the sanctions bill in the fall of 1988, Senate Foreign Relations Committee Chairman Claiborne Pell and other legislators have continued to press the case for sanctions. In June 1989 Senator Pell presented an amendment to the Foreign Assistance Act that would require the President to make a determination whether Iraq consistently commits gross abuses of human

rights. Aware that such a determination, if honestly made, would have to be in the affirmative, the Bush administration opposed the amendment, arguing once again that Iraq is "impervious to leverage." The State Department's Iraqi desk officer, Philip Remler, lamented that "Congress is not very protective of our relationship with Iraq."

At the end of September 1989, Senator Daniel Inouye put a rider on the Foreign Assistance Appropriations Act that barred the bank from further dealings with Iraq. The Inouye amendment, itself later amended to allow a Presidential override of the ban, became law in November. At year's end, the fate of the Pell amendment was still uncertain.

Having escaped penalty in its relations with the United States, the Iraqi government managed also to escape censure in international fora. Its success was due at least in part to slack U.S. efforts to secure international condemnation.

Iraq's use of poison gas against the Kurds prompted President Reagan in a September 1988 speech before the U.N. General Assembly to call for an international conference on chemical weapons. French President Mitterand, who went so far as to propose an international embargo on weapons sales to any country using poison gas, immediately picked up the Reagan proposal, and it was agreed that France would host the conference. It quickly became apparent, however, that neither the United States nor France intended to use the conference to condemn or even censure Iraq. Instead, the French decided and the United States agreed that the conference would aim for an international consensus in principle against chemical warfare and for the strengthening of the 1925 Geneva Protocol barring the use of chemical weapons.

The conference was held in Paris at the beginning of January 1989. Its closing declaration, issued January 11, reaffirmed "the importance and continuing validity" of the 1925 Protocol and stated that the participating states were "determined to prevent any recourse to chemical weapons by completely eliminating them." Iraq was not mentioned by name but did receive an indirect slap on the wrist, in a passage that recalled the conferees' "serious concern at recent violations as established and condemned by the competent organs of the United Nations." This, however, was a reference only to Iraq's -- and Iran's -- use of poison gas in their war against each other, not to Iraq's chemical attacks on its own Kurds. The U.N. never had the opportunity to "establish and condemn" the attacks on the Kurds because both Iraq and Turkey rejected the Secretary General's request to send a U.N. investigative team.

The final irony is that the Kurds were barred altogether from the Paris conference because one of the ground rules laid down by the French specified that only states could attend. The United States failed, during and after the conference, even to take up the issue of amending the 1925 Protocol to bar states explicitly from using chemical weapons against their own citizens. Jurists interpret the 1925 Protocol as prohibiting the use of poison gas only in international armed conflict. The Protocol does not address itself to the possibility that a state might use chemical weapons against its own citizens. A letter that Human Rights Watch sent Secretary of State Shultz on December 29, 1988 urging that the U.S. delegation raise this matter at the Paris conference went unanswered.

Despite Iraq's record of arbitrary detention, murder and torture, the Reagan administration did not press for action against Iraq at the 1988 session of the United Nations Human Rights Commission. Even more surprising, at the Commission's 1989 session the Bush administration stood back and let others take the initiative in trying to call Iraq to account for its use of chemical weapons against its Kurdish population and for its other serious abuses. The

U.S. did not join in sponsoring the strongly worded resolution put forward by twelve other Western states, which called for the appointment of a special rapporteur to "make a thorough study of the human rights situation in Iraq."<FThe resolution was submitted by Australia, Belgium, Canada, Denmark, West Germany, Luxembourg, the Netherlands, Norway, Portugal, Sweden and the United Kingdom. Greece, Ireland, Italy and Spain later joined as sponsors. Of the sponsors, Belgium, Canada, West Germany, Portugal, Sweden, the United Kingdom, Italy and Spain were actual members of the Human Rights Commission. The other sponsors acted in their observer capacity. Commission rules permit observers to sponsor resolutions but not to vote on them.>

This resolution was prompted not only by Iraq's use of chemical weapons against the Kurds but also by Western governments' concern over the Commission's dismissal of a series of human rights complaints made against Iraq under the confidential 1503 procedure.<FThis is a procedure created by Economic and Social Council resolution 1503 under which individuals and non-governmental organizations may submit complaints against U.N. member states for consistent patterns of gross violations of human rights. If deemed admissible by the Subcommittee on Discrimination and the Protection of Minorities, these complaints are forwarded to the Human Rights Commission for examination in closed session. The Commission may, however, as it did in the case of Iraq, reject the Subcommittee's recommendation<%-20> <%0>.> Most Western European delegates felt it important, in light of these developments, that something be done to call attention to the situation in Iraq. The United States, however, evidently did not share this view.

The explanation offered officially for the U.S. failure to sponsor the resolution was that U.S. sponsorship would make the resolution an East-West issue and thereby diminish its chances of success. Behind this unpersuasive rationale evidently lay at least two considerations. One was the fear that too heavy identification with the resolution would detract from U.S. efforts, considered politically more important, to obtain a resolution condemning Cuban human rights abuses. The other had to do with U.S. bilateral relations with Iraq. There was, one official candidly acknowledged to Middle East Watch, concern that U.S. sponsorship of the resolution would be "too confrontational" toward Iraq.

On March 8, the Iraqi delegation moved under the rules of procedure to block the Western resolution from coming to a vote. In the ensuing ballot, the resolution was defeated 13 to 17. The United States joined its Western partners in opposing the Iraqi procedural motion but did not make the serious lobbying effort that might have saved the resolution.

Until such time as the Iraqi government takes steps to show sincere and meaningful progress toward respect of the fundamental rights of its citizens, the Bush administration should publicly condemn serious Iraqi abuses. The administration should sponsor, speak out for, actively support and lobby for resolutions in the United Nations, particularly in the Commission on Human Rights and, to the extent appropriate, in the General Assembly, of resolutions censuring Iraq for its consistent gross violations of human rights. The State Department should seek to engage the Iraqi government in a dialogue on human rights, including discussing with Iraqi officials the findings of the annual country report. All Commodity Credit Corporation and Export-Import Bank credits should be terminated. And U.S. exports to Iraq of any product or technology that could contribute to Iraq's military capabilities, or to the maintenance or strengthening of Iraq's internal security forces, should be banned.