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Neotrusteeship in Iraq

by Tim Melvin

The CPA shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration, to restore conditions of security and stability, to create conditions in which the Iraqi people can freely determine their own political future, including by advancing efforts to restore and establish national and local institutions for representative governance and facilitating economic recovery and sustainable reconstruction and development (Coalition Provisional Authority).

This section deals with literature that examines the role and effectiveness of the Coalition Provisional Authority (CPA) in administering Iraq from 2003 till 2004. Foreign rule plays an important role in developing failed state's infrastructure and institutions. By examining critical elements of the CPA's administration, this section focuses on the overall success and failures of the CPA administrative capacity, and what this means for the future of Iraq's new government. Since the cessation of the CPA, the Iraqi government has had its ups and downs and is still heavily reliant on the American presence. But some positive elements have been emerging. Broad coalitions have been forming, Iraq has its first Kurdish president, and proper elections took place safely and almost problem free. Security remains to be the major source of contention, including developing an Iraqi security force with the capacity to protect its citizens and its people.

The literature in each of these sections asks some important questions about the legacy of the CPA and what impact, if any, it had on consolidating and constructing the necessary institutions for building a stable, secure, and democratic Iraq. The section has been separated into the key responsibilities laid forth by the CPA in their "Regulations," as shown above. All of the articles in the following sections focus on events that developed during the CPA's administration, and are crucial to designing an Iraq that promotes and protects human rights. This section is separated into four sections:

Constitution Making and Design

Andrew Arato. 2004. "Sistani v. Bush: Constitutional Politics in Iraq." *Constellations: An International Journal of Critical & Democratic Theory*. 11(2): 174.

Abstract: This article sees the innovation of contemporary constitution-making in two-stage processes reconciling the claims of democratic electoral legitimacy with consensual agreements grounding both interim rules and fundamental rights. In the debate between U.S. authorities in Iraq seeking to impose a liberal constitution and the followers of Ayatollah al-Sistani, who insist on a purely democratic beginning of democracy, he proposes the Central European and South African Round Table formula as a way of providing a legitimate transitional compromise. It is also possible, if unlikely, that Sistani could accept a moderate expansion of the Governing Council (GC) plus the rest of the original scenario if the United Nations strongly recommends it. At the same time, the GC could be radically expanded as to include all major social actors and stakeholders, a formula very close to the Round Table structure advocated here, with the present GC in effect becoming one player among many. While to gain new legitimacy it would be better to break with the GC appellation in any version, it is possible

that the survival of the name would allow the Coalition Provisional Authority to accept what would be a new formula in substance.

Jamal Benomar. 2004. "Constitution-Making After Conflict: Lessons for Iraq." *Journal of Democracy*. 15(2): 81.

Abstract: Argues that a thorough, deliberate and consultative constitution-making process, which takes account of key lessons learned in other countries, will be essential to the legitimacy of an Iraqi constitution and to the future of democracy. Keeping peace talks and constitutional deliberations separate; Addressing security issues that inhibit consensus-making and transparency; Involving as many key stakeholders as possible in drafting the constitution.

Dawn Brancati. 2004. "Can Federalism Stabilize Iraq?" *Washington Quarterly*. 27(2): 7.

Abstract: Reports on the establishment of federalism in Iraq to prevent ethnic conflict and secessionism. Demand for independence in the country; Utilization of institutionalized measures to prevent identity-based and regional parties from dominating the Iraqi government; Role of the U.S. in advising Iraqi leaders to adopt a federal system of government.

David Chandler. 2004. "The Problems of 'Nation-Building': Imposing Bureaucratic 'Rule from Above!'" *Cambridge Review of International Affairs*. 17(3): 577.

Abstract: With the problems of stabilising Iraq continuing under the 'fully sovereign' Iraqi interim government, which formally replaced the United-States-led transitional administrative authority on 28 June 2004, many critics have argued that the United Nations (U.N.) should play a much larger role in the transition process. This article suggests that while imposing an alternative set of external administrative 'advisers' might be popular with European powers, it is unlikely that greater U.N. involvement would make much difference to the people of Iraq. Using the example of the international protectorate of Bosnia, which is also a 'fully sovereign' state, where the U.N. plays a fully engaged role, it is clear that external enforcement can provide little legitimacy for Iraqi institutions. This article challenges the idea that the 'rule of law' can be imposed from outside by focusing on two areas of legal activism in Bosnia: constitutional change and property return. It suggests that the 'rule of law' approach sees legal or administrative solutions as a short cut to addressing political problems, fetishising the legal framework at the same time as marginalising the political sphere. Rather than more coercive external involvement in the form of pressures for more legislation and better law enforcement, the experience of Bosnia highlights the need for greater levels of political legitimacy, a need that runs counter to the logic of the 'rule of law' approach.

Contracts in Iraq

2004. "AMEC restores Iraqi water works." *Pump Industry Analyst*. 2004(5): 4.

International project management and services company AMEC has won two further major contracts in Iraq worth up to U.S. \$1.1 billion.

2003. "Efforts made to boost Iraqi water capacity." *Pump Industry Analyst*. 2003(8): 4.

USAID, with Bechtel as the lead contractor, is working with the Iraqi water authority to increase water capacity in eastern Baghdad from 153 million gallons per day to 206 million gallons per

day. This is a short news story only. Visit www.worldpumps.com for the latest pump industry news.

2004. "Fluor awarded U.S. \$154 MN in Iraqi power projects." *Pump Industry Analyst*. 2004(3): 3.

Fluor Corp has secured three separate task orders worth U.S. \$154 million from the U.S. Army Corps of Engineers for electrical power restoration work in Iraq.

2004. "FluorAMEC JV to help restore Iraqi water sector." *Pump Industry Analyst*. 2004(4): 4.

The FluorAMEC LLC joint venture has been awarded two contracts by the U.S. Department of Defense to reconstruct Iraq's public works and water sector infrastructure, with ceilings of U.S. \$600 million and U.S. \$500 million, respectively.

2004. "Salem Chalabi: Judging Saddam." *Middle East Quarterly*. 11(4): 1.

Interviews Salem Chalabi, appointed head of the Iraq Special Tribunal which will try former Iraqi president Saddam Hussein and his top aides. Reliability of the Iraqi judiciary in handling the trial of Hussein; Approach of the tribunal on issues of neutrality in Hussein's case; Role of the United Nations and the U.S. in the tribunal.

2003. "U.S. opens Iraqi oil contracts to tender." *Pump Industry Analyst*. 2003(7): 4.

The U.S. Army Corps of Engineers is soliciting bids for two indefinite delivery indefinite quantity (IDIQ) contracts for possible future work on Iraq's oil infrastructure. This is a short news story only. Visit www.worldpumps.com for the latest pump industry news.

Democratic Consolidation

Andrew Arato. 2004. "Sistani v. Bush: Constitutional Politics in Iraq." *Constellations: An International Journal of Critical & Democratic Theory*. 11(2): 174.

Abstract: This article sees the innovation of contemporary constitution-making in two-stage processes reconciling the claims of democratic electoral legitimacy with consensual agreements grounding both interim rules and fundamental rights. In the debate between U.S. authorities in Iraq seeking to impose a liberal constitution and the followers of Ayatollah al-Sistani, who insist on a purely democratic beginning of democracy, he proposes the Central European and South African Round Table formula as a way of providing a legitimate transitional compromise. It is also possible, if unlikely, that Sistani could accept a moderate expansion of the Governing Council (GC) plus the rest of the original scenario if the United Nations strongly recommends it. At the same time, the GC could be radically expanded as to include all major social actors and stakeholders, a formula very close to the Round Table structure advocated here, with the present GC in effect becoming one player among many. While to gain new legitimacy it would be better to break with the GC appellation in any version, it is possible that the survival of the name would allow the Coalition Provisional Authority to accept what would be a new formula in substance.

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Human Rights and Related Issues

2004. "Dealing with Saddam." *Multinational Monitor*. 25(10): 4.

Abstract: Focuses on the United Nations-operated oil-for-food program in Iraq. Corporations that purchased oil from the country under the program; Legality of the oil-purchasing activities of companies that are participating in the program; Identification of the companies that did business within the regime of former Iraqi president Saddam Hussein.

2003. "Mass Graves in Iraq: Uncovering Atrocities." *Human Rights Review*. 4(4): 42.

Abstract: Discusses the discovery of mass graves in Iraq, as of July 2003. Implications of the graves for the extent of atrocities perpetrated by the regime of former Iraqi leader Saddam Hussein; Phases of a program implemented by the Coalition Provisional Authority to identify the remains in the graves and collect evidence of past atrocities for future prosecutions; Training provided to mitigate damage to sites overrun by an emotional population.

Haroon Ashraf. 2003. "Iraq's refugees and internally displaced people will face hardship wherever they go." *Lancet*. 361(9358): 630.

Abstract: Discusses several problems aid agencies working in Iraq and its neighboring countries are facing when considering the issue of Iraq's refugees in the event of a U.S.-led war in Iraq. Problem of how to manage the migration of hundreds of thousands of people during the war; Problem of how to manage the hundreds of thousands of already displaced and repressed Iraqi people and their reaction to a regime change; How the United Nations Office for the Coordination of Humanitarian Affairs has called on the international community to fund preparations for the relief effort; Statement made by the Office of the United Nations High Commissioner for Refugees that most of the 1.45 million refugees created by a war will not be able to get asylum in neighboring countries; How the Jordanian government is dealing with a water shortage in the country and will limit what refugees its country will accept; How the Iraqi people are split into the Sunni, the Shi'ite and the Kurds; Statement that any attack on Iraq may unleash violent reprisals between rival political, ethnic, religious or tribal lines.

Haroon Ashraf. 2003. "The people of Iraq face a grim future with or without a war." *Lancet*. 361(9358): 626.

Abstract: Speculates on the amount of humanitarian assistance required following a U.S.-led war against Iraq. How a United Nations taskforce has estimated that if war breaks out in Iraq at least 7.4 million people will need immediate humanitarian assistance; How this number only represents the people aid workers could reach; Statement that the Iraqi population will need a long-term, comprehensive aid strategy; Military strategy for an attack on Iraq; Claim that the Iraqi government may use chemical and biological weapons if it is threatened; How the destruction of command and control systems of the Iraqi military could destroy power supplies in most parts of the country; Report that about 16 million Iraqi people are wholly dependent on government distributed food from the United Nations' oil-for-food program; How war would affect the distribution of food; Problems the country will face including malnutrition, loss of electricity and fuel, and the destruction of water treatment and sanitation systems.

Haroon Ashraf. 2003. "World Food Programme gears up to help entire Iraq population." *Lancet*. 361(9364): 1189.

Abstract: The U.N. 's World Food Programme (WFP) called on donors to provide U.S. \$1.3 billion to fund food aid programmes for the Iraqi people, at the launch of an appeal in London, UK, on March 31. WFP's request is part of a \$2.2 billion appeal launched on March 28 by the U.N. in New York, which it said was needed to cover all humanitarian assistance for Iraq in the next 6 months. Current estimates suggest that Iraq will run out of food reserves by May. WFP's executive director James Morris expressed confidence at being able to respond to the immense task ahead. For this purpose, Iraq's neighbours have been helpful, and Morris cited WFP's good relations with Syria, which was making its food stocks available.

Jamal Benomar. 2004. "Constitution-Making After Conflict: Lessons for Iraq." *Journal of Democracy*. 15(2): 81.

Abstract: Argues that a thorough, deliberate and consultative constitution-making process, which takes account of key lessons learned in other countries, will be essential to the legitimacy of an Iraqi constitution and to the future of democracy. Keeping peace talks and constitutional deliberations separate; Addressing security issues that inhibit consensus-making and transparency; Involving as many key stakeholders as possible in drafting the constitution.

Boutros Boutros-Ghali. 2004. "U.S. Torture Sets Back Cause of Human Rights in Arab World." *NPQ: New Perspectives Quarterly*. 21(3): 9.

Abstract: There are three results from the revelations of abuse of Iraqi prisoners by American forces in Iraq. First, the image of the U.S. has become very negative, especially in the Arab world. Second, they damage the role of organizations all around the world that deal with the protection of human rights and humanitarian law in the time of war. Third, these photos are a gift to Al Qaeda and to other terrorist groups that will be formed in the future, all over the world. While the revelations have certainly complicated the efforts of those who seek democratization in the Arab world, as the U.S. has been pushing, the author personally believes that one must not exaggerate the negative impact. Historically, the U.S. has done many good things, from its role in World War I and II and the Marshall Plan to giving birth to both the League of Nations and the United Nations.

John R. Crook. 2003. "The U.N. Compensation Commission: What Now?" *International Law FORUM du Droit International*. 5(4): 276.

Abstract: Examines the role of the United Nations Compensation Commission in light of claims for damages directly caused by Iraq's 1990 invasion of Kuwait and ensuing events. Filing of claims by 96 countries and 13 offices of three international organizations acting for Palestinians and other races; Resolution of some claims; Use of a percentage of Iraqi oil revenues to pay claims.

Clare Kapp. 2003. "Plight of Iraqi civilians worsens, according to U.N." *Lancet*. 361(9364): 1190.

Abstract: Fears are growing about the plight of the Iraqi population as it faces increasing water, food, and medicine shortages and the terror of an unpredictable war that blurs the distinction between civilian and combatant. Despite U.S. and UK promises that their advance through Iraq would be followed by a massive relief operation, much-needed humanitarian aid is proving slow to materialise because of security concerns. With most aid workers waiting in frustration along the borders, the U.N. launched its biggest ever relief appeal, for \$2.2 billion over the next 6 months. WHO reported a massive increase in acute respiratory infection and diarrhoea, especially in the displaced population, in Kurdish-controlled northern Iraq. UNICEF's Iraq representative Carel de Rooy said that aside from the physical suffering, an estimated half a million traumatised children in Baghdad and other besieged cities will need psychosocial rehabilitation after the war.

Clare Kapp. 2003. "Relief crisis unfolds as Iraq war progresses." *Lancet*. 361(9363): 1103.

Abstract: Reports that the war in Iraq has forced humanitarian aid agencies to begin a large relief operation in the country. Way that the operation is fraught with political controversy and physical risk; Concerns about the humanitarian crisis in Basra, which is without water and electricity; Lack of a large outflow of refugees and massive internal displacement in the country; Preparations of the World Food Program to assist Iraqis, although it has warned that most of the population would run out of food in less than six weeks; Statement of the World Health Organization that the most urgent priorities inside Iraq include providing treatment and supplies for trauma and injury, preventing the outbreak of communicable diseases, providing fresh drinking water and sanitation, and trying to minimize the discontinuation of treatment for chronic disease.

Clare Kapp. 2003. "WHO fears for health of the Iraqi people." *Lancet*. 361(9363): 1104.

Abstract: Reports on the World Health Organization's (WHO) assessment of health conditions in Iraq, based on the Iraqi Health Ministry and United Nations sources. Life expectancy in the country, as well as the infant mortality rate and mortality rate for young children; High burden of communicable disease among children,

especially lower respiratory infections, diarrheal diseases and measles; Incidence of tuberculosis in Iraq; Increase in the incidence of pertussis and immunization rates in Iraq; Children's health; Cardiovascular diseases and cancer; Nutrition, in light of the 18 million people who lack secure access to food in the country.

Wayne Kondro. 2003. "Humanitarian groups unprepared for Iraq war." *Lancet*. 361(9356): 493.

Abstract: While the world stands poised at the precipice of war on Iraq, roughly 13 million already-vulnerable Iraqi children face grave risk of starvation, disease, death, and psychological trauma a blue-ribbon panel of humanitarian non-governmental organizations says. In the event of war, the likely outcome will be a humanitarian disaster in which casualties among children could reach the hundreds of thousands, a ten-member team of health researchers, psychologists, and children's rights activists warned on Jan 30, 2003. The team published their conclusions in a report entitled 'Our Common Responsibility: The impact of a new war on Iraqi children' after a fact-finding mission to Iraq in January 2003. The report argues that young Iraqis are imperiled because of a weakened health system ensuing from the ongoing deterioration of the nation's social infrastructure, including its health care, water, sanitation, and food supply systems. The team concludes that the fallout from the 1991 Gulf War, along with 12 years of economic sanctions imposed on Iraq for failing to comply with the United Nations Security Council resolution mandating the elimination of nuclear, biological, and chemical weapons programmes, have combined to leave most Iraqi children living in conditions of destitute poverty.

Julie Mertus and Maia Carter Hallward. 2005. "The Human Rights Dimensions of War in Iraq: Framework for Peace Studies." *Peace & Change*. 30(1): 85.

Abstract: This article considers the advantage of the adoption of a human rights framework in analysis of issues of pressing concern to peace studies, such as the use of force, the imposition of sanctions, and general neglect of nonviolent alternative responses to state violence. Although the invocation of a human rights framework may not provide definitive answers on the appropriate responses, the framework can provide a vocabulary and space within which possible solutions may be considered. Using a case study of Iraq, this article demonstrates how the human rights framework may be applied to identify abuses and to inform policy options. Had a human rights framework been employed prior to the U.S. bombing of Iraq in 2000, the authors urge, alternatives to violence would have been exposed and the legality and legitimacy of the attacks called into question. Furthermore, the authors conclude, a human rights framework exposes the illegality of the treatment of Iraqi prisoners by U.S. military and intelligence officers.