

# “De-Baathification” laws modified by Iraq’s parliament

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With just 143 of its 275 members in attendance, the Iraqi parliament ratified legislation on Saturday that will replace the so-called “de-Baathification laws” imposed by the US occupation in 2003 with a raft of new regulations governing the treatment of former members of Saddam Hussein’s Baath Party apparatus.

The action ostensibly meets one of the main benchmarks that the Bush administration demanded of the Shiite-dominated government of Prime Minister Nouri al-Maliki. The benchmarks were drawn up in Washington with the aim of providing a place in the US client state for the predominantly Sunni Arab ruling elite of the former regime and offering incentives for ending its support for the anti-occupation insurgency.

De-Baathification is a clear obstacle to this agenda. The policy was enacted by the US proconsul in Iraq, Paul Bremer, on May 16, 2003 and was a major factor in the development of armed resistance in the months following the invasion. It is widely regarded in Washington now as ill-conceived.

Bremer decreed that no member of the ex-ruling party’s top four ranks could hold any position in the public service or state bureaucracy. The party had seven tiers of membership, with the vast majority of the estimated 1.5 million members in the lower fifth, sixth and seventh categories. He also denied the top four ranks the right to a state pension and directed that they be investigated for “criminal conduct”.

Bremer also ordered the dismissal and investigation of lesser-ranking Baath Party members who held senior management positions in state-owned corporations and affiliated institutions such as universities, schools and hospitals. On May 23, 2003, Bremer dissolved the Iraqi Army—an action which stripped the predominantly Sunni officer caste of its position, as well as an estimated 400,000 soldiers of their jobs.

Between May and September 2003, an estimated 150,000 senior civil servants, lecturers, teachers, health professionals and managers who performed a myriad of responsibilities were flung from their jobs due to Baathist membership. It was reported in 2003, for example, that 28,000 teachers were sacked. In a majority of cases, those affected were of Sunni Arab backgrounds.

The marginalisation of the Baathist ruling stratum resulted in thousands of former army officers and state officials supporting the armed insurgency against the US occupation. It also ruined a significant layer of the educated upper middle class, many of whom left Iraq for Jordan, Syria and other countries.

By early 2004, it was obvious in US ruling circles that de-Baathification had fuelled the insurgency and created difficulties recruiting qualified Iraqi personnel. Reversing the policy, however, was problematic. The occupation also faced an upsurge of opposition among Shiites—the majority of the country’s population. The clerical and political representatives of the Shiite elite—bitter opponents of the Baathists—organised mass demonstrations demanding elections that would deliver them power. Any open overtures to former Baathists would have further inflamed anti-occupation sentiment among Shiites, which nevertheless erupted into open rebellion in April 2004.

The first moves on de-Baathification were only made after the US had imposed an unelected interim government and drawn up the constitutional process leading to elections in January 2005. In late May 2004, Ahmad Chalabi, a prominent pro-US exile who headed Bremer’s de-Baathification commission and had directed a ruthless purge, was arrested for “corruption”. His removal opened the way for the interim government of former Baathist Iyad Allawi to begin

reversing the barriers against former members of Hussein's ruling party.

Working closely with then US ambassador to Iraq, John Negroponte, Allawi's government recruited large numbers of former Baathist secret police and military officers into various security roles. More broadly, lower-ranking Baathists were permitted to reapply for their jobs after being vetted by the de-Baathification commission. Commission spokesman Ali al-Lami told the *Washington Post* that 102,000 have been reinstated to their positions since early 2004.

The laws, however, have continued to be a source of grievance. Among secular Iraqis, particularly Sunnis, de-Baathification is a symbol of their side-lining and collective punishment by the US occupation for the benefit of Shiite fundamentalist and Kurdish nationalist parties. The Sunni parties in parliament and Allawi's Iraqi National Accord coalition have repeatedly demanded the repeal of the laws.

While US President Bush on Sunday hailed the new legislation as "an important step toward reconciliation", the Accountability and Justice Act does little to address Sunni grievances. Members of the Baath Party's two highest ranks—who numbered only a few thousand people—will remain deprived of political rights, the right to government employment and a state pension. Members of the Baathist third rank, some 3,500 people, will be able to apply for pensions but cannot hold government jobs. Members of the fourth rank, some 30,000 individuals, can reapply for positions, or pensions if they are past working age, but are barred from working in the defence, interior, finance or foreign affairs ministries or as judges.

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The changes to employment rights will have only a minimal effect. Many of the top four Baathist ranks are in no position to return to their posts because they are either dead, in prison or in exile. Since the US invasion, thousands have been killed in US military operations, or by death squads linked to the Interior Ministry and the militias of the main Shiite parties.

Shiite politicians have even hinted that the new laws will be used to purge the security ministries of ex-Baathists brought back to their posts since 2004. De-Baathification commission spokesman Lami told the *Washington Post* that as many as 7,000 officers

recruited by the US military to the Interior Ministry could be forced to retire due to their previous membership of the Baath Party.

Senior Baathists who are still alive and in Iraq may well be reluctant to seek non-security jobs for fear that Shiite opponents will be able to locate them easily. Abu Yassin, a 54-year-old former Education ministry bureaucrat, told the Associated Press: "This law is meaningless to me because I cannot work again in a ministry controlled by Shiite parties and militias and there is no compensation for the past years I have spent without a job. I prefer to stay at home living the rest of my life in peace rather than getting killed while heading to work."

One aspect of the new laws may have broad political implications. Not only is the Baath Party still banned, but the ideology "under any other name" has been declared illegal. Baathism, which originated in Syria, was based on a rather vague secular pan-Arab nationalism with an admixture of socialist phrase-mongering. Banning the ideology could provide a pretext for legal action against existing political parties.

The party considered closest to former Baathists, the Iraqi National Dialogue Front (INDF) of Saleh Mutlaq, walked out of the Iraqi parliament as the vote on the new laws was taken. Allawi's Iraqi National Accord and two small Sunni-based parties also expressed their opposition by refusing to vote for the laws. At a joint press conference, the four parties condemned the banning of Baathist ideology, saying it could be "misused" to criminalise any party organised on the basis of Iraqi nationalism.

Far from contributing to "national reconciliation", the new legislation will consolidate sectarian and ethnic divisions. Among Sunnis, it will strengthen sectarian and regionalist-tribal tendencies. Significantly, the main Sunni religious party, the Iraqi Islamic Party, supported the changes. The laws, in essence, are a continuation of the divide-and-rule policies that have characterised the US occupation from the beginning.



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