

## How the Occupation of Iraq Continues

By Antonia Juhasz | July 2004

The U.S. occupation of Iraq officially ended on June 28, 2004, in a secret ceremony in Baghdad. Officially, “full sovereignty” was handed from the Americans to the Iraqi Interim Government. But it was clear from the start that this was sovereignty in name, not in deed. First, there is the continued military occupation: 138,000 U.S. soldiers and Marines, plus 20,000 troops from other countries and an estimated 20,000 contractors, all fully under U.S. control and immune to Iraqi laws. Equally debilitating, however significantly less well reported upon, is the continued political and economic occupation by the Bush administration and its corporate allies.

The most important tools being used by the Bush administration to maintain varying degrees of economic and political control in Iraq are the 100 Orders enacted by L. Paul Bremer, III, head of the now defunct Coalition Provisional Authority (CPA) before his departure. It was thought that the “end” of the occupation would also mean the end of the Orders. Instead, in his final Order enacted on his last day in the country, Bremer simply transferred authority for the Orders over to the new Prime Minister, Iyad Allawi. For his part, Allawi—a thirty-year exile of Iraq with close ties to both the CIA and British Intelligence Services—is considered America’s new man in charge of Iraq.

Bremer also ensured the implementation of the Orders by stacking every Ministry with U.S.-appointed authorities with five-year terms—well into the period of the new, elected government, which is to take office by the end of this year.

The Orders are exercised pursuant to the Iraqi interim constitution, the Transitional Administration Law (TAL). The Annex to the TAL states that the Orders can only be overturned with the approval of the president, the two vice presidents and a majority of the ministers.

But the Annex also denies the interim government from taking “any actions affecting Iraq’s destiny” beyond the election of an Iraqi government. The identical sentence appears in UN Security Council

Resolution 1546, which outlines Iraq’s transition to “sovereignty.” Thus, while Allawi may succeed in overturning a few less far-reaching Orders if for no other reason than to demonstrate his independence from the Americans, it is beyond his authority to change any fundamental laws.

And, as Bremer said about the Orders, “You set up these things and they begin to develop a certain life and momentum on their own—and it’s harder to reverse course.”

It is difficult to over-state how far-reaching the Orders are. As described in Order #39 on Foreign Investment, the Orders are intended to do no less than “transition [Iraq] from a ... centrally planned economy to a market economy.” This goal is explained in greater detail by BearingPoint, Inc., the Virginia based corporation that received the \$250 million contract to facilitate this transition. The contract states:

“It should be clearly understood that the efforts undertaken will be designed to establish the basic legal framework for a functioning market economy; taking appropriate advantage of the unique opportunity for rapid progress in this area presented by the current configuration of political circumstances... Reforms are envisioned in the areas of fiscal reform, financial sector reform, trade, legal and regulatory, and privatization.”



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## The (New and Improved) Bremer Orders

A sampling of the most important Orders demonstrates the economic imprint left behind by Bremer:

Order #39 allows for the following: (1) privatization of Iraq's 200 state-owned enterprises; (2) 100% foreign ownership of Iraqi businesses; (3) "national treatment" of foreign firms; (4) unrestricted, tax-free remittance of all profits and other funds; and (5) 40-year ownership licenses. Thus, it allows the U.S. corporations operating in Iraq to own every business, do all of the work, and send all of their money home. Nothing needs to be reinvested locally to service the Iraqi economy, no Iraqi need be hired, no public services need be guaranteed, and workers' rights can easily be ignored. And corporations can take out their investments at any time.

Order #40 turns the banking sector from a state-run to a market-driven system overnight by allowing foreign banks to enter the Iraqi market and to purchase up to 50% of Iraqi banks.

Order #49 drops the tax rate on corporations from a high of 40% to a flat rate of 15%. The income tax rate is also capped at 15%.

Order #12 enacted on June 7, 2003 and renewed on February 24, 2004, suspends "all tariffs, customs duties, import taxes, licensing fees and similar surcharges for goods entering or leaving Iraq, and all other trade restrictions that may apply to such goods." This led to an immediate and dramatic inflow of cheap consumer products, which has essentially wiped out all local providers of the same products. This could have significant long-term implications for domestic production as well.

Order #17 grants foreign contractors, including private security firms, full immunity from Iraq's laws. Even if they do injure a third party by killing someone or causing environmental damage such as dumping toxic chemicals or poisoning drinking water, the injured third party can not turn to the Iraqi legal system, rather, the charges must be brought to U.S. courts under U.S. laws.

Order #77 established the Board of Supreme Audit and named its president and his two deputies. The

Board oversees inspectors in every Ministry with wide-ranging authority to review government contracts, audit classified programs, and prescribe regulations and procedures.

Order #57 created and appointed an inspector within every Iraqi Ministry with five-year terms who can perform audits, write policies, and have full access to all offices, materials, and employees of the Ministries.

Then there are the approximately 200 mostly U.S. and other international advisers who will remain embedded as consultants in every Iraqi Ministry well after the official occupation has ended.

Clearly, the Bremer Orders fundamentally altered Iraq's existing laws. For this reason, the Bremer Orders are also illegal. Transformation of an occupied country's laws violates the Hague regulations of 1907 (the companion to the 1949 Geneva conventions, both ratified by the United States), and the U.S. Army's Law of Land Warfare. Indeed, in a leaked memo, British attorney general, Lord Goldsmith, warned Tony Blair that "the imposition of major structural economic reforms would not be authorized by international law."

### Following the Money

The U.S. will also exert significant control over Iraq by holding the strings to the largest purse in the country for the foreseeable future.

In June 2004, the U.S. General Accounting Office reported that the CPA had spent virtually all of Iraq's money but relatively little of its own since the end of "active engagement."

There are two primary pots of money earmarked for Iraq's reconstruction. The largest is the approximately \$24 billion of U.S. taxpayer money appropriated by Congress last year. The second is known as the Development Fund for Iraq (DFI) worth about \$18 billion. This is primarily money from Iraq's oil revenues and was controlled by the CPA until authority for the fund was handed over to the new Interim Government on June 28.

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While the CPA controlled the DFI, it spent approximately \$13 billion from the fund. On the other hand, it only spent about \$8.2 billion of the U.S. appropriation. Thus, the DFI is almost out of money, while the U.S. appropriation has hardly been touched. Control of this money now shifts to John Negroponte, the new U.S. Ambassador to Iraq. In addition to the largest pot of money in Iraq, Negroponte will exercise control over one of the largest embassies in the entire world with some 1,500 employees with offices throughout Iraq.

### Pay for the Reconstruction

Reconstruction is the one thing that the U.S. is obligated under international law to do in Iraq. U.S. taxpayers have pledged billions of dollars toward this effort. However, the *New York Times* reported on June 30, 2004, that fewer than 140 of 2,300 promised construction projects are even under way in Iraq and there have been widespread reports about waste, fraud, and abuse in the projects that have started.

Supplies of electricity and water are no better for most Iraqis, and in some cases are far worse than they were before the invasion. In fact, UN special envoy Brahimi said upon leaving Iraq that after security, the lack of reliable electricity is the number one problem facing Iraq today. Drinking water throughout the country is in a crisis state, with some villages having no access to water while larger cities receive water approximately 50% of the time—leading to vast outbreaks of cholera, diarrhea, nausea, kidney stones, and death. Destroyed bridges continue to create monstrous bottlenecks in many parts of the country. Iraq's horribly overburdened hospitals need electricity, water, and sewage to function. Hospitals also need the medicines and medical supplies that are in woefully inadequate supply.

With few reconstruction projects underway, and with Bremer's rules favoring U.S. corporations, there has been little opportunity for Iraqis to go back to work, leaving nearly two million unemployed one and a half years after the invasion. Attempts by the Bush administration to reverse this have been minimal, at best. Only three months after Bremer pledged that 50,000 Iraqis would find jobs at construction

sites before the formal transfer of sovereignty, fewer than 20,000 local workers are employed.

Compounding these problems is the ongoing security situation, which has slowed reconstruction and vastly increased the costs. Even Iraqis who may have initially welcomed the ouster of Hussein have become enemies of an occupation that increasingly reveals its true objectives: U.S. political and economic exploitation and dominance. This is one reason why U.S. contractors report that as much as one out of every three reconstruction dollars is going toward security costs rather than rebuilding.

### End the Occupation

The Bremer Orders are both immoral and illegal and must be repealed to allow Iraqis to govern their own economic and political future. Given the Bush administration's failure to quickly, fairly, or transparently allocate U.S. reconstruction funds, and the complete lack of oversight of the CPA's depletion of nearly all of the DFI, the remainder of U.S. reconstruction funds should be turned over to full UN authority until free and democratic elections are held in Iraq, at which time the money should be turned over to the Iraqis themselves.

Reconstruction of Iraq should be based on rebuilding the economy to maximize fulfilling the long-term needs of Iraqis. All contract processes should be completely transparent and accessible to Iraqis. The awarding of contracts should be done with preference given first to Iraqi companies, experts, and workers. If no Iraqi company is capable of performing necessary work, preference should be given to international humanitarian organizations. If non-Iraqi companies are necessary, contracts must be open to global competition and profit margins held as low as possible by using fixed fees. Oversight must be immediate, independent, transparent, and thorough.

The U.S. needs to extricate itself from Iraq in every way other than the provision of money to pay for the reconstruction—done by and for Iraqis—and to pay for a truly multinational (non-U.S.) peacekeeping force to bring the stability required both for reconstruction and for truly free and democratic elections. The occupation must end.

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Note: A longer and more detailed version of this article will appear in the upcoming issue of Left Turn magazine.

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*Antonia Juhasz is a Project Director at the International Forum on Globalization (www.ifg.org) and a Foreign Policy In Focus (www.fpif.org) scholar. She is a Project Censored Award recipient and co-author of Alternatives to Economic Globalization: A Better World is Possible, 2nd Ed. Her articles have appeared in publications such as The New York Times, The Cambridge University Review of International Relations Journal, and the Johannesburg Star.*

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