

The Iraq dilemma: America's obligation

by [Martin L. Cook](#) in the [November 1, 2003](#) issue

Regardless of what one thought of the legal and moral justification of the U.S. invasion of Iraq, or of the prudence of that action, now that the U.S. is there it has moral and legal obligations to Iraq, to the region and to its citizens.

Many of these obligations are clearly delineated in international law. Relevant documents are the annexed regulations to the Hague Convention IV of 1907, the 1949 Fourth Geneva Convention and Protocol I to the Geneva Convention of 1977. (Although neither the U.S. nor Iraq was a party to this latter agreement, its fundamental principles express the spirit of international law.)

Major obligations of the occupying power are the maintenance of law and order, administration of a judicial system, and provision of adequate food, water and medical treatment “to the fullest extent of the means available to [the occupying power].” Religious and cultural practices of the local population are to be respected. Education is to continue, though those over 18 may be compelled to perform work necessary for the needs of the occupation force, to operate public utilities or to provide for people’s basic needs. Perhaps most important, Iraqi sovereignty should remain intact, although elements of normal sovereign activity are suspended or curtailed during the occupation.

Meeting these obligations is not necessarily easy, especially when active resistance to the occupation continues, including sabotage of precisely the kinds of public services that international law and prudence require the occupation force to provide. In many ways, occupation law envisions a case of clear-cut surrender of the enemy government, followed by a largely peaceful occupation. Such surrender did not occur in this conflict. It is not surprising that some elements of the old regime might continue to fight on or that al-Qaeda and other non-Iraqi fighters might find opportunity in the current disorganization. The complaint that the U.S. has been slow in meeting its obligations is valid—although the military had in fact planned for

meeting these obligations. (Two detailed studies of occupation tasks were completed for the army well in advance of the conflict. See material at www.carlisle.army.mil.)

We did not invade Iraq for the purpose of occupying it or providing services to its citizens, however. Our ethical obligations (as well as our strategic interests) extend not only to Iraqis, but also to neighbors in the region whom our invasion has disrupted. Our leaders owe the citizens of the U.S. results that justify the sacrifice of enormous quantities of national treasure and the loss of friends, spouses, sons and daughters.

If one believed that Iraq possessed significant quantities of weapons of mass destruction and was on the brink of unleashing them on its neighbors or the citizens of the U.S., removing that threat would alone justify our actions. But for those who doubted that claim, or who note the absence of evidence for such weapons and intentions in the aftermath of the war, other outcomes are required.

We must leave a “better peace” than what was there before. While a fully secular, Western-style democracy may be too much to hope for, minimally we need to leave behind a state that is more inclusive and respectful of the rights of its citizens, less inclined to aggressive adventures in its neighborhood and less likely to require future military intervention. Like the de-Nazification program of the post-World War II occupation, the occupation must ensure that the Iraqi government that will reclaim sovereignty is neither a Baathist regime nor an Islamic republic. We will need to retrain and help reequip a new Iraqi military, capable of self-defense but respectful of the rights of Iraqi citizens and of the laws of armed conflict. In short, having effected a “regime change” and a decapitation of the Iraqi government, we have an obligation to do far more than leave the country to itself.

As the U.S. continues to wield its enormous power in the world, it is important to temper the unilateralist tone and manner that took us to Iraq. U.S. unilateralism potentially creates an extremely destabilizing practice in international relations.

On the other hand, Kofi Annan’s September 23 comments to the United Nations General Assembly also ring true: “It is not enough to denounce unilateralism, unless we also face up squarely to the concerns that make some States feel uniquely vulnerable, since it is those concerns that drive them to take unilateral action. We must show that those concerns can, and will, be addressed effectively through

collective action.”

Since World War II, human rights law has been evolving toward agreed-upon limits to the conduct protected by national sovereignty. In principle (although rarely in practice), that humanitarian law created a legal permission and perhaps even obligation to intervene in the internal affairs of states that fall below human rights standards in their treatment of their own people. The U.S.’s long-term ethical and legal goal must be to build a similar international consensus about patterns of terrorism and support to terrorism, so that these will not be protected under the cloak of national sovereignty.

Nations should move toward acting in concert in the name of collective security. This is precisely the founding vision of the UN: that the Security Council would exercise its Chapter VII authority under the UN Charter promptly and consistently to eliminate threats to international peace and security. Such collective action would allow the great powers to “eliminate the scourge of war.” U.S. and international interests converge in pointing toward the establishment of an international order in which that vision can be realized with greater consistency.

The war against terrorism is truly a global war in which all members of the international community have a stake, just as the struggle to realize the human rights agenda globally is an international struggle. We should not let the unilateralist tone of the Iraq intervention blind us to the fundamental truth of these internationalist goals.

The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the U.S. Air Force, the Department of Defense or the U.S. government.

See also [The Iraq dilemma: An illegitimate occupation](#), by George Hunsinger.