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## ***U.S. Crimes in Iraq and German Complicity***

**Presentation at the Iraq War Crimes Tribunal in NYC, August 26, 2004**

*Despite its criticism of the war against Iraq, the German government supported the USA in its warfare. The German tribunal movement is focusing on this German complicity in the aggression against Iraq.*

*Germany and the other countries of "Old Europe" play a contradictory role in their relation to the U.S. occupation of Iraq. They may be pleased that the occupation is not a smashing success, but they are even more afraid that a complete defeat of the US could hurt the interests of all western powers in the whole region. Therefore, they have decided to support the ongoing occupation.*

*With their occupation policy the invaders violate international law; they are the ones to blame for the devastating living conditions. The latter are the consequences of a purposeful policy and very conscious and systematic crimes. Anyone who supports this policy must be seen as an accessory to the crime.*

### **I.**

We hold our first hearing in Germany for an international tribunal on the war of aggression against Iraq on June 19 this year in Berlin.

This conference has convinced us that we have to hold accountable the politicians and other persons who are responsible for crimes against peace, crimes of war and against humanity, and for a huge variety of violations of the law of war.

As the final declaration of the conference put it: at this point, to simply go on with one's everyday-life is to surrender to the wars to come.

We cannot possibly leave it to the aggressors to write the history of the 14 years of lasting aggression against Iraq.

During the first part of the conference the present experts in international law presented convincing evidence that the attack against Iraq constituted a clear breach of international law. George W. Bush as well as Tony Blair and all the other responsible participants have demonstrated to be guilty of waging a war of aggression – the most severe crime according to international law.

And according to German and international law, the support supplied by Germany through providing the US military with territory and airspace clearly -- as a German law expert proved -- constitutes complicity with this crime.

Just as in the hearings in other countries evidence was presented about crimes of war and against humanity:

- evidence for the approval of certain torture methods by the US departments of Justice and Defense
- evidence for the looting and the pillage all over Iraq cities – not prevented and sometimes even encouraged by the US troops
- evidence for the carpet bombing of residential areas in Baghdad
- evidence for the horrifying and overarching aggravation of the situation of women since the beginning of the occupation
- evidence for the complete collapse of public health, the deliberate shooting of civil vehicles and even ambulances by US troops

We are planning more hearings in Germany with the goal to hold finally a tribunal in Berlin. This tribunal will rule on the complicity of the German government. But apart from this concentration on the responsibility of our own country it surely will have to deal also with the crimes of the US and its allies against Iraq, and thus make a contribution to the whole international tribunal. To draw a

conclusion concerning the complicity of the German government, we first will have to judge whether its support directly contributed to crimes or not.

We are more reluctant than outspoken when it comes to the condemnation of the government of the US and of the UK – for us as Germans it seems more reasonable to emphasize the complicity of our own government. Germany is not only a close ally, but also one of the mightiest competitors of the U.S. and clearly pursues its own imperialist interests in the Middle East.

Nethertheless, we are convinced that the respective peoples themselves have the right to hold a trial over those responsible for the war. As everybody knows, it was the United States and Great Britain themselves, that have built the foundations for such a universal jurisdiction.

On the Nuremberg Military Tribunals were not only judged the leaders of the German Fascism, but also banned the war of aggression generally. As the Tribunal judged: “To initiate a war of aggression, therefore, is not only an international crime. It is the supreme international crime differing from other war crimes only in that it contains within itself the accumulated evil of the whole.”<sup>1</sup>

Quite obviously, the allies didn't realize the consequences of their statement, like Jean-Paul Sartre noticed in his Inaugural Statement on the Russell-Tribunal on the US war crimes in Vietnam:

“From 1939, the Hitlerian outrages had endangered the world to such an extent, that the horrified Allies decided to judge and condemn the wars of aggression and conquest, the maltreatment and torture of prisoners as well as the racist practices known as ‘genocide,’ unaware that by this they were condemning themselves for their own actions in the colonies. For this reason, that is to say because they recognized the Nazi crimes and because, in the more universal sense, by this they were opening the way to a real jurisdiction for the denunciation and condemnation of war crimes wherever they were committed, and whoever the culprits, the Tribunal of Nuremberg is still the manifestation of a change of capital importance: the substitution of *jus ad bellum* [law on the use of force] by *jus contra bellum* [law on the prevention of war].”<sup>2</sup>

In his opening address at the Nuremberg trial, prosecutor Robert L. Jackson stated himself, in the name of the United States, “that while this law is first applied against the German aggressors, the law also covers – and if it is to serve a useful purpose must condemn – aggression by any other nation, including those which are now sitting here in judgment.”

On the official international level, the US can and will prevent such a jurisdiction, which leads to the necessity of international tribunals organized from the grassroots.

These tribunals must be conducted as seriously as official ones. The truths we find can only ask for universal validity if it is based on internationally acknowledged principles, laws, and rules. This is essential to gain universal acceptance – and for that reason we are strongly in favor of meticulously following judicial principles. This means a formal legal procedure, according to a detailed statute, with a substantiated indictment and the possibility for the accused to defend them.

## II.

An important goal of the commitment of the German movement is to stop the continuing German support for US politics in the gulf region, as our contribution to the further isolation of the US government and to the narrowing of the options of the occupation force by engendering public criticism.

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<sup>1</sup> Der Nürnberger Prozeß, Nürnberg 1947, Bd. 1, S. 207

<sup>2</sup> quoted from „Prevent the Crime of Silence - Reports from the sessions of the International War Crimes Tribunal founded by Bertrand Russell.“ <http://www.911review.org/Wget/www.homeusers.prestel.co.uk/littleton/v1101sar.htm>

In my view, this is of primary importance since international support for the US – which, with the help of the European states, they have been able to organize time and again – is the only joker still in their hands when it comes to the struggle in Iraq.

The last UN resolution has shown this very clearly. After the Bush-administration couldn't gain any acceptance for their so called transitional project in Iraq, the UN alone could help them out of the jam. Only the UN's stamp of approval could give their manœuvre of a "transfer of authority" some kind of legitimacy.<sup>3</sup>

After the already more than questionable resolutions 1483 and 1511, this was the third time that that France, Germany, Russia and the other members of the Security Council – in disregard of the UN Charter – accorded massive support to the states that had invaded Iraq in violation of international law. They conceded the aggressors the right to dispose at will of their war loot – and, by accepting the phony "transfer of authority" as "the end of the occupation, even relieved them of their obligations as occupying powers, e.g. in respect of the supply of the population with the necessities. This latter aspect is something that is overlooked far too often.

The new resolution 1546 didn't even mention a single crime of the many one that had become public knowledge by then. Thus, there was

- no condemnation of the well-known cases of torture
- not a single word about the bombing of Falluja.

In this way, the governments of countries like Germany and France are supporting the aggressors' plans to make us forget the crimes of war and occupation. In spite of the increasing violence and the horrible living conditions of the Iraqi population these governments are still trying to justify the occupation as the only way to stabilize and „democratize“ Iraq.

So it's of major importance for us to unmask the occupation policy and thus diminish the public support for it.

From the very beginning Germany has – like France – been playing a double game in this case. This war was going to threaten their economic and geo-strategic interests, and therefore they tried to prevent it by diplomatic means. But at the same time, they didn't want to spoil their alliance with the US, within e.g. they went to war against Yugoslavia and which they considered, and still consider, of the utmost importance. So despite its official rejection of it, Germany has supported this war, including the provision of military support.

Germany, as well as France and the other erstwhile European opponents of the war are not too unhappy about the difficulties for the US and Great Britain that are developing as a consequence of their unilateral politics of aggression. But at the same time, they are afraid of a complete failure of the whole project, since that would mean a heavy setback for the influence of all Western states in this economically vital region.

The attitude of these powerful states has led to the explicit support of the United Nations for the present US policy. It is thus providing the background and the basis for the UN's refusal to take advantage of the rare situation where the US is in dire straits, a situation where the UN could have insisted on different ways of dealing with the problems concerning Iraq.

### III.

During the Berlin hearing the experts have argued, that according to national and international law, the members of the German Government have – with their support of a war of aggression – incurred a crime. They further demonstrated that the amount of German cooperation, and hence the degree of

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<sup>3</sup> See J. Guilliard, "Iraq – 'sovereignty' at gunpoint --The Policy of Occupation after the 'transfer of power', August 2004, <http://www.peoplejudgebush.org/files/JoachimGuilliard.pdf>

its complicity, is very serious:

Among others, the German government permitted the US to use German territory in order to prepare and wage the war and provided 3.000 German Soldiers to guard the US-Bases in Germany in place of the GI's who had gone to war in Iraq.

The military bases in Germany have always been of central meaning for the wars of the US in Africa, Asia and the Balkans. Had the German government denied the US the use of these bases, as well as the overflight rights over German territory, as it was obliged to do by national and international law, it would have created enormous problems for the US troops and would have delayed the beginning of the war for many months. About 70.000 US troops are stationed in Germany and there are large air bases see and inland ports over which the US do a mayor part of their troop transportation and support.

And this is still not all: the German Bundeswehr supported the US troops directly in the warfare with German officers doing duty on the AWACS planes near Iraq, with ABC units in Kuwait, and with escorts for US warships at Cape Horn in Africa. Right now the Bundeswehr is helping out by training Iraqi auxiliary troops.

#### IV

Basically our leading European politicians and the media are simply criticizing the awful handling of the occupation and the so-called "lack of concrete plans" of the Bush administration for the time after the war, as well as the meager voice that the UN and the European states were given in the whole thing.

But the disaster in Iraq is not the consequence of a lack of planning. As I worked out in more detail in various articles<sup>4</sup> its a logical consequence of the deliberate US strategy for Iraq, which had the following aims:

**First:** The complete liquidation of the old state system and its conversion into a federally structured and demilitarized state with a weak central government

**Second:** The permanent presence of a big armed force inside of Iraq and thus inside of the Arab world

**Third:** The conversion of the Iraqi economy into a radically neo-liberal free market and free enterprise model

**And last but not least:** The installation of a pro-American government under the tutelage of the US. The Bush Administration didn't want selective reforms in Iraq, but a virtually completely new definition of the nation – economically, socially and politically.<sup>5</sup>

The direct aim of the war had been a regime change in Iraq. But the intention wasn't to simply take power.

Rather – like in a classic conquest – the intention was to physically eliminate the former government and the existing structures of the state.

And this is the context for the systematic looting and pillage after the surrender or disappearance of the old regime, which were not only not prevented but were rather supported by the invaders, as Roger Normand testified at the hearing in May here in New York.<sup>6</sup>

This systematic destruction opened the way for the reorganization of Iraq. The army and the security forces were dissolved, and most of the state's employees were laid-off.

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<sup>4</sup> siehe Göbel/Guilliard/Schiffmann (Hg): „Der Irak – Krieg, Besetzung, Widerstand“, PapyRossa, Köln 2004 und „Im Treibsand Iraks – Von „Auftrag erfüllt“ zur unerfüllbaren Mission“, <http://imi-online.de/download/IMI-Studie-2004-03JGTreibsand.pdf>

<sup>5</sup> Carl Conetta, „Radical Departure: Toward A Practical Peace in Iraq“, *Project on Defense Alternatives*, Briefing Report #16, 7.7.2004, <http://www.comw.org/pda/0407br16.html>

<sup>6</sup> Crimes Committed During the Ongoing Occupation, *New York Session of World Tribunal on Iraq*, 8.5.2004, <http://www.worldtribunal-nyc.org/Document/>

And since there was no substitute for them at all, it was obvious that social order would completely break down as a result. This didn't matter to the occupiers, nor did the devastation of the Iraqi economy by completely opening it up to outside forces, or the immense unemployment rate of 60 to 70%.

So the Iraqi population is suffering from a complete lack of security as well as of a destroyed infrastructure. This utter misery after one year of occupation is clearly a direct consequence of the economic aims of the US.

And Germany, France, and all the other countries in the UN Security Council have consented to this as well.

The plans for the economic reorganization of Iraq have been worked out long before the war. A 100-page paper by the US State Department with the enchanting title „Moving the Iraqi Economy from Recovery to Sustainable Growth” lists various measures – like changes in the law of the country – in considerable detail.<sup>7</sup>

In the meantime, many of these plans have been transformed into laws. A “capitalistic dream,” the British daily *The Economist* gushed in September 2003, talking about the economic structures installed by the occupation administration in Iraq.<sup>8</sup> Three decades of nationalization were thus annihilated in the space of a few months, and the country transformed thereby into one big free trade area – as Roger Normand and Antonia Juhasz also testified at the New York hearing in May 2004.<sup>9</sup>

These measures of the occupation administration clearly violated international law.

There are mandatory regulations for all occupying powers to respect existing laws and social structures, and to act, with regard to the economy, as a trustee until a new, sovereign government is in power.<sup>10</sup>

In fact, Billions of Dollars are spent for “reconstruction” in Iraq. But they are not at all used in a way that could solve the most urgent problems. There is still no health care system for example and little is already done to reconstruct the power and water supply. Its quite obviously that not the needs of the Iraqis but the interests of the involved US corporations decides on the usage of the funds. We are witnessing a greedy and obscene pursuit to enrich members of the Bush administration and/or the corporations with which they are entangled in various ways.

Most of the billions of dollars, they are making now, are *Iraqi* billions, coming from the *Development Fund for Iraq*, the DFI -- only trickles of the money, the US Congress had allotted was used so far.

Into the DFI flowed among others the remaining assets from the Oil-for-Food-Program (8.1 billion US \$), the confiscated Iraqi fortunes and the revenues from the oil sales: till June 2004 altogether more than 20 billion U.S. dollars.<sup>11</sup>

According to the resolution 1483 of the UN Security Council, these huge sums should have been spent “in a transparent way” to “cover the humanitarian needs” of the Iraqi population and for the “reparation of the infrastructure,” controlled by an „International Advisory and Monitoring Board“, the IAMB. But due to Paul Bremer's tactics of delay, it was only in March 2004 that these institution could have a first look at the books and get some rather insufficient figures.<sup>12</sup>

Due to the almost completely lack of control, the occupation administration could nearly freely dispose of the funds and evade all the restrictions imposed on the money the US congress had allotted -

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<sup>7</sup> Antonia Juhasz, „The Economic Colonization of Iraq: Illegal and Immoral,” *New York Session of World Tribunal on Iraq*, 8.5.2004. <http://www.worldtribunal-nyc.org/Document/>

<sup>8</sup> „Let's All Go to the Yard Sale,” *Economist*, 25.9.2003

<sup>9</sup> Roger Normand, l.c.

<sup>10</sup> see Article 42ff of the Hague Regulations from 1907 and „Spoils of war“, *The Guardian*, 13.10.2003

<sup>11</sup> see a summary of the CPA at [http://www.cpa-iraq.org/budget/DFI\\_26jun2004.xls](http://www.cpa-iraq.org/budget/DFI_26jun2004.xls)

<sup>12</sup> „Fuelling suspicion: the coalition and Iraq's oil billions“, *Christian Aid*, <http://www.christian-aid.org.uk/news/media/pressrel/040627.htm>



- and consequently, the fund became a huge slush fund for Paul Bremer and the US occupation authority.

Congress had allotted 18,7 billion US dollars for Iraq and strictly banned any use of it without previous inspection and tough controls – but nevertheless it went to Bechtel, Halliburton, and all the other US corporations that were - and are - closely associated with leading members of the present US administration.<sup>13</sup> Billions of dollars thus disappeared into their pockets – without any visible benefit for the suffering Iraqis.

In June, the lacking control of the management of Iraqi money was also criticized by the Monitoring Board IAMB. The Coalition Provisional Authority, CPA was unable to account for \$ 11.3 billion out of the development fund that had been spent up to that time.<sup>14</sup>

Another area where the monitors could not find any precise numbers was the realm of the production and turnover of oil. Based on its own research, the British aid organization “Christian Aid” estimates that the actual oil revenues might be up to 30% higher, which means that further billions may have disappeared in dark channels.<sup>15</sup>

All of this happens to the detriment of a suffering population and is tolerated by the European states. And it happens despite the fact that right from the beginning, Iraqi firms could have repaired the damage for a fraction of the sums accorded to the US companies – just as they had done in a couple of months after the war of 1991.

They have the know-how and are interested in the task, and they could have given hundreds of thousands of Iraqis jobs and income.

With the support of the other European powers, the occupying powers continuously and massively violate international law as laid down in a binding manner in the Hague Regulations, the Geneva conventions, the international Conventions on economic, social and cultural rights (social pact) and on civil and political rights (civil pact), as well as the Charter of the United Nations. These violations include:

- the denial of the right to self-determination
- the denial of the right to life and health
- the insufficient supply of vital services, food, and education
- basic changes in the economic structure of the country
- the ruin of domestic firms
- the creation of an enormous amount of unemployment
- attacks on the civil population
- the use of collective punishment
- arbitrary arrests, humiliation, and torture

While the revelations about the torture in Abu Ghraib created an international scandal that seriously undermined the acceptance of the occupation, up to now these crimes of the occupying power are still largely unknown.

In June 2004, the Center for Economic and Social Rights presented its report “Beyond Torture – US Violations of the Laws of Occupation,” containing an extensive summary of the crimes I am talking about.

The most important conclusion of the Center is: it is the occupation itself that is at the root of all the violence and the violation of law, and the occupation has to end to end the violence.

It is therefore of primary importance to make clear that all of this is not about - “mistakes,”

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<sup>13</sup> Siehe Andrew Cockburn, „Raiding Iraq's Piggy Bank“, *Salon.com*, 17.5.2004

<sup>14</sup> Siehe Presseerklärung des IAMB vom 15.7.2004, <http://www.iamb.info/pr/pr071504.htm>, sowie „UN und USA streiten über den Umgang mit Iraks Erdöl“, *FR*, 24.7.2004,

<sup>15</sup> „Fuelling suspicion ...“ l.c.

- “lack of planning,”
- or this or that “misdeed”
- or “lapse,”

but that what we have before us are the consequences of a purposeful policy - that is: conscious and systematic crimes. Therefore, the evaluation of the policy of occupation cannot be a discretionary decision of this or that government. Anybody who supports this policy must be seen as an accessory to the crime.

The commitment against this complicity is one of the primary tasks of the anti-war movement in Germany and all of Europe, “old” and “new.”

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Joachim Guilliard is author of numerous articles as well as co-author and co-editor of several books on the question of Iraq. The latest publication is: Göbel/Guilliard/Schiffmann (Hg.): [Der Irak - Krieg, Besetzung, Widerstand](#) (Iraq - War, Occupation, Resistance), PapyRossa, Cologne, 2004