

# Iraq's illegitimate interim constitution

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On March 8, the 25 members of the Iraqi Governing Council (IGC), or their representatives, gathered in Baghdad to sign a 62-article “Law of Administration,” or interim constitution, defining the “fundamental rights” of the Iraqi people and outlining the steps by which control of the country will ostensibly devolve from the US to an elected Iraqi government.

The event was conceived as a propaganda coup for the White House, conjuring up images of the benevolent liberator bringing democratic rights to a long-suffering people; of grateful Iraqi leaders working in common purpose with the US; of a war given a much-needed justification; and, above all, of an “exit strategy” from Iraq for President Bush to sell to the American people in the lead-up to the presidential election.

Instead, the stark contrast between the imagery and the reality confronting the Iraqi people gave the signing ceremony an element of both tragedy and farce.

The IGC is an unelected body, mainly composed of people who, in one form or another, collaborated with the illegal US invasion and occupation of Iraq in the hope of gaining power and privilege. The body has no credibility among the Iraqi people. As even American generals have commented, the IGC would not survive if the US troops left.

According to one report in the *Los Angeles Times*, the interim constitution was largely copied from notes written by Paul Bremer, the head of the occupation Coalition Provisional Authority (CPA), and simply presented for endorsement.

Without political, moral or legal legitimacy, the only authority behind the “Law of Administration” is the force of 150,000 US and foreign troops occupying Iraq. Under such conditions, the document’s guarantees of civil liberties are not worth the paper they are printed on.

Every day, the most basic democratic rights of the Iraqi population are being violated by US troops. Homes are smashed into and people dragged away on suspicion of taking part in the legitimate resistance to the occupation. Streets are cordoned off and roads are blocked. Whole areas of the country are under curfew and off-limits. Press censorship is in place, strikes have been declared illegal and demonstrations are regularly fired upon.

The Iraqi journalist Mustafa Alrawi poignantly observed in Wednesday’s *Lebanese Daily Star*: “Baghdad has become an Orwellian nightmare, replete with concrete barriers, checkpoints and searches.”

According to the March 7 *New York Times*, the US military admits to holding at least 10,000 Iraqis in American-operated prison camps, without charges or access to lawyers. Some detainees are as young as 11-years-old. The male population of entire villages has been hauled away on suspicion of supporting “anti-coalition activities”.

While no one involved in the signing ceremony cared to raise the

issue, the unstated understanding was that the US military will continue this war of repression in Iraq indefinitely. The objective of the past 13 years of US aggression against Iraq has not been concern for democracy or human rights, but to replace the regime of Saddam Hussein with one amenable to long-term US control over Iraq’s energy resources and territory. Having seized the country, US imperialism does not intend to allow it to fall into other hands.

Article 59(B) of the interim constitution dictates that the US will keep its military forces in Iraq during the election for the transitional government at the end of this year, a referendum on a permanent constitution in October 2005 and, finally, the election of the first official government in December 2005. Until the end of this process, the Iraqi Armed Forces remain under the “unified command” of the occupation forces to “help maintain peace and security and fight terrorism”.

Iraqis will thus elect a government under the guns of both an American garrison and Iraqi security forces recruited, trained and commanded by them. The numerous Iraqi individuals and organisations that have called for or participated in the active resistance to the occupation—reflecting the sentiment of the majority of the Iraqi population—will be proscribed from participating.

The Bush administration expects this process will create the framework to achieve all of the principal US war aims. An Iraqi government beholden to US interests will be installed in power to sign off on the sale of Iraq’s oil industry and other major assets to American corporations and “invite” the US military to maintain permanent bases in the country. The little-mentioned Article 59(C) authorises the unelected transitional government to negotiate “internationally binding agreements” that would sanction the indefinite presence of foreign forces in Iraq.

The events leading up to the March 8 signing, however, demonstrate that the conceptions in the White House—shared by most of the US political and media establishment—are sheer self-delusion.

Instead of the desired picture of democratic consensus and progress, the IGC deliberations to accept the document became the venue for rival groupings of the Iraqi elite to express their animosities and concerns over the nature of the state being created by the US. Its openly neo-colonial character has created a degree of anxiety among these handpicked US stooges.

The most revealing reservations have come from an unexpected source—IGC member Ahmad Chalabi, head of the US-supported Iraqi National Congress (INC). In an interview with US National Public Radio on Tuesday, Chalabi repeatedly stressed that the document he had signed could not be sold to the Iraqi people as a valid constitution because the IGC was unelected.

“This is problematic,” he declared. “If this is not palatable to major parts of the population, the coming national assembly could reject it... the sovereign state of Iraq and the sovereign national assembly could

say this was drafted under occupation and we don't like it. What we need to do is get maximum support for it now and we must make clear to the people what we are doing."

The fact that someone like Chalabi openly questions the viability of the US plans is perhaps the clearest testimony to the fragile state of Iraq and the depth of opposition to the occupation. More than anyone else on the IGC, Chalabi is an American puppet. From a wealthy, pro-monarchist Shia family that fled Iraq in 1958, both he and his organisation openly staked their quest for power in Iraq on an American invasion.

Throughout 2002, the INC played a pivotal role in providing false reports to the Bush administration to feed the lies that Iraq still possessed "weapons of mass destruction". His value to the White House was underscored by Thursday's revelations that the INC is still receiving payments of \$340,000 per month from the Pentagon for "intelligence collection".

Not even a puppet, however, commits political suicide without some reluctance. It is one thing for the Bush administration and media to tell the American people that Iraqis are generally supportive of the occupation. Chalabi and figures like him are the ones whom the US is going to parade before the Iraqi people as their government in just a matter of months. His comments make clear he does not believe that the authority of a "sovereign" Iraqi government born in an American-conceived and imposed process is going to be accepted.

The signing of the interim constitution had to be delayed on two occasions due to the public refusal of Shiite IGC members, including Chalabi, to commit to the document. The objections focused on specific articles or clauses. At a more fundamental level, though, the hesitation reflected trepidation within the IGC that the stage was being set for a volcanic eruption of the Iraqi people.

Contrary to the US propaganda about "liberating" Iraq, all Iraqi political figures are acutely aware that broad antagonism exists toward the impact of US policies stretching back to the first Gulf War. The daily guerilla attacks on American troops and the Iraqi security forces working for them are only the most obvious manifestation of the hostility to the occupation. Of far greater long-term significance is the steadily growing fury over the social catastrophe the US has inflicted.

Over 12 million people are unemployed in a country of 24 million. While tens of millions of dollars are being spent by the CPA to repair Iraq's lucrative oil industry and recruit new police, much of the country remains without reliable electricity supplies, clean water, functioning education and health services and the confidence to walk the streets safely. While Iraqis have no longing for the former regime of Saddam Hussein, they instinctively and legitimately blame the US for this state of affairs.

At present, popular anger is being diverted largely in the retrograde direction of sectarian and communalist demands. The Shiite clergy and Kurdish elite in particular are trying to exploit the disaffection to pressure the US to give them greater power within a future state.

The first walkout by Shiite IGC members, for example, was over the refusal of others to accept Shiite Grand Ayatollah Ali al-Sistani's call for an explicit declaration that Islamic *sharia* law was "the source" of the country's legal code. After a weekend of reportedly frenzied bartering and argument, the final version was modified to stipulate that laws cannot be enacted that contradict Islam's "universally agreed tenets". This is being interpreted as giving the Shia clergy a potential veto over legislation.

Then came the boycott of the March 5 signing ceremony by five Shiites after Sistani insisted on another last minute change. He

objected to a clause that the scheduled October 2005 referendum for a permanent constitution would fail if two-thirds of voters in just three of Iraq's 18 provinces reject it.

Shiites make up some 60 percent of Iraq's population. If they could be mobilised on a sectarian basis, Shia parties, including ones wanting an Iranian-style theocracy, could hold a majority in future parliaments. The referendum clause therefore limits Shiite ambitions. It means that three provinces in the Kurdish north or the predominantly Sunni region of central Iraq could block any final constitution drafted by a Shiite-dominated national assembly. More generally, the federalist character of constitution entrenches Kurdish autonomous control in the north and weakens the powers of a central government the Shiites expect to dominate.

It is not known what means were employed to change the minds of the dissident Shiite councillors, but the federalist concessions to the Kurds remained unchanged. Signalling the disappointment of the Shia clergy at the interim constitution, Sistani issued a religious ruling, or *fatwa*, on Monday declaring: "This law places obstacles in the path of reaching a permanent constitution for the country that maintains its unity, the rights of its sons of all sects and ethnic backgrounds..."

The Kurdish parties are also bitter at the result. After 1991, they assisted the US in its aggression against Baghdad in the hope of gaining control over northern Iraq, the city of Kirkuk and, above all, its rich surrounding oilfields. While they received limited autonomy in the north, they were denied Kirkuk and a monopoly on oil revenues. At one point in February, Kurdish IGC member Mahmoud Othman angrily told the *New York Times*: "If I try to go back to my people and sell these things to them, they will choke me. Let Bremer tell them."

The prospect now exists for a sharpening of the divisions, with the various factions challenging the authority of the interim constitution, and any government deriving from it, and seeking better terms. Sistani's *fatwa* concluded with the ominous warning: "Any law drafted for the transitional period will lack legitimacy unless it is ratified by an elected national assembly."

None of these sectarian and ethnic movements can offer any progressive and democratic solution to the issues that confront the Iraqi masses. As in the Balkans, the logic of communalism leads to fratricidal conflict that would have horrific consequences for working people inside Iraq and the broader Middle East.

The crucial question is the development of a genuine socialist movement in Iraq and the Middle East based on the struggle for social equality and the international unity of the working class. Only such a movement will be capable of unifying the masses of all backgrounds against the US occupation, the illegitimate government it is installing and the various communalist agitators.



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