

## A Declaration of War Against Farmers

By Focus on the Global South and GRAIN | November 18, 2004

When Former Coalition Provisional Authority (CPA) administrator L. Paul Bremer III left Baghdad after the highly publicized “transfer of sovereignty” in June 2004, he left his imprint through 100 orders that he enacted as chief of the occupation authority in Iraq. Among them is Order 81 regarding “Patent, Industrial Design, Undisclosed Information, Integrated Circuits and Plant Variety.”<sup>1</sup> This order amends Iraq’s original patent law of 1970, and unless and until it is revised or repealed by a new Iraqi government, it wields the status and force of a binding law.<sup>2</sup> With important implications for farmers and the future of agriculture in Iraq, this order is yet another important component in Washington’s attempts to radically transform Iraq’s economy.

### Who Gains?

For generations, small farmers in Iraq operated in an essentially unregulated, informal seed supply system. Farm-saved seed, agricultural experimentation, and the unrestricted exchange of planting materials among farming communities has long been the basis of Iraq’s cultivation practices. All this is rendered illegal by the new law. The seeds that farmers are now allowed to plant—“protected” crop varieties brought into Iraq by transnational corporations in the name of agricultural reconstruction—will be the property of the corporations.

Although historically the Iraqi Constitution prohibited private ownership of biological resources, the new U.S.-imposed patent law introduces a system of monopoly rights over seeds. Inserted into Iraq’s previous patent law is a whole new chapter on plant variety protection (PVP) that provides for the “protection of new varieties of plants.” PVP is an intellectual property right (IPR) or a kind of patent for plant varieties that gives an exclusive monopoly right with respect to planting material to a plant breeder who claims to have discovered or developed a new variety. So the “protection” in PVP has nothing to do with conservation; rather it refers to safeguarding the commercial interests of private breeders (usually large corporations) claiming to have created the new plants.

To qualify for PVP, plant varieties must comply with the standards of the UPOV<sup>3</sup> Convention, which requires each variety to be new, distinct, uniform, and stable. Farmers’ seeds cannot meet these criteria, making PVP-protected seeds the exclusive domain of corporations. The powers granted to plant breeders under this scheme include the exclusive right to produce, reproduce, sell, export, import, and store the protected varieties. These rights extend to harvested material, including whole plants and parts of plants obtained from the use of a protected variety. This kind of PVP system is often the first step toward allowing the full-fledged patenting of life forms. Indeed, in this case the rest of the law does not rule out the patenting of plants or animals.

The time frame of the monopoly is 20 years for crop varieties and 25 years for trees and vines. In effect, for 20-25 years the protected variety becomes the property of the breeder, and nobody can plant or otherwise use this variety without compensating the breeder. This means that Iraqi farmers can neither freely legally plant nor save for replanting seeds of any plant variety registered under the plant variety provisions of the new patent law.<sup>4</sup> This deprives farmers of what they and many others worldwide claim as their inherent right to save and replant seeds.



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## Corporate Control

The new law is presented as being necessary to ensure the supply of good quality seeds in Iraq and to facilitate Iraq's accession to the World Trade Organization (WTO).<sup>5</sup> What it will actually do is facilitate the penetration of Iraqi agriculture by the likes of Monsanto, Syngenta, Bayer, and Dow Chemical—the corporate giants that control seed trade across the globe. Eliminating competition from farmers is a prerequisite for these companies to establish operations in Iraq, a condition that the new law has achieved. Taking over the first step in the food chain is the next corporate move.

The new patent law also explicitly promotes the commercialization of genetically modified (GM) seeds in Iraq. Despite serious resistance from farmers and consumers worldwide, these same companies are pushing GM crops on farmers around the world for their own profit. Contrary to industry assertions, GM seeds do not reduce the use of pesticides. Instead, they pose a threat to the environment and to everyone's health while increasing farmers' dependency on agribusiness. In some countries like India, the "accidental" release of GM crops is deliberately manipulated,<sup>6</sup> since physical segregation of GM crops from GM-free crops is not feasible. Once GM crops are introduced into the agro-ecological cycle, there is no possible recall or cleanup from genetic pollution.<sup>7</sup>

As for the WTO argument, Iraq legally has several options for complying with the organization's rules on intellectual property, but Washington has simply decided that Iraq should not explore them.

## Reconstruction Façade

Iraq is one more arena in a global drive for the adoption of seed patent laws protecting the monopoly rights of multinational corporations at the expense of local farmers. Over the past decade, many countries in the global South have been compelled<sup>8</sup>

to adopt seed patent laws through bilateral treaties.<sup>9</sup> Washington has pushed for UPOV-styled plant protection laws beyond the IPR standards of the WTO in its bilateral trade agreements with countries like Sri Lanka<sup>10</sup> and Cambodia.<sup>11</sup> Post-conflict states have been especially targeted. For instance, as part of its reconstruction package, the United States recently signed a Trade and Investment Framework Agreement with Afghanistan that includes IPR-related issues.<sup>12</sup>

Iraq is a special case, since the adoption of the patent law was not part of negotiations between sovereign countries. Nor did a sovereign legislative body enact the law as reflecting the will of the Iraqi people. Order 81 explicitly states that its provisions are consistent with Iraq's "transition from a non-transparent centrally planned economy to a free market economy characterized by sustainable economic growth through the establishment of a dynamic private sector, and the need to enact institutional and legal reforms to give it

effect." In Iraq, the patent law is just one more component in the comprehensive and radical neoliberal transformation of the occupied country's economy by its occupying powers. This transformation entails not just the adoption of favored laws but also the establishment of institutions that are most conducive to a free market regime.

And Order 81 is just one of 100 orders bequeathed by Bremer. Among the more notable of these laws is the controversial Order 39, which effectively determines the overall legal framework for Iraq's economy by giving foreign investors rights equal to Iraqis in exploiting Iraq's domestic market. Taken together, these 100 laws—which cover virtually all aspects of the economy, including Iraq's trade regime, the mandate of the Central Bank, regulations on trade union activities, etc.—lay the foundation for Washington's broader objective of fashioning a neoliberal economy in Iraq.

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An ardent cheerleader for these “reforms” in Iraq has been the U.S. Agency for International Development, which has been implementing an Agricultural Reconstruction and Development Program for Iraq (ARDI) since October 2003. To implement the ARDI, a one-year, \$5 million contract was granted to the U.S. consulting firm Development Alternatives, Inc.,<sup>13</sup> with Texas A&M University<sup>14</sup> as an active partner. Part of the work has been subcontracted to Sagric International of Australia.<sup>15</sup> In the name of rebuilding the farming sector, ARDI’s goal is to develop agribusiness opportunities and thus provide markets for agricultural products and services from overseas.

So Iraq’s reconstruction is less about rebuilding domestic economies and capacities than about helping corporations approved by the occupying forces to capitalize on market opportunities in that devastated country.<sup>16</sup> The legal framework established by Bremer ensures that although U.S. troops may leave Iraq at some point, U.S. domination of Iraq’s economy is here to stay.

### Food Sovereignty

Food sovereignty is the right of a people to define their own food and agriculture policies, to protect and regulate domestic agricultural production and trade, to decide the way food should be produced, and to determine what should be grown locally and what should be imported. The demand for food sovereignty and the opposition to the patenting of seeds has been central to an intensifying global struggle by small farmers over the past decade. By fundamentally altering the IPR regime, the United States has ensured that Iraq’s agricultural system will remain under occupation indefinitely.

Iraq has the potential to feed itself. But instead of developing this capacity, Washington has chosen to shape the future of Iraq’s food and farming to serve the interests of U.S. corporations. The new IPR regime pays scant respect to Iraqi farmers’ contributions to the development of important crops like wheat, barley, dates, and pulses. Iraqi farmers started saving new plant varieties in the 1970s in the country’s national gene bank in Abu Ghraib outside

Baghdad. It is feared that all these samples have been lost in the long years of conflict. However, the Syria-based affiliate of the Consultative Group on International Agricultural Research (CGIAR)<sup>17</sup>—the International Center for Agricultural Research in Dry Areas (ICARDA)—still stores samples of several Iraqi varieties.

These collections, which are evidence of Iraqi farmers’ knowledge, are supposed to be held in trust by the CGIAR center. Representing the agricultural heritage of Iraq, these samples belong to Iraqi farmers and ought now to be repatriated, especially since there have been situations where germ plasm held by an international agricultural research center has been “leaked out” for research and development to Northern scientists.<sup>18</sup> Such biopiracy is fueled by an IPR regime that ignores prior farming traditions and grants rights to foreign corporate breeders who claim to have created something new from the material and knowledge of local farmers.

As with political sovereignty, Bremer’s 100 regulations have made food sovereignty nearly impossible for the Iraqi people. Iraq’s freedom and sovereignty will remain questionable for as long as Iraqis do not have control over what they sow, grow, reap, and eat.

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*Focus on the Global South is a Bangkok-based policy research and advocacy center working to expose and oppose the links between corporate-led globalization and war. GRAIN is an international non-governmental organization that promotes the sustainable management and use of agricultural biodiversity based on people’s control over genetic resources and local knowledge.*

### ENDNOTES

- <sup>1</sup> “Patent, Industrial Design, Undisclosed Information, Integrated Circuits and Plant Variety Law of 2004,” CPA Order No. 81, April 26, 2004, at: <[http://www.iraqcoalition.org/regulations/20040426\\_CPAORD\\_81\\_Patents\\_Law.pdf](http://www.iraqcoalition.org/regulations/20040426_CPAORD_81_Patents_Law.pdf)>.
- <sup>2</sup> The plant variety protection provisions will be put into effect as soon as the Iraqi Minister of Agriculture passes the necessary executive orders of implementation in accordance with this law.
- <sup>3</sup> UPOV stands for International Union for the Protection of New Plant Varieties. Headquartered in Geneva, Switzerland,

- it is an intergovernmental organization with 53 members, mostly industrialized countries. The UPOV Convention is a set of standards for the protection of plant varieties, mainly geared toward industrial agriculture and corporate interests. See <<http://www.upov.org/>>.
- 4 Chapter Three, Article 15 B: Farmers shall be prohibited from re-using seeds of protected varieties or any variety mentioned....
- 5 The Iraqi Government currently has an observer status at the WTO.
- 6 See: <<http://www.grain.org/research/contamination.cfm?agenda>>.
- 7 GRAIN, "Confronting Contamination: 5 Reasons to Reject Co-Existence," *Seedling*, April 2004, p 1, at: <<http://www.grain.org/seedling/?id=280>>.
- 8 GRAIN, "PVP in the South: Caving in to UPOV," at: <<http://www.grain.org/rights/tripsreview.cfm?id=64>>.
- 9 GRAIN, "Bilateral Agreements Imposing TRIPS-Plus Intellectual Property Rights on Biodiversity in Developing Countries," at: <<http://www.grain.org/rights/tripsplus.cfm?id=68>>.
- 10 See: <<http://www.grain.org/brl/?typeid=15>>.
- 11 See: <[http://www.bilaterals.org/article.php3?id\\_article=387](http://www.bilaterals.org/article.php3?id_article=387)>.
- 12 See: <[http://www.ustr.gov/Document\\_Library/Press\\_Releases/2004/September/United\\_States\\_Afghanistan\\_Sign\\_Trade\\_Investment\\_Framework\\_Agreement.html](http://www.ustr.gov/Document_Library/Press_Releases/2004/September/United_States_Afghanistan_Sign_Trade_Investment_Framework_Agreement.html)>.
- 13 See: <<http://www.dai.com/>>.
- 14 Texas A&M's agriculture program "is a recognized world leader in using biotechnology..." and the university works closely with the USDA Agriculture Research Service.
- 15 See: <<http://www.sagric.com.au/>>.
- 16 See: <[http://www.export.gov/iraq/market\\_ops/index.html](http://www.export.gov/iraq/market_ops/index.html)>.
- 17 The Consultative Group on International Agricultural Research (CGIAR) system, with its 16 International Agricultural Research Centers of which ICARDA is one, holds the world's largest collections of plant genetic resources outside their natural habitat, storing both farmers' varieties and improved varieties.
- 18 In 2001 it was discovered that a U.S. plant geneticist had obtained seeds from the original strain of the famed Thai Jasmine rice, Khao Dok Mali 105, from the Philippines-based CGIAR center—the International Rice Research Institute (IRRI). No Material Transfer Agreement was signed in this instance, despite international obligations on IRRI to enforce this requirement.

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