

Washington renews war crimes immunity in “sovereign” Iraq

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With just a week to go before the supposed “transfer of power” in Iraq, Washington has decided to unilaterally renew a decree granting its troops, as well as private American contractors, complete immunity from prosecution under Iraqi law.

The measure allows the US military as well as hired mercenaries to commit war crimes with impunity, including the killing of civilians, the destruction of homes and property, and the extra-legal detention and torture of prisoners.

The move epitomizes the arrogance and criminality of the Bush administration, which declares, in one breath, that it is granting “full sovereignty” to occupied Iraq, and in the next imposes conditions that deprive the “sovereign” government of the most essential prerequisites of sovereignty.

In reporting the decision, the *Washington Post* cited US officials who argued that the action was necessary “to prevent the new Iraqi government from having to grant a blanket waiver as one of its first acts, which would undermine its credibility just as it assumes power.” The *Post* added, however, that these same officials feared the unilateral action “could also create the impression that the United States is not turning over full sovereignty.”

That Washington is choosing between these two alternatives—however unpalatable it may find them—constitutes the clearest proof that the so-called “end of the occupation” is a fraud and the new “sovereign” government a powerless puppet regime.

It is not an Iraqi entity, legitimate or not, that is going to grant US forces immunity, but rather Washington’s colonial proconsul. Coalition Provisional Authority (CPA) chief Paul Bremer is to renew Order 17, which the CPA promulgated a year ago. That order, placing all US military and civilian personnel beyond the reach

of Iraq law, was written to apply only “during the period of authority of the CPA,” which is formally set to expire on June 30.

Originally, Washington planned to install Iraq’s so-called interim government, which would then announce a series of measures dictated by the US, including a status of force agreement granting unlimited power to American occupation forces and treaties guaranteeing effective US control over Iraq’s oil resources. This plan has become politically unviable, however, in the face of growing opposition to the US presence and a declaration by Iraq’s powerful Shiite cleric Ayatollah Ali Sistani that an unelected Iraqi regime has no right to negotiate any treaties whatsoever.

Sistani has likewise called into question the legitimacy of the Transitional Administrative Law dictated by Bremer to the now-disbanded Iraqi Governing Council. Washington has insisted that the new interim government has no power to amend this legal code, which includes far-reaching provisions allowing for the privatization and foreign corporate takeover of Iraq’s economy.

The reimposition of a blanket immunity for the 138,000 US troops and the thousands of security contractors in Iraq constitutes a warning that even greater atrocities are to come in a counterinsurgency campaign that has already claimed the lives of thousands of civilians. At the same time, revelations of the torture and killing of prisoners at the Abu Ghraib prison and other US-run detention facilities in Iraq have given Washington grounds for concern that its personnel could face criminal prosecution under Iraqi statutes.

Private contractors covered by the blanket immunity will also not be prosecuted under US military law. They will, in effect, be granted a green light to commit

crimes in Iraq with total impunity. Recently, when one of the contractors assigned to interrogations at the Abu Ghraib prison was charged with raping a teenage boy incarcerated there, the US occupation authority took the position that no legal action could be taken against him and referred the matter to his employer.

The Bush administration announced its intention of renewing the immunity decree in Iraq after it failed to force through the United Nations Security Council a resolution renewing a blanket immunity from war crimes prosecution by the International Criminal Court (ICC) that the Security Council had previously granted to US military forces participating in UN peacekeeping operations worldwide.

US representatives abandoned the resolution Wednesday after it became clear that they would not win sufficient votes. Anxious to avoid further public discussion associating American operations in Iraq and elsewhere with war crimes, Washington had attempted to push the measure through before the Council could organize a full debate.

With the two-year-old UN exemption due to expire on June 30, the US effort was clearly bound up with the Iraqi “transition” set to take place the same day. Under a Security Council resolution passed June 8, US occupation troops formally become a UN-mandated force, though Washington retains unrestricted command and control over military operations in Iraq.

The possibility that US occupation troops could be prosecuted by the International Criminal Court is, in any event, remote, because neither the US nor Iraq are signatories to the treaty establishing the ICC. Iraq never signed it. Washington did so under the Clinton administration, but the Bush administration took the extraordinary step of renouncing the treaty, claiming that the body could be used to carry out “politically motivated” trials of US troops or government officials for war crimes.

US diplomats had initially sought a one-year extension of the UN exemption with the prospect of renewing it indefinitely every year thereafter. Faced with opposition, they adopted a fallback position of seeking only a single one-year renewal, arguing that Washington needed more time to negotiate bilateral treaties committing individual governments to agree never to charge US personnel before the ICC.

The Bush administration has succeeded in either

bullying or bribing 90 countries into signing these so-called “no surrender” agreements. They include Afghanistan, which is a signatory to the ICC treaty, where some 11,000 US troops are deployed.

Opposition to renewing the US exemption stiffened after UN Secretary General Kofi Annan issued a strongly worded statement warning that approval of the US-sponsored resolution would discredit the Security Council and undermine the international “rule of law.” The debased character of the Security Council and its lack of serious commitment to international law, however, have already been thoroughly exposed, most recently with its unanimous approval of the June 8 resolution sanctioning the illegal US occupation of Iraq and supporting the colonial-style war that Washington is waging against the Iraqi people.

The cynical character of that resolution, which claimed to guarantee Iraqi “sovereignty” and a “full partnership” between the Iraqi puppet regime and the US military command in approving counterinsurgency operations, was spelled out even more clearly over the past week.

Iyad Allawi, the longtime asset of the CIA who is to be installed as Iraqi prime minister June 30, threatened Monday that the new government would impose martial law in an attempt to suppress the growing resistance to occupation. According to the *Financial Times* of London, the remark earned Allawi a swift rebuke from his handlers in the US occupation authority. They informed him, the paper reported, that “only the US-led coalition has the right to adopt emergency powers after the June 30 handover of sovereignty.”

A day after posing as Baghdad’s new strongman, Allawi issued a “clarification” to the media. “I didn’t say martial law meaning martial law,” he told reporters on Tuesday.



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