

Iraq

Post 30th June and the
Illusion of sovereignty

Hizb ut-Tahrir Britain

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Foreword

“We have it in our power to begin the world over again. We are not insulting the world with our fleets and armies, nor ravaging the globe for plunder. Beneath the shade of our own vines are we attacked; in our own houses, and on our own lands, is the violence committed against us” [Thomas Paine].

The war in Iraq is part of the war on terror, yet ironically for a war that claims to concern itself with ending terror - has brought terror to the people of Iraq and has fuelled terror throughout the world. We believe that the prospect of peace and stable government in Iraq after the 30th June is minimal, and that real control is expected to lie with US ambassador to Iraq, John Negroponte, and his huge staff of 2000 diplomats; not with the people of Iraq.

It is often said—by those who intend it to be so—that truth is the first casualty of war; but it was also said, “know the truth and the truth shall set you free”.

We present you with this dossier, in the interest of truth, and ask that you read it in a spirit of partnership with us. The desire for truth, even if it stands to accuse, is the quality of greatness that can be found in the hearts of all sincere people—regardless of their faith. It is a universal quality that precedes faith and in its name we, the Muslims of Britain, present to you our considered conclusions regarding the 30th of June 2004 handover of sovereignty in Iraq. If you find that we have been unfair in any way then please forgive us, for we all come from the same spring of fallible humanity, and it is only human to err. We will be happy to hear your criticisms and look forward to listening to your comments.

What we present here is our reasoned perspective. We know that many of you shared our discontent with the war on Iraq, and are sure that you hope at least to achieve some good from this terrible episode. Nevertheless, we conclude that the hand over of sovereignty this 30th of June is as much a lie as any of the lies that we have grown accustomed to hearing during this war and the lead up to it.

The evidence for this is presented in the chapters that follow, but US president Bush made his vision of Iraqi sovereignty fairly clear when he said, “I want to make sure that when sovereignty is transferred, Saddam Hussein stays in jail.” Laughter at Bush’s penchant for catachresis is fashionable these days, but often masks expressions of unexpected comic genius. Literary critics may, of course, differ in their analysis of Bush’s seeming use of irony, and so we have endeavoured to base our conclusions upon a more detailed study of the situation in Iraq.

Nevertheless, we do not conclude with a message of doom, but of hope, because, despite our perception that western style liberal secular democracy is failing in Iraq, the rule of law, representative government and accountability before the people are not the sole preserve of the west. Islam offers an alternative system of government, worthy of consideration, called Khilafah, which stands for the rule of law, representative government and accountability. Surface similarities notwithstanding, it is distinct, and so we present its main features in some detail in the final chapter.

We recommend a real end to the occupation of Iraq, in order to allow the people of Iraq to realise once again the successful system of government that lasted thirteen hundred years. The occupation of Iraq by the British army in 1917 brought this system to an end and resulted in a century of failure. The Muslim community in Britain invite you to study, with an open mind, both our analysis and our vision for change.

Dr Abdullah Robin

24th June 2004

Executive Summary

“By art is created that great leviathan called a commonwealth or state, which is but an artificial man.....and in which, the sovereignty is but an artificial soul” [Hobbes].¹

1. Sovereignty is conventionally defined as supreme political and legal authority in a given territory. It bestows upon a state an international legal personality, an ability to control its own natural resources, collect taxes, build its military and define its own system of government. George Bush the President of the United States has repeatedly promised to give Iraq “full sovereignty” after 30 June 2004.² However as many commentators have pointed out, such as the former US national security adviser to President Carter, Zbigniew Brzezinski, the term in the context of the post 30 June environment is problematic. Brzezinski like others believes the term “full sovereignty”—emphasised by President Bush, secretary of state Colin Powell and national security adviser Condoleezza Rice—lacks credibility. No government can be fully sovereign while its country is, “still being occupied by a foreign army, 140000 men, subject to our authority”, he says.³
2. The recent debate over Tony Blair’s signing of the European Constitution is indeed an apt illustration of what has not been said within the current Iraqi sovereignty debate. While the majority of people in the UK object to their sovereignty being transferred to a foreign institution based in Brussels, they will at least have a referendum to decide where such sovereignty should sit in the future. However, no such opportunity is being offered to the Iraqi people who will continue to remain subservient to the United States of America after 30 June. The irony of Tony Blair’s red lines of defence, foreign and energy policy are not lost on the authors of this dossier, who find that if these are the fundamental definitions of national sovereignty then Iraq spectacularly fails the test after 30 June 2004.
3. Though sovereignty of nation states is rooted within the treaty of Westphalia in 1648 and enshrined within the United Nations charter, such niceties have often been ignored; especially by the strong and the powerful. The United States gave Cuba its ‘independence’ in 1903, however this was subject to caveats, one of which was the Platt Amendment, which permitted the US to intervene militarily in Cuba whenever US interests were threatened. Similarly after 1945, the Soviet Union’s control over the nations of Eastern Europe also provides a relevant political model for Iraq. Though these nations were considered sovereign members of the United Nations and could trade and sign treaties with other nations, for all practical reasons they were subsidiaries to a head office based in Moscow. The events in Budapest in 1956, and Prague in 1968 clearly show that this so called ‘sovereignty’ was in fact a mere cloak for subservience. This is not just our view but rather it is even supported by western commentators.⁴ Therefore, based on the available evidence, we believe that Iraq is more likely to follow these latter models after 30 June, rather than enjoying any semblance of a ‘Westphalian’ existence.
4. Most people now consider the US occupation of Iraq as a debacle; some obviously consider it as more pernicious. However regardless of this, most pro war supporters have repeatedly pointed as justification to the support of ordinary Iraqis. However in a recent poll conducted by the Coalition Provisional Authority (CPA), just 2 per cent of Iraqis say they now feel liberated and 92 per cent say they feel occupied, a devastating indictment of coalition policies in the last fourteen months. More than half of those polled stated they would actually feel safer if US troops left, while 54% believed all Americans behaved like the indicted prison guards at Abu Ghraib. No wonder the CPA wanted to keep the poll under wraps, it only came out after a leak to the Associated Press.⁵ As a result of this poll and other clear political trends, it is clear that Iraqis have rejected any form of occupation. We will argue in the remainder of this dossier, that occupation in reality will continue albeit in a different form after 30 June. This will inevitably lead, if it hasn’t already done so, to a fundamental chasm at the heart of Iraqi society between the people and their US imposed government, a situation all too familiar to any avid watcher of other Middle Eastern states.
5. Much has been made about the new Interim Iraqi Government (IIG) and its ability to exercise genuine governance after 30 June. We dispute the President of the United State’s assertion that Ghazi Al Yawer is an Iraqi President of a free country.⁶ The appointment of the IIG should be simply seen in the context of an occupying power imposing an individual who rules on their behalf. In that sense Ghazi Al Yawer or Dr Iyad Allawi are really no different from modern day Vidkun Quislings or Marshal Henri-Philippe Petains. Recent history is rich with countries invading others and then imposing a government in their own image. The British and French Empires in the 19th and 20th centuries routinely used to appoint nominal indigenous rulers over their colonies, a situation which now would be viewed as intolerable. The Soviets tried to do the same thing in Afghanistan in 1979 arguing laughably that they had been invited in by a ‘sovereign’ Afghan government. It is clear therefore that the proposed political process which has been constructed in Washington

is designed to keep out politicians or political parties whose agenda is fundamentally at variance with the US, especially those who call for an independent Islamic state. In that sense the Afghanistan case study (discussed in Chapter 5) is a clear template for what is at best, a political process that is based on deception and at worst, an attempt by America to gerrymander the eventual result. Thomas Hobbes comes to mind here, when he said: "I put down for one of the most effectual seeds of the death of any state, that the conquerors require not only a submission of men's actions to them for the future, but also an approbation of all their actions past."⁷

6. This dossier also argues that the US has too much strategic capital tied up in Iraq for it to simply hand over sovereignty to the Iraqi people. The rationale for the war remains in place and has been articulated consistently by President Bush on numerous occasions. The objective of creating "a forward strategy for freedom"⁸ in the Middle East has been argued consistently by the administration as a key component of its War on Terror. If we add to this, Iraq's strategic position in the league table of provable oil reserves, the continued instability in neighbouring Saudi Arabia, the deep unpopularity of pro American leaders in the region, the need for more bases to support the US's new flexible military doctrine, all these point to a protracted US presence in Iraq for years if not decades to come. As both US presidential candidates have repeatedly pointed out, failure is not an option in Iraq.
7. The dossier also rejects the repeated arguments put forward that a sudden departure of coalition troops would result in civil war (see chapter 6). There is no tangible evidence to support that there is any widespread violence being carried out between Sunni and Shia, or between Sunni and Kurd, or between Kurd and Shia. The use of force largely thus far has been aimed specifically at the US occupation and the pseudo institutions it is creating. Consequently we judge that any justification for an ongoing US military presence in Iraq is more shaped by the US's own strategic objectives, rather than any semblance of humanitarian feelings towards the Iraqi people.
8. Finally this dossier argues that regardless of the feelings towards the US or the UK, that any attempt to bind Iraqi society within a western value construct will be doomed to failure. The Iraqis are 98% Muslim and their heritage has been steeped in an Islamic political state for centuries. We argue that western secular values do not have a monopoly on material progress, the rule of law, an accountable and elected government, an ability to integrate minorities, or the dignity of women. In the last chapter we attempt to deal with the myths, some sincerely put, against our position of advocating a return for an Islamic state in Iraq. However one thing is clear, that a continued US presence allied with its imposed interim transitional law, will deny any opportunity for the Iraqi people to take their political destiny into their own hands. This restriction contained within the interim constitution on what political system the Iraqis can have, in itself runs a cart and horse through any attempt to portray the post 30 June period as one where the Iraqis will enjoy "full sovereignty".

1. The Strategic Context

1.1 Introduction

As the date for the handover of power to the Iraqis draws near, the situation within Iraq remains precarious. Daily reports of fierce indigenous resistance by Iraqis against Coalition forces have become the norm, spurred on by an unpopular and illegitimate occupation of their country by foreign troops and personnel. The risks to all those who remain within Iraq have never been so apparent.

The US plan to transfer sovereignty to Iraq will begin with the 30th June handover to the Iraqi Interim Government (IIG) by the Coalition Provisional Authority (CPA) that has been ruling Iraq for the past fourteen months. The IIG was endorsed in early June by the US, and on the 8th June by the UN Security Council in resolution 1546. Thereafter, it is envisaged that the IIG will ensure the transition to a National Assembly by no later than January 2005. At this stage a transitional government will be elected that will supervise the creation of a new permanent constitution under which further elections will be held by the end of December 2005. A directly elected Iraqi government will take office in early 2006.

On a strategic level, the US invasion of Iraq in March 2003 was intended to precipitate a much larger sea change in the Muslim and Arab world. US policy planners and the Bush administration were hoping that regime change within Iraq would be a test case for greater democracy within the region. As such, the *casus belli* of the invasion, Iraq's Weapons of Mass Destruction (WMD), has been largely acknowledged to have been a false basis by which the war was prosecuted. This was confirmed in the interim report of David Kay, former head of US weapons inspections team in Iraq, on October 2nd 2003 and in his testimony of 28th January 2004 when he reported that no WMD have been found in Iraq and that pre-war intelligence was "almost all wrong" about Saddam Hussein's arsenal.⁹

The absence of any WMD in Iraq has been a major embarrassment to the US and UK and in recent months the wider and longer term objectives of the Bush administration's view of the Arab world has emerged. On 2nd June 2004, George W Bush said, "For decades, free nations tolerated oppression in the Middle East for the sake of stability. In practice, this approach brought little stability, and much oppression. So I have changed this policy. In the short-term, we will work with every government in the Middle East dedicated to destroying the terrorist networks. In the longer-term, we will expect a higher standard of reform and democracy from our friends in the region"¹⁰ and in November 2003 he said: "Sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did nothing to make us safe... Iraqi democracy will succeed and that success will send forth the news, from Damascus to Tehran, that freedom can be the future of every nation... Therefore, the United States has adopted a new policy, a forward strategy of freedom in the Middle East".¹¹

If the motive for the invasion of Iraq was to have been the spread of freedom and democracy to the Muslim world then the situation in Iraq since the fall of Saddam has been a disaster. On every account, whether security, infrastructure, essential services or basic provisions, life for ordinary Iraqis has been characterised by despair, uncertainty and growing resentment towards the occupying forces. Iraqis have to endure lengthy and daily queues for petrol, rampant unemployment and electricity generation has remained poor with frequent blackouts. In Baghdad, electricity provision has fallen since prior to the war and many residents have no more than 9 hours of electricity a day.¹² Of the billions of dollars promised by the US government in aid, only a fraction has materialised. A poll sponsored by the US government in early June showed that 85% of Iraqis said they lacked confidence in the CPA.¹³

The US's dubious commitment to democracy, long suspected within the Arab world, has been confirmed in the fourteen months of occupation. The CPA and the US proconsul and chief administrator, Paul Bremer, have attempted to confer legitimacy on a number of bodies. In almost all cases the result has been a series of hand picked appointees by Coalition forces and the CPA. The CPA's initial experiments with democracy were soon aborted. In June 2003, Najaf was expected to be the only Iraqi province with direct elections for the post of Mayor. When it became apparent that the most likely candidate to win was hostile to the US occupation, Bremer cancelled this nascent exercise in Iraqi representation.

The role of Islam and the extent of its influence in the US vision for Iraq has further compounded the negative views held by the Muslim masses and 'Arab Street' towards US and western intentions for the region. The fall of Saddam generated unprecedented unity amongst the country's Shia and Sunni communities. After the fall of the Saddam regime, thousands of people marched and demonstrated calling for an Islamic State and an integral role for Islam in the new political set up. This was

not surprising considering that 98% of the Iraqi people are Muslim and the cherished position the land of Iraq has in the minds of Muslims for being the former centre of the Islamic civilisation. However, these aspirations were quickly thwarted by the CPA and US administration. Donald Rumsfeld, Defence Secretary, ruled out any form of Islamic state soon after the end of the war.¹⁴ The interim constitution that was signed in March 2004 by the IGC merely stipulated that Islam would be considered a source of legislation amongst other sources and principles. Moreover, proconsul Paul Bremer and the CPA were adamant in ensuring the role of Islam was relegated to being considered the official religion of the state and that a secular and pluralistic model prevailed.

1.2 Timeline of occupation

1.2.1 APRIL 2003: ENDING THE WAR—WAITING FOR ELECTIONS

The initial euphoria felt by the Iraqi people at the fall of Saddam Hussein's regime in April 2003 soon turned to resentment and opposition towards the occupation by Coalition forces led by the US. In the weeks after the fall of Baghdad, US forces encountered daily attacks and resistance from Iraqis in many towns and cities. This prompted the first of many changes to the US and CPA's assessment of its handling of the situation in Iraq. US post war planners and the Defence department had hoped that a troop deployment of 60,000 would suffice in the immediate aftermath of the war. It soon became apparent due to the strength of the resistance that significant more numbers of forces would be needed to quell the opposition and ensure US control over Iraq. By the end of May 2003, the decision to return the American Third Infantry division to the USA was reversed with the proviso that it would be deployed indefinitely within Iraq. Far from reducing US forces in Iraq, the American occupation has seen up to 160,000 personnel drafted in to maintain US dominance.¹⁵ Tours of duty have been extended for US troops, holiday leave cancelled and Pentagon officials have considered calling upon the National Guard and reserve units. Throughout the period of occupation, US forces have been affected by plummeting morale and unprecedented suicide rates.

1.2.2 MAY 2003: BEGINNING TO LOSE THE PEACE—ANNULMENT OF ELECTIONS

The post war political set up in Iraq has undergone a number of changes and revisions as the US and CPA have sought to confer legitimacy upon their occupation by showing a semblance of evidence that authority is being transferred to the Iraqi people. The initial post war plan envisaged a national congress of Iraqi dignitaries that would elect representatives who would form the basis of an interim ruling authority. This was to have been established by the end of May 2003. However in one of the first moves instigated by chief administrator Paul Bremer in replacing General Jay Garner, Bremer announced that the CPA would continue to rule Iraq until an interim Iraqi authority was appointed at a later stage. The official reason given for the cancellation of elections was that this would not guarantee equal representation of the various ethnic groups within Iraq. Perhaps the real reason for the annulment of elections at this stage were surmised in former National Security Council Advisor, Brent Scowcroft's comments "What's going to happen the first time we hold an election in Iraq and it turns out the radicals win? What do you do? We're surely not going to let them take over."¹⁶ Garner has since commented that his abrupt dismissal was due to his insistence on direct elections for Iraqis that was inconsistent with US objectives for Iraq.¹⁷

1.2.3 JULY 2003: THE IRAQI GOVERNING COUNCIL (IGC)

The creation of the 25 member Iraqi Governing Council (IGC) in July 2003 was intended to aid the CPA in the running of Iraq. The IGC was quickly seen as a US appointed adjunct to the CPA, with IGC members lacking any support or credibility within the country. Members of the IGC would spend most of their time in the heavily fortified Green Zone compound in central Baghdad along with US officials surrounded by razor wire and concrete walls. Any Iraqi who came to see them had to bring two forms of identification and be searched three times. Most Iraqis viewed the IGC as a rubber stamp for the CPA. It was chosen in secret by US proconsul Bremer with no clear criteria for membership other than support for the US invasion of Iraq. Bremer or the CPA could overrule the IGC at any time. In a bizarre example of the IGC's lack of independence, Haider al-Abadi, Minister of Communications in the IGC, was not even informed that a new body had been created to remove his ministry's authority. He said, "No-one from the US even found time to call".¹⁸ The fact that the UN Security Council passed a resolution in August 2003 in support of the IGC, a month after its inception, simply went to show the lengths taken to boost legitimacy for the IGC.

Moreover, the growing realisation that members of the IGC had vested interests and ulterior motives in providing 'intelligence' of Iraq's WMDs so as to court favour with the Americans has come to light in recent times. The exasperation with the performance and competency of the IGC has led to criticism of their role from unexpected quarters. The Washington Post reported senior US officials saying that "The United States is deeply frustrated with its hand-picked council members because they have spent more time on their own political or economic interests than in planning for Iraq's political future".¹⁹

1.2.4 SEPTEMBER 2003: US CASUALTIES DURING THE PEACE EXCEED THOSE DURING THE WAR

In September 2003 US plans for Iraq were being re-written again. In a humiliating U-turn, George W Bush was forced to turn to the United Nations for military assistance, personnel and contributions to aid the US occupation. The preceding weeks had seen a marked upturn in the intensity of the resistance to US forces as well as a number of attacks on United Nations officials and buildings. By September 1st the number of US casualties had exceeded the total injured or killed during the war prior to the formal announcement of an end to combat operations on May 1st. At the same time, Congressional reports in Washington cited the growing financial burden upon the US military. The cost of the occupation was being estimated at \$3.9 billion a month²⁰ and the US hastily organised a donors conference in October seeking financial assistance as well as support from nations willing to send troops to Iraq.

1.2.5 OCTOBER 2003: UN SECURITY COUNCIL 1511

UN Security Council resolution 1511 of 16th October 2003 gave further endorsement to the US occupation of Iraq. However the major European nations who had opposed the US invasion were able to harness the growing criticism of US tactics to gain concessions from the US in adopting a swifter transfer of sovereignty to Iraq as well as an enhanced role for the international community. Yet, the newfound US enthusiasm to work with its allies in post war Iraq was not at the expense of US control. The Bush administration acknowledged the criticisms from France and Germany, whilst feeling confident that its central objectives were in tact. Colin Powell said "We will try to adjust and adapt to those comments, as long as this is consistent with the overall goal".²¹ As former US ambassador to Nato, Robert Hunter commented "[UN resolution 1511] will have self-interested allies joining with us, but we will continue to run the show. The little secret is that we still make 98% of the decisions".²²

1.2.6 NOVEMBER 2003: BREMER CALLS FOR AN INTERIM CONSTITUTION AND AN ELECTED IRAQI INTERIM GOVERNMENT (IIG) BY THE END OF MAY 2004

In response to the growing strength of the Iraqi resistance, the daily death toll of US troops and opinion polls in the US citing a decline in President Bush's popularity and handling of the Iraq crisis, the IGC and administrator Bremer on behalf of the CPA announced on 14th November 2003 a road map to the transfer of sovereignty to the Iraqi people. The US had reverted back to the idea of using elections once again with the announcement that an interim constitution be established and that an elected Iraqi Interim Government (IIG) be established by the end of May 2004. However, the series of measures announced by the IGC failed to explicitly define the tenure of the occupation and significantly did not mention any date for a future withdrawal of foreign troops. Furthermore, these proposals made no mention of how Iraq was to attain some of the most basic tenets of any sovereign nation such as an independent army or control over vital industries and ministries.

1.2.7 MARCH 2004: BREMER'S CONSTITUTION FOR IRAQ

The interim constitution that was signed on March 8th by the IGC in Baghdad detailed 62 articles on how sovereignty would be transferred to an elected Iraq government. Unfortunately, it was assembled under US and CPA pressure to ensure that any future transfer of power to the IIG would retain US influence and presence. Indeed, the Los Angeles Times reported that the interim constitution was largely copied from notes written by Paul Bremer.²³ The formulation of the interim constitution clearly showed the guiding hand of the US in ensuring an outcome conducive to her interests prevailed. The CPA allowed the deadline for finalising the interim constitution to be exceeded so that an agreement could be reached by all parties and were prepared for many key issues to remain unresolved. By contrast, no such flexibility was afforded to the role of Islam in shaping the constitution. CPA officials were adamant that the interim constitution be a secular agreement, with the role of Islam being a limited one. Many of the parties had stipulated that Islam should be the primary source of legislation for the interim constitution. The CPA and Bremer rejected this. On 29th February Bremer said, " Our position is clear. It can't be law until I sign it".²⁴

1.2.8 1ST JUNE 2004: THE IIG IS CHOSEN WITHOUT ELECTIONS

The IIG that was chosen on June 1st and is due to take over from the CPA on 30th June has been a subject of much debate as to how it was to be confirmed. The original plan had been for the IIG to be elected before the end of May 2004. This was later changed to the IGC choosing delegates to an Interim National Assembly that in turn would choose the interim government. Opposition to this formula was widespread throughout January and February this year due to the lack of credibility of the IGC and the insistence from Iraq's Shia community on having a directly elected IIG. To prevent further criticism the US decided to allow the UN Special Representative, Lakhtar Brahimi, to appoint the members of the IIG in consultation with the IGC. Thus, the formation of the IIG was similar to the appointment of the IGC. A series of hand picked appointees by either US or UN officials from delegates who were supportive of the US war effort and no consultation with the wider public.

1.2.9 30TH JUNE 2004: THE HANDOVER

Whilst the US had been prepared to compromise on the manner in which the IIG has been appointed, it has remained steadfast in its commitment to portray the 30th June handover as a turning point in its Iraq debacle. The 30th June handover has been driven by the desire in the Bush administration to show the US electorate that a sense of calm and order has been restored to Iraq in the run up to the Presidential election in November 2004. Thus, there has not been any possibility of the 30th June date being extended. Bremer said, "Changes are possible, but the date [30th June] holds"²⁵ and a US official was quoted as saying on the topic of the handover date that "it is holy writ".²⁶

1.3 Tactical miscalculations and assumptions

The US made a number of tactical miscalculations and assumptions in their post war planning that has resulted in them being hated and resented by the Iraqi populace. Their pre war motives have been discredited, their commitment to forming a government representative of the wishes of the Iraqi people negligible and their attempts on bestowing legitimacy upon their own political bodies has become a farce:

The US military completely underestimated the degree of resistance and fighting that they would incur. The number of insurgencies has increased over the period of the occupation from the major Sunni and Shia centres to almost the whole of Iraq. Attempts to discredit the resistance as simply being the work of foreign terrorists, Ba'athist remnants or other extremists have failed as it has become clear that whole towns and neighbourhoods have taken up armed resistance. Indeed, many of the new Iraqi security services and police set up by the CPA have refused to obey US military orders, mutinied when forced to attack fellow Iraqis or in some cases joined the resistance.

US war planners assumed that internecine rivalries and disputes between Sunni, Shia, Kurds and Turkmen, held together under Saddam's brutal rule, would be unleashed providing a justification for US occupation to restore stability and order. This has not been so, with armed resistance directed solely at the US and very little inter-ethnic or sectarian fighting being reported.

The disproportionate levels of force used by US and Coalition troops has further entrenched the views of the Iraqi masses against their occupiers. The US military has admitted to holding at least 10,000 Iraqis in American operated prisons without charges or access to lawyers, with some detainees as young as 11-years-old.²⁷ The siege by US personnel on cities such as Najaf and al Sadr, the attacks on religious shrines, the killing of civilians and the assault on Fallujah that killed hundreds of women and children are now becoming the symbols of US hegemony in Iraq.²⁸

The barbaric and grotesque details of abuse and torture by US forces in Abu Ghraib prison against Iraqi prisoners, civilians and women have shocked the whole world. The failure of the US military to control its troops and lack of adequate checks and balances upon its forces has added to the ranks of the resistance fighters and created almost universal loathing in the Muslim world. The disturbing images of naked Iraqis forced into compromising positions whilst US soldiers laugh in the background may serve as the most endearing legacy of US rule in Iraq. These pictures perhaps provide an appropriate metaphor for the handover of sovereignty to a US chosen IIG on 30th June that ostensibly seeks to bring new independence to Iraq, but in fact has the grubby hand prints of the US all over it just as much as the pictures from Abu Ghraib.

2. The Interim Government Faces A Lack Of Legitimacy

There are a number of issues to consider when discussing the legitimacy of the Iraqi interim government and the credibility of claims that it will represent a truly independent and representative authority. Amongst these issues is the perception of the US presence in Iraq as an occupying force, the association of the interim government with the US presence and the role of the US post hand-over.

2.1 Will an interim government associated with the US have any legitimacy?

The US presence in Iraq since 'the end of all major combat operations'²⁹ has faced hostile resistance in Iraq and severe criticism internationally. An important question to consider in this context is what implications this has on the legitimacy of the interim government if perceived to be closely associated with, or indeed appointed by, the US.

It would be no exaggeration to assert that the US presence in Iraq represents an illegitimate foreign occupation, and that it is viewed as such. According to the Coalition Provisional Authority's (CPA) own survey of Iraqi public opinion published in May 2004, it found that 82% of all those surveyed wanted a complete US withdrawal and 80% did not trust the Coalition Provisional Authority.³⁰ In a subsequent survey, made available by The Associated Press mid-June 2004, statistics indicated that as much as 92% of Iraqis surveyed said that they perceived the US as an occupying force.³¹ Indeed, the heavy-handed US offensive against insurgents in Iraqi cities, most notably those in Fallujah, Karbala and Najaf, and the news of prisoner abuses at the Abu Ghraib prison at the hands of US military and intelligence personnel, considerably undermined the legitimacy of the US occupation. The CPA admitted that the trend in support was downward and that the authority had a considerable task on its hands if it wanted to win the hearts and minds, at the centre of any perception of legitimacy, of the Iraqi people.³²

It is against this backdrop of declining support for the US occupation, spiralling costs, and increased hostilities against its personnel and those of allying countries, that the pace of hand-over has been hastened. In doing so, the US has attempted to remove itself as the public face of the occupation, realising it represents the principal obstacle confronting its efforts. Instead, it has moved to front the occupation with an 'acceptable face', an authority constituted by Iraqis. Crisis talks in Washington in November 2003, after US civil administrator in Iraq Paul Bremer was summoned at short notice, concluded much of this new strategy, to stage a hand-over of 'sovereignty' to an Iraqi body. A US administration official, quoted by the Washington Post, said in the context of Bremer's hurried visit and the failings of the Governing Council: "It's beginning to be realised that it's not going to follow that path. And we need some kind of provisional government that we can give some kind of authority to. He (Bremer) has got a lot of work to do".³³ In this context, the drive for a hastened hand-over has little to do with relinquishing control of Iraq back to the Iraqis, but more the need to change the apparent face of the controlling body. Hoghyar Zebari, the Iraqi foreign minister, cited this important fact when discussing resolution 1546 passed on 8th June, saying, "The significance of this resolution ... is to take away the concept of occupation, which I would say was the main reason for many of the difficulties that we have been going through since liberation."³⁴

The deepening opposition to the US presence in Iraq means that any interim government associated with, or indeed perceived to be appointed by, the US will face a serious crisis in legitimacy. The Iraqi Governing Council, formed at the start of the US occupation and which the interim government replaces, is much despised and lacks considerable support specifically because its members were hand-picked by the US civil administrator Paul Bremer. Indeed association with the US has become the poisoned chalice - any authority, body or council set-up in Iraq linked to it will suffer a crisis in perception as regards to its true independence, its representative outlook and having the interests of Iraqis at heart. Just as the US has found in difficult to earn the respect and support of local people, such bodies too will lack the support and co-operation and may become the target of insurgency, resistance and violent opposition that the US presence has come to receive. Already, in the days running-up to the 30th June hand-over and after the announcement of the members of the interim government, individuals within the government have become targets, particularly noted by the deaths of Basam Saleh, one of four deputy foreign ministers, and Kamal al-Jarrarah, who headed the education ministry's cultural relations department.

Due to haste and poor planning, the US hand-over to an Iraqi fronted administration, however, cannot avoid but making this association. As our discussion will come to demonstrate much of the real-decision making will remain in the US, whether that be

through formal relationship within the context of an Iraqi administration, or due to its ability to wield pressure on all of its members. The interim government therefore faces a considerable crisis in legitimacy and may suffer the same fate as its predecessor, the Governing Council.

2.2 The choice of interim government

The manner by which any authority in Iraq is formed is fundamental to its legitimacy. The CPA's own surveys highlight opposition to any interim government appointed by the US. Only one-tenth of 1 percent surveyed said that the US-appointed Iraqi Governing Council should name the government, which is supposed to run Iraq until elections are held next year. Nobody who was surveyed said that the CPA should³⁵.

Despite the UN special envoy to Iraq, Lakhtar Brahimi, publicly being the one responsible for selecting the interim government, the US pro-actively sought to influence the make-up of the interim government through Robert Blackwell, George Bush's special envoy to Iraq, who worked closely with Brahimi. Whilst the US initially endorsed his intention to build a government of technocrats without political affiliations, it slowly departed from this position and began to push for people with political profiles and those associated with Iraqi political parties to be part of the government, many of which were serving on the Governing Council and had a close relationship with the US³⁶. Indeed, Brahimi assumed the role of UN special envoy to Iraq at the request of the US and was needed to do no more than to deflect attention from the role of the US and Governing Council had in formulating the interim government for fear of damaging its credibility. Brahimi's role, therefore, acted only to front the process of formulating the interim government but severely lacked power and influence in the actual decision-making process.

In fact, Brahimi's preferences appeared to have been completely sidelined when the choice of new the Prime Minister was unanimously elected and endorsed by the US appointed Iraqi Governing Council on the 28th May 2004. Lakhtar Brahimi and the UN appeared to have been undermined by this appointment as the cautious but surprised tone of the UN response indicated. According to chief UN spokesman Fred Eckhard, "It's not how we expected it to happen. [U.N. envoy Lakhtar] Brahimi respects the decision and is prepared to work with this person on the selection of the other posts in this interim government". Fred Eckhard further told reporters that UN Secretary-General Kofi Annan also respected the choice of Mr Allawi and the word "respect" had been "carefully chosen". Brahimi was clearly not in the driving seat when the decision was made – some report not even in the room³⁷.

The US, on the other hand, expressed delight at the appointment of Allawi. According to a spokesman for the Bush administration, "We thought (Allawi) would be an excellent prime minister... I think that this is going to work".³⁸ Paul Bremer also "congratulated the governing council on a very distinguished choice".³⁹ The US has every reason to be happy with Iyad Allawi as Prime Minister, the most important position in the interim government. Despite being a member of the Ba'ath party in Iraq from 1961 to 1971, Allawi was later a target for the Saddam regime because of his association with Ali Salih al-Saadi, a Saddam foe. In 1991, he established and headed the Iraqi National Accord (INA). In his years of opposition, and particularly since the formation of the INA, Allawi maintained close dealings with foreign intelligence services, most notably the CIA and the British Intelligence service MI6. It is a relationship he has not attempted to hide, nor demonstrate any embarrassment regarding it, "I was the head of a political organisation in touch with at least 15 intelligence services across the world and in the region ... We were in touch with a lot of governments, including the government of the United States, and we were in touch with intelligence agencies across the world who supported the struggle of the Iraqi people to get rid of Saddam".⁴⁰ Indeed the CIA perceived Allawi as one of many Iraqi opposition groups they pro-actively supported, and on occasions considered it an alternative to other opposition groups, such as the Iraqi National Congress headed by Ahmed Chalabi. In 1996, the INA received \$6 million in covert aid from the U.S⁴¹, and in the year following a failed coup attempt by the INA in June 1996, the INA received almost \$5 million in U.S funds⁴². Allawi is also credited with passing the report to British intelligence that made the now infamous claim that Iraq had the capacity to launch weapons of mass destruction within 45 minutes⁴³.

It is these former dealings and his current relationship with the US that has Iyad Allawi out of favour with many Iraqis, many of whom are deeply suspicious about his real motives and interests and regard him as no more than a face for the continued U.S presence. A poll conducted in May 2004 by the Iraq Center for Research and Strategic Studies (ICRSS) asked Iraqis to rank 17 prominent religious and political leaders. Iyad Allawi finished in sixteenth place. Behind him came Ghazi al-Yawer, who is now the president of the interim government⁴⁴. In another poll, taken just before Allawi was named as Prime Minister, 61% said they either strongly oppose or somewhat oppose Allawi⁴⁵. In discussing the possible reasons for such a low ranking, Sadoun al-Dulame, executive director of the ICRSS, pointed to one reason: "Every newspaper that has reported about his appointment has mentioned his CIA connection".

The choice of Iyad Allawi as Prime Minister of the interim Government was de facto a US appointment, coming from the IGC and with the complete endorsement of the US. But it is not only Iyad Allawi who represents the US choice for key positions in the interim government.

On June 1st 2004, the interim government was sworn in at a ceremony in Baghdad. In all, the government was made-up of 35 members, amongst them a Prime Minister, President, two Vice Presidents and a twenty-six member cabinet. Almost a third of the interim government has come from the Iraqi Governing Council and they have assumed some of the more important positions, those of Prime Minister, a Vice President, Minister for Oil and Foreign Minister. Amongst the non-Governing Council members of the interim government, many are close to the U.S or are relatively unknown individuals easily susceptible to the influence of an occupying superpower. The formation of the interim government has also presented the US an opportunity to remove some of the more dissenting voices and those who have fallen out of favour, such as Ahmed Chalabi, from Iraq's political framework. In all, the US expressed great satisfaction at the make-up of the interim government, understandable when so many have a close relationship with the US. Condoleezza Rice said responded to the new government saying, "I can tell you firmly and without any contradiction that this is a terrific list, a really good government, and we are very pleased with the names that have emerged".⁴⁶ Once again, Brahimi was sidelined in the choice of the interim government and came under "terrible pressure" from Paul Bremer and the Governing Council. Commenting on the significant role Paul Bremer had in the deciding the final government, Brahimi is quoted to have said, "I sometimes say, I'm sure he doesn't mind me saying that, that Bremer is the dictator of Iraq. He has the money. He has the signature. Nothing happens without his agreement in this country."⁴⁷

To understand the background and political experience of some of the key ministers of the interim government, it is worth considering the reality of the Iraqi Governing Council on which they previously served and which the interim government is to replace. The council was fraught with a number of problems, the perception that they were a front for the US occupation, being hand-picked and appointed by the Coalition Provisional Authority being its biggest liability. It lacked the legitimacy and respect amongst Iraqis indicated by the results of numerous surveys⁴⁸. Earning \$1,500 a month, more than the annual income of most Iraqis, taking extensive overseas trips and travelling in expensive SUVs guarded by armies of private guards, they led quite a different life to most Iraqis. Most members lived in an isolated compound for ministers and, and many often complained of never seeing a member of the Governing Council. They lacked political experience, many having spent the last three decades outside of Iraq, returning only after the fall of Saddam. Many Iraqis resent their absence and lack of awareness of the situation, having now assumed the most important positions in the interim government. Ghazi al-Yawar made a telling self-admission when discussing claims by fellow council members that they had been instrumental in bringing down Saddam, "They think they are entitled to a role because they believe they overthrew Saddam Hussein. It was the United States that overthrew Saddam while we were eating TV dinners". Furthermore, the make-up of the council, as consisting of old opponents from various factions and ethnicities, made decision-making very difficult, as negotiations were built on old rivalries and interests. It led to deadlock on many issues and the inability of the council to act decisively or to make quick decisions particularly as crisis after crisis befell the country. In the words of one council member, "We sit in the council while the country is burning and argue over procedure... We're like the Byzantines in Constantinople, debating whether angels are male or female with the barbarians at the gate."⁴⁹ In fact the council was mocked as it deliberated and debated over the choice of a new flag for Iraq whilst fighting raged across many of Iraq's cities. In sum, the governing council represented serious failings in credibility, legitimacy and the ability to do an effective job.

The interim government represents some change in face from the Governing Council, but is still a body comprised of a set of US preferred politicians. The interim government cannot be credibly regarded as a body that will act independently of the US, but will act in a manner consistent with US interests. Lakhdar Brahimi when asked whether he believed that the interim government would be influenced by the US replied, "I must be careful here what I say. ... I would like to know in which part of the world the United States does not have at least some influence? How they use that influence is sometimes welcome, sometimes a source of resentment". Many of its politicians have already demonstrated that they will succumb to US pressure giving the US key assurances, as Iyad Allawi did on the continued need for US troops, for example⁵⁰. It cannot but fail in the same way the Governing Council did, due to its association with the US occupying power discussed in the previous section, and its lack of power, to be discussed in the next. As Feisal Istrabadi, an adviser to council member Adnan Pachachi, highlights, "They (the Governing Council) have not demonstrated as a group at least an ability to govern, and so at some point one would ask why would you want to repeat what by all accounts has not been a successful experiment".⁵¹

The choice of interim government aids the US in the context of Iraq's future in more ways than this. Rather than the 'faceless' interim government Paul Bremer first spoke of when discussing the criteria for selecting its members, through their tenure on the government, these politicians will effectively become the only known politicians or personalities in Iraq, apart from those heading the resistance. The US is using the period of the interim government to build the profiles of pro-US Iraqis in preparation for the elections, given that those heading the resistance and members of their parties will be unable to contest. Paul Bremer signed an order on 7th June 2004 stating that, with immediate effect, members of illegal militias "will be barred from holding political office for three years after leaving their illegal organisation".⁵² Whether such a plan succeeds is yet to be seen given the already poor light in which the government and its members are viewed, but it represents a plan to steer the election in a particular way. Irrespective of when an election is held, the US is planning now to heavily influence its outcome.

The US, therefore, has carefully controlled the outcome of the selection of the interim government. Although much was disputed on the position of President, the role is largely ceremonial and not key to the decision making process. Even still, Ghazi al-Yawar, who has only his tenure on the Governing Council as political experience, has similar attributes to Adnan Pachachi, the 81 year old US favourite. As some commentators have observed, both Yawar and Pachachi are Sunnis from leading tribes, have

had similar views on the occupation and 'moderate' Muslims⁵³. Furthermore, since appointed as President, Ghazi al-Yawar has made a number of gestures comforting the US, "we really need to have multinational forces, effective ones—we don't want to have 50 and 100 from each country, we don't want any from countries who abuse human rights ... It's very important to us to seek assistance from ... the United States, Great Britain, the European community and others to help us maintain security and order".⁵⁴

2.3 The authority and independence of the interim government

2.3.1 US PRESENCE POST HAND-OVER

Not content with having a pro-US interim government, the US has set about creating conditions which will effectively remove most of the power from the interim government, whether directly or indirectly. The build-up to the hand-over has seen subtle activities by the CPA, at many levels, which render the interim government powerless in some of the key decisions in Iraq instead deferring most of the important decisions to the US embassy in Baghdad.

This new US embassy in Baghdad, which will come into existence the day the CPA is dissolved, will represent the largest diplomat effort anywhere in the world⁵⁵. It will house in the order of 1700 US diplomatic staff led by John Negroponte, who has over 40 years of diplomatic experience including various ambassadorial roles. The role this huge embassy will play in the future of Iraq and its relationship with the members of the interim government reveals that most power will be under the directorship of the US ambassador as observed by former State Department official Henry J. Barkey, "The reality is that most power will be transferred to the US ambassador".

An article published by the Wall Street Journal on 13th May 2004⁵⁶ revealed some of the powers of the new interim government. It observed that since the spring of 2004, Paul Bremer has been building institutions that will give the US power at all levels of the interim government and which allow influence over important decisions made by it. This has involved creating a number of commissions which will "effectively take away virtually all of the powers once held by several ministries". The "CPA reiterated that coalition advisers will remain in virtually all remaining ministries after the handover", the report highlights, who will server "multiyear terms and have significant authority to run criminal investigations, award contracts, direct troops and subpoena citizens". The interim government will therefore "lack the ability to make or change laws and be unable to make major decisions within specific ministries without tacit US approval" according to US state department officials cited by the report. According to the New York Times, "110 to 160 American advisers will be layered through Iraq's ministries, in some cases on contracts signed by the occupation, extending into the period after June 30"⁵⁷

For example, the media and telecom commission created by Bremer will be able to collect media licensing fees, regulate television and telephone companies, shut down news agencies, extract written apologies from newspapers, and have the power to seize publishing and broadcast equipment. In addition to these various commissions, Bremer has set-up a number of watchdogs. The Board of Supreme Audit, for example, will oversee a large range of other inspectors and will have the ability to review government contracts and investigate any agency that uses public money. Mr Bremer will appoint the board president and his two deputies who cannot be removed by the interim government.

On the whole, all advisers are expected to be American, whereas inspectors and members of commissions may be Iraqi. Although in theory ministers can dismiss advisers, it is highly unlikely, as the interim government will want to avoid confrontation with the US. In the words of one top US official who told The Associated Press on condition of anonymity, "We're still here. We'll be paying a lot of attention and we'll have a lot of influence... We're going to have the world's largest diplomatic mission with a significant amount of political weight."⁵⁸ Evidence of these various bodies was also indicated by Colin Powell when he referred to a 'partnership' existing between the Interim government and the US, "Obviously we would take into account whatever they might say at a political or military level.... And to make sure that that happens, we will be creating coordinating bodies, political coordinating bodies and military-to-military coordinating bodies, so that there is transparency with respect to what we are doing."⁵⁹

2.3.2 DISPOSAL OF FUNDS

The \$18.4 billion of aid pledged to Iraq by the US administration has multiple political consequences. Not only does it provide the US the primary positioning in deciding how it is spent, it also acts to exert pressure upon the Iraqi interim government. According to one of Paul Bremer's top aides, interviewed by the New York Times, "... the \$18.4 billion voted for Iraqi reconstruction last fall by the United States Congress, including more than \$2 billion for the new Iraqi forces, will give the Americans a decisive voice."

Following UN resolution 1483, Iraq's funds have been held by the 'Development Fund for Iraq' directed by a Program Review Board of 11 members, just one of whom is Iraqi, the money being kept in an account at the Federal Reserve Bank in New York. This fund controls all funds including the UN's oil for food account, various caches of Saddam Hussein's frozen assets around the world estimated to be \$2.5 billion, and cash left behind by Saddam in Iraq, estimated at \$1.3 billion, giving a total of \$8.1 billion.⁶⁰ The fund also holds revenues from the sale of oil, estimated to be \$6.9 billion by March 2004, the revenues being under the authority of the occupying force, 'legitimacy' conferred to them by the same resolution. The Iraqi oil ministry has been under the close supervision of senior US advisor, former ExxonMobil executive, Gary Vogler, and the CPA has stated that it will continue to control the revenues beyond June 30 "until such time as an internationally recognized, representative government of Iraq is properly constituted."

The interim government will also be severely restricted in the disposal of revenue for the sale of Iraqi oil. The International Advisory and Monitoring Board, (the IMF, World Bank, U.N. and Arab Fund for Development) was assigned the role of exercising "accounting authority over the spending" of all Iraqi oil revenues, to monitor how the money is spent, by resolution 1483. This authority will continue until Iraq's \$110 billion foreign debt is resolved, something that could take many years. It was only in March this year that details emerged of Iraqi funds for the IAMB to study⁶¹, 10 months after occupation of Iraq by the US. Details of the use of funds, of which \$7.3 billion had already been spent, were sufficiently vague. For example, it listed as one item: "Restore Oil Infrastructure -- \$80,197,742.82."

2.3.3 SECURITY

The future role of the US troops in Iraq is crucial to understanding who will maintain Iraq's security. The debate surrounding UN resolution 1546 involved who would have the final say on military operations in Iraq and who will ultimately command security. Although there is a vague acknowledgement of an Iraqi input in to any military operations, the reality is that the multi-national force will be US led and report to US command. According to US Secretary of State Colin Powell, 'if it comes down to the United States armed forces ... in some way accomplishing their mission in a way that might not be in total consonance with what the Iraqi interim government might want to do at a particular moment in time, US forces remain under US command and will do what is necessary to protect [sic] themselves', which highlights that ultimately the 138, 000 troops which will remain in Iraq post hand-over, will be under US command, even if it contradicted the will of the interim government. Also, according to the US Defence Secretary Donald Rumsfeld, "The [June 30] deadline applies to political governance of the country. It does not apply to the security responsibility... There is no plan to change the security situation on June 30." The responsibility of training and organising Iraq's new army will be under a new security-advisor position created by Paul Bremer. In truth, the interim government will have little control over its armed forces, that remaining the reserve of the US.

According to former top State Department official Edward Walker, "It's definitely not really a transfer of sovereignty when you don't control the security of your country and you don't really have an income." In actuality, he said, "Iraqis will control only such functions as agriculture after the transfer."⁶²

2.4 Does resolution 1546 confer legitimacy on the interim government?

The answer to this question lies in understanding whether the UN is in a position to confer such legitimacy. To what extent does a UN resolution make an authority which is directly and indirectly influenced by the US occupation of Iraq (if not overtly but through a covert face) legitimate? Or is the UN resolution merely a stamp of approval, seeing as it was only brought into the picture after most decisions had been made and the interim government formed? And, does the unanimity of G8 countries in passing the resolution add anything to the interim government's legitimacy?

The history of the UN demonstrates that it is liable to the interests of dominating powers. It has enshrined the interests of the dominating countries into its structure and procedure by providing the victors of the Second World War, who emerged from the conflict as the world's dominating powers, permanent seats on its Security Council. They are provided a veto, allowing them to over-rule any vote in the Security Council or wider General Assembly, and effectively hands these powers the ability to steer through resolutions based upon their interests. The UN therefore provides a face to the interests of dominating powers, used most extensively by the US since the UN's inception, and it cannot be credibly claimed to represent an independent body. UN resolutions, therefore, should be considered in this light, and often represent no more than the interests of their sponsor.

The disputes between permanent members of the Security Council are used to highlight that the US and other states cannot simply trample all over it. Some argue that unanimous agreement amongst G8 countries gave the resolution universal legitimacy in this context. What is absent from both points, however, is why the fate of Iraq should be decided by such countries - why unanimity amongst the 'leading' industrial states in accepting an interim government and constitution, both of which are so deeply unpopular amongst those from Iraq, can be regarded as legitimacy. The G8 club or members of the Security Council may agree amongst themselves it is legitimate, but why should that be considered a representation of the opinion in Iraq?

Iraq has had a bitter experience with the UN and with the countries that hold powerful positions within it. The US sponsored UN sanctions imposed on Iraq after the first Gulf War in 1991 (UN resolution 661) led to considerable suffering and death, images of which the world has not forgotten. These sanctions did not impact in the slightest Saddam Hussein, his lifestyle or entourage, but impacted considerably the common Iraqi. The UN, therefore, has a poor track record in Iraq. Lakhdar Brahimi's role as UN special envoy to Iraq lends credibility to the claim that the UN is highly manipulate able. His actual role in selecting the final interim government was minimal, and was sidelined on some of the key decisions. His inclusion was an attempt to provide legitimacy to the final government, through associating the UN with the process. However, this acted only to harm the already beleaguered reputation of the UN as an independent body.

The US sponsored resolution 1483, passed on 22nd May 2004, eventually lifted the economic sanctions on Iraq which had had a debilitating effect. This too, however, was politically motivated and suited US interests. Firstly, it handed over the revenues and a number of other funds to the Development Fund for Iraq, under the authority of the US occupation. The resolution states, "...that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration".⁶³ The resolution also went on to legitimise the US presence in Iraq as a legitimate authority, despite referring to it as an occupation, "the specific authorities, responsibilities, and obligations under applicable international law of these states [the US and the UK] as occupying powers under unified command (the 'Authority')". The UN, therefore, stands at odds with most Iraqis regarding the legitimacy of the US presence in Iraq.

UN resolution 1546, passed by a unanimous vote on the UN Security Council on 8th June, fails to address some of the key issues. Legitimising a multi-national force to assume control of the security situation in Iraq is not much different to the current situation in Iraq. It will be led by the US, which suits it quite well as it takes the security burden off the US as having to provide all the troops. It is however, tantamount to conceding control of Iraq's security to a foreign entity, or entities, no different in concept to the US military occupation in Iraq prior to the hand-over.

2.5 Conclusion

The US strategy to stage a hand-over to an interim government assumes that changing the apparent face of occupation, to one fronted by Iraqis, will bring to an end hostilities directed at the US, allowing the US to go about its business in the region out of view. The strategy is flawed and has already been undermined many ways. Firstly, through haste and poor planning, an association between the interim government and the US has already become apparent. On occasions, the US has contradicted and over-ruled interim government members, as the case of banning 'militias' from holding office demonstrated. As details of the interim constitution, the powers of the interim government and the decision making process on security and fiscal issues come to light, a clear picture of a nominal government is emerging. The US has already made a number of errors which the hand-over process was designed to solve, namely the need to hide the element of occupation from the US presence. The mask of this 'acceptable face' is already slipping.

Flawed also is the assumption that people will not to see beyond such a face. The Middle-East, in particular, has faced the brunt of a string of western sponsored tyrants, rulers and dictators, Saddam Hussein being amongst them. Muslims in the Middle-East, having experienced some of the most repressive regimes, have learned to evaluate with whom true power lies in their region. The term 'puppet regime' is all too familiar in the vocabulary of the Middle East and to ignore this sophistication or to believe that people will naively accept the US will play no role in shaping the future of Iraq, seriously miscalculates the intelligence and historical experience of the Muslims in the region, and beyond.

Indeed, Iraq and the Muslim world in general, are all too familiar with occupation appearing under a different guise. It was Sir General Stanley Maude's "Proclamation to the People of the Wilayat of Baghdad" on the 8th March 1917, as the British moved on through Iraq as part of their own colonial drive, that has a striking resemblance to the current US strategy in Iraq. The British, then faced with heavy hostility, at first appointed King Faisal of Hijaz in 1921 to Iraq, who indeed was a face for the occupation as British influence remained through its advisers in the Iraqi ministries, through its two major air force bases in the country and through the multiple political ties. After the continuation of serious conflict, the British arranged for Iraq's 'independence' in 1932. Iraq, however, was still obliged by a 1930 treaty with Britain (signed before "independence") which gave the British access to two military bases on Iraqi territory, to have its armed forces trained by the British, to consult with London on foreign policy, and in return to promise mutual aid in time of war. The nominal independence, therefore, did not remove British influence from Iraq nor the region and the monarchy they installed hung onto power until 1958, after which the royal family was murdered and dragged through the streets of Baghdad.

Analogies aside, the new interim government cannot be regarded as an end of US control over the present and future of Iraq, as the evidence in this chapter has sought to substantiate. It neither represents the end of occupation nor the hand-over of sovereignty.

3. The Pernicious Role Of The US In Iraq

For the past few months, America has been trying to persuade the world that the transfer of sovereignty to the Iraqis on June 30th is real and not cosmetic. However a close scrutiny of America's objectives for Iraq and beyond reveals that the American occupation of Iraq is set to continue for many years to come. This is because the Bush administration has so far failed to secure America's strategic interests in Iraq and the wider Muslim world.

These interests are represented by the neo-conservatives and their supporters who dominate the Bush administration. What follows is a short explanation regarding these interests.

3.1 Iraq an opportunity to reshape the Middle East and the wider Muslim world

Well before September 11th 2001, the neo-conservatives and their supporters were planning to reshape the Middle East and its oil supply through the removal of Saddam and the subsequent occupation of Iraq. The neo-conservatives established a think tank called 'The Project for the New American Century' (PNAC) through which they expressed their views. What distinguishes PNAC from other think tanks is the nature of its founding members, America's vice-president Dick Cheney, Lewis Libby (his Chief of Staff), Donald Rumsfeld (the defence secretary), Paul Wolfowitz (deputy defence secretary), and Zalmay Khalilzad (the US ambassador to Afghanistan). In 1998 PNAC pleaded with Bill Clinton to use military force against Iraq and remove Saddam from power. They wrote, "We urge you to seize the opportunity, and to enunciate a new strategy that would secure the interests of the US and our friends and allies around the world. That strategy should aim, above all, at the removal of Saddam Hussein's regime from power. We urge you to turn your administrations attention to implementing a strategy for removing Saddam's regime from power. . .we believe the US has the authority under the existing UN resolutions to take the necessary steps, including military steps, to protect our vital interests in the Gulf. In any case, American policy cannot continue to be crippled by a misguided insistence on unanimity in the UN Security Council." The signatories to the letter read like a who's who of the current Bush administration. Donald Rumsfeld, Paul Wolfowitz, Richard Armitage, Elliott Abrams, John Bolton, Zalmay Khalilzad and Robert Zoellick.⁶⁴

3.2 Clinton refuses to attack Iraq

Following Clinton's refusal to accept their advice the neo-conservatives persisted in writing to the former speaker of the house, Newt Gingrich and senate republican leader Trent Lott. In the letter unashamedly they advocated that America: "establish and maintain a strong US military presence in the region and be prepared to use that force to protect our vital interests in the Gulf – and, if necessary, to help remove Saddam from power. . .only the US can lead the way in demonstrating that his rule is not legitimate and that time is not on the side of his regime." They go on to observe the perils of leaving Saddam unchallenged, noting that "the safety of American troops in the region, of our friends and allies like Israel and the moderate Arab states, and a significant portion of the worlds supply of oil will all be put at hazard. . .the only acceptable strategy is one that eliminates the possibility that Iraq will be able to use or threaten to use weapons of mass destruction. In the near term, this means a willingness to undertake military action. . .in the long term, it means removing Saddam and his regime from power."⁶⁵

3.3 George Bush enters the scene

During the presidential election campaign George Bush junior the neo-conservatives had another opportunity to put forward their agenda of reshaping the Middle East. In September 2000 Dick Cheney, Donald Rumsfeld, Paul Wolfowitz and Lewis Libby contributed to a paper, entitled "Rebuilding America's Defences": Strategies, Forces and Resources for a New Century. The paper revealed that some of President Bush's future cabinet intended to take military control of the Gulf region regardless of whether Saddam Hussein was in power. The paper stated: "The United States has for decades sought to play a more permanent role in Gulf regional security. While the unresolved conflict with Iraq provides the immediate justification, the need for a substantial American force presence in the Gulf transcends the issue of the regime of Saddam Hussein."⁶⁶

3.4 Bush enters office and September 11th

After coming into office after the disputed election of 2000, the agenda remained within the background until the tumultuous events of September 11th 2001. After these attacks, some of the neo-conservatives sought to take advantage of the deaths of almost 3000 Americans by trying to impress their agenda on President Bush. On May 9 2003, in an interview with Vanity Fair's Sam Tannenhaus, Paul Wolfowitz said, "On the surface of the debate it at least appeared to be about not whether but when..." Tannenhaus reported that Wolfowitz was referring to September 13 2001, a meeting at Camp David with President Bush, Donald Rumsfeld, and others.⁶⁷ He discussed with President Bush the prospects of launching an attack against Iraq. On September 20 2001, The New York Times ran a front-page article under the title 'Bush's Advisers Split on Scope of Retaliation'. The article reported that Libby and Wolfowitz were listed as pressing the case for Iraq, while Powell was opposed.

3.5 Iraq goes to the top of the agenda

The neo-conservatives who have a significant influence within the Pentagon succeeded in finally winning over George Bush to their point of view regarding Iraq and the Middle East. It was November 21 2001, when Bush made up his mind that Iraq was America's next target after Afghanistan. "I want to know what the options are", Bush remarked. Bush said he knew it was a big step and that it entailed preparing the country and the world for war. "I have no idea what it takes to cause the Pentagon to respond to a request since I've never been there. I presume Don Rumsfeld was making sure that the product got done and the process didn't linger."⁶⁸ This was well before August 26 2002 when Vice President Dick Cheney became the first official in the Bush administration to publicly acknowledge that Saddam Hussein was amassing weapons of mass destruction in a threatening fashion. He said, "Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction [and] there is no doubt that he is amassing them to use them against our friends, our allies and against us."⁶⁹ It was also before President Bush's speech to the UN on September 12 2002, where he told the UN General Assembly that America would seek a new resolution to disarm Iraq. Clearly this demonstrates that the Bush administration was planning to attack Iraq long before the Iraqi WMD arguments became common currency. It also illustrates that President Bush was in agreement with the neo-conservative vision for Iraq and the Middle East.

3.6 The wider Middle East

Immediately after the fall of Baghdad the neo-conservatives and their supporters used America's military presence in Iraq to call for regime change in Iran and Syria. In an address entitled "Time to Focus on Iran—The Mother of Modern Terrorism," for the policy forum of the Jewish Institute for National Security Affairs (JINSA) on April 30 2003, leading neo-conservative Michael Leeden declared, "the time for diplomacy is at an end; it is time for a free Iran, free Syria and free Lebanon.". He also wrote: "No one I know wants to wage war on Iran and Syria, but I believe there is now a clear recognition that we must defend ourselves against them".⁷⁰ "It would be in the interest of the world and most particularly of the Iranian people to have a regime change in Iran," said US senator Joseph Lieberman⁷¹. President George Bush issued a strident new warning to Iran and Syria yesterday, accusing them of harbouring terrorists and hinting at the consequences. He said, "States that continue to harbour terrorists will be held completely accountable."⁷²

3.7 Iraq a model democracy for the whole Middle East

The neo-conservatives also believe that America should use its power to promote democracy - by force if necessary. Neo-conservatives, William Kristol and Robert Kagan first sounded this trumpet in Foreign Affairs.⁷³ They state: "Now that the evil empire is vanquished, the US must aspire to exercise a benevolent American hegemony. For never has the US had such a golden opportunity to promote democracy and free markets abroad, while Americans themselves have never had it so good. Hence, the appropriate goal of the United States should be to preserve that hegemony as far into the future as possible."

Many neo-conservatives and senior officials in the Bush administration believed that democratising Iraq would be relatively straightforward. Paul Wolfowitz the most powerful neo-conservative in the Pentagon has long argued that Iraq should become a template for democracy for the rest of the region. But just weeks after the fall of Baghdad, the Bush administration started to back pedal and started to argue that democracy in Iraq would take a very long time indeed. Speaking at an event in Los Angeles, national security adviser Condoleezza Rice said, "There is no 'one size fits all' template for democracy," adding that the United States will stay the course in Iraq until a working democracy was in place. She said she often tells leaders in developing nations that installing a democracy is a difficult task. After all, the United States has been at it for more than 220 years, she said, "and there's still some parts of it we're trying to get right."⁷⁴

Democratising Iraq was not the main argument put forward by the White House to justify regime change in Iraq. But the rising cost of the Iraq occupation, the increasing number of US casualties and the failure to find WMD led the Bush administration to declare a new strategy for Iraq and the Middle East. Drawing a parallel with Reagan's fight against communism President Bush said, "The establishment of a free Iraq at the heart of the Middle East will be a watershed event in the global democratic revolution. Our commitment to democracy is also tested in the Middle East, which is my focus today and must be a focus of American policy for decades to come. Therefore, the United States has adopted a new policy, a forward strategy of freedom in the Middle East. This strategy requires the same persistence and energy and idealism we have shown before."⁷⁵ What is particularly noteworthy about the speech is that the Bush administration passionately believe that a democratic Iraq will produce a democratic revolution across the Middle East. As Bush has indicated in unambiguous terms America is prepared to spend several years to achieve this goal.

3.8 Iraq to become the new military hub for America's armed forces

The US also requires a huge military presence in Iraq not only to stabilise the country but also to safeguard its interests in the region. The need for a large military footprint in Iraq has grown, especially after Saudi Arabia refused to allow the US the use of air bases and facilities to host American troops on its soil. When asked if the kingdom would allow the United States to use Saudi facilities for such an attack, Prince Saud, the Saudi defence minister said: "We have told them we don't (want) them to use Saudi grounds."⁷⁶ A year later, America transferred control of portions of Prince Sultan Air Base to Saudi officials at a high profile ceremony. Speaking at the Ceremony Major General Robert J. Elder Jr said, "Today ends more than a decade of military operations in this strategic Middle East nation. The end of (major combat operation in Iraq) and Saddam Hussein's government means the American military mission here is over."⁷⁷

The Bush administration views Iraq as a key base of operations for its plans to achieve its strategic objectives across the Middle East. With this in mind, the Bush administration sought last year to seek a number of permanent military bases in Iraq. Citing senior US officials, the New York Times revealed on April 20 2003 that the Pentagon was planning to maintain at least four bases in key locations in Iraq indefinitely. These include: the international airport just outside Baghdad; Tallil air field near Nasiriya in the south, an isolated airstrip known as H-1 in the western desert; and the Bashur air base in the northern Kurdish areas. Senior republican Richard Lugar, chairman of the senate foreign relations committee said, "at least we ought to be thinking of a period of five years", adding "that may understate it".⁷⁸ A week earlier at the regular weekly "Black Coffee Briefing on the War on Iraq" of the neo-conservative American Enterprise Institute April 15 2003, resident analyst Thomas Donnelly bluntly stated: "American forces will be in the region, in Iraq, a long, long time. Decades."

The Iraq war has also allowed America to press ahead with plans to scale down its established military bases in Western Europe, particularly Germany, and open up a series of new installations in Eastern Europe. Barred from exploiting Turkey to open a northern front against Baghdad, the US military used a Rumanian air base near the Black Sea port of Constanta to airlift US troops. The Bulgarian airport at Burgas, also on the Black Sea, was used for refuelling US military aircraft and Hungary opened up a military base for the US to provide military training to Iraqi exiles. Ian Traynor reported: "the past two years have seen a rapid extension of American military deployments across thousands of miles stretching from the Balkans to the Chinese border and taking in the Caucasus, Central Asia, the Middle East and the Indian subcontinent. Thirteen new bases in nine countries ringing Afghanistan were rapidly established as Russia's underbelly in Central Asia became an American theatre for the first time."⁷⁹ The transformation of Iraq into a US protectorate is a key element in this wider scheme, which is aimed in the final analysis at undermining the economic and strategic interests of its major rivals in Europe and Asia over the Middle East.

3.9 Commercial interests entrench American presence in Iraq

US policy towards Iraq has always been shaped by the country's rich oil resources, its strategic location on the Gulf and its regional weight. Iraq ranks only second to Saudi Arabia in terms of oil reserves, and was the world's second largest oil exporter before the Iraq-Iran war broke out in 1980. The US has always been a key importer of Iraqi oil. Even under the UN sanctions, US companies imported some 750,000 barrels per day (bpd) from Iraq until the end of 2002. Based on current estimates, Iraq's oil reserves stand at about 115 billion barrels, equivalent to the total oil reserves of the US, Canada, Mexico, Western Europe, Australia, New Zealand, China and the whole of Asia. The US controlled CPA hopes that Iraq would soon be able to export about 600,000-700,000 barrels a day, mostly to the US, in addition to 300,000-400,000 barrels produced for domestic consumption. Exports could be back to the pre-war level of 2.5 million barrels a day, say US occupation officials.⁸⁰ No matter what the Bush administration says to distance itself from Iraq's lucrative oil, US policy makers will always place Iraq at the centre of America's stratagem for the Middle East. "If you are trying to talk about Iraq and if you were not encumbered by the fear that your actions would be linked to Exxon Mobil or the oil industry," a Bush adviser said, "you'd be talking about oil issues."⁸¹

Another reason for America's undue attention towards Iraq's oil is that America's relations with Saudi Arabia have become turbulent in recent years. Numerous reports have appeared citing senior US officials that America wants to reduce its dependency on oil from Saudi Arabia and specifically the Persian Gulf. Indeed this has become a plank of senator John Kerry's election campaign in 2004. President Bush, asked on the ABC News program "20/20" about the importance of Saudi Arabian oil, said that "we must have an energy policy that diversifies away from dependency" on foreign sources of oil — including some that "don't like America."⁸² Despite the strategies of diversification, the US whose imported oil requirements will rise substantially in the next twenty years will become even more dependent upon Iraqi and Middle Eastern oil. This is not through choice but due to oil mathematics. This is illustrated by an article titled *The Coming Energy Crunch* A \$2 gallon of gas is just the beginning.⁸³ Here Aaron Naparstek writes the following: "As we approach the global oil peak, the world will grow increasingly dependent on Middle Eastern oil supplies. Already, 50 oil-producing countries have passed their peak, including the United States, which now imports 60 percent of its oil. The only excess production capacity in the world—that is, the only countries that are able to meet increasing daily demand—resides in the handful of oil-rich Persian Gulf states. The Middle East accounts for nearly one-third of the world's total daily oil supply, and as other oil provinces reach their peak and begin to decline, that share is growing. Saudi Arabia alone controls one-quarter of these reserves. But despite Saudi assurances about the size of their future reserves, analysts are increasingly worried about the steady flow of Saudi oil that the world so depends upon."⁸⁴

Though the oil debate has become a victim of the often shrill and exaggerated debate between the left and the current US administration, the idea that US policy towards Iraq has nothing to do with oil is also somewhat unbelievable in the context of oil production and consumption that is forecast in the next twenty years

Besides oil, America has already established and is establishing strong commercial interests in Iraq. Bechtel Corp., the engineering and construction giant closely tied to the Bush administration was awarded a \$1.8 billion contract to rebuild Iraq's electrical and water systems, roads and schools. Kellogg, Brown, and Root (KBR) the Halliburton subsidiary and a no-bid contractor is responsible for rebuilding Iraq's oil infrastructure.⁸⁵ The US government has ensured that American companies will play the lead role in reconstructing Iraq's railways and financial sector. Through favouring its own corporations and an over reliance on imported expatriates, much of the reconstruction proceeds have been utilised on security and building safe housing compounds for foreign employees. As a result of this, the benefits to ordinary Iraqis in terms of employment have been minimal to say the least thus far

3.10 Conclusion

The Bush administration though containing a spectrum of divergent political views has largely embraced the neo-conservative vision for reshaping Iraq, the Middle East and the wider Muslim world. This consists of controlling the oil and security of Iraq and then expanding America's influence to the neighbouring countries and beyond. To facilitate this, America has planned a number of permanent bases in Iraq to ensure it has the necessary capability, flexibility and threat. These bases are likely to become the biggest staging ground for American military operations in the region adopting the new transformational flexible approach that the US army now adopts. The ideological aspect of this vision demands that America democratise the Middle East, so as to try and drain the swamp of Islamic radicalism and fundamentalism. The springboard for this venture is to make Iraq the model democracy for the region, a shiny beacon for the whole of the Middle East. After this, America intends to impose its democratic values on the wider Muslim world. President Bush's Greater Middle Eastern Initiative is a confirmation of this plan and a strategic shift away from 50 years of seeking simply stability in the region. On the economic front, America has poured in billions of dollars to remove Saddam in anticipation that American companies will at least be able to enjoy significant benefits from the Iraq's oil and the reconstruction programme. President Bush is also hoping that this would bolster his popularity amongst America's corporate elite and help him win the US general election in November 2004. However the stark reality is that the realisation of this new vision has so far eluded the Bush administration. The rising costs of the occupation, the mounting casualties, the scandal at Abu Ghraib and the worsening security situation in Iraq means that America has failed at the first hurdle i.e. to secure Iraq, win the battle for values and protect her commercial and strategic interests. Even if George Bush was to lose the US election, it is very unlikely that his successor John Kerry would or could abandon Iraq. He will probably forsake the neo-conservative agenda and replace it with a multilateral approach thereby hoping to secure America's interests in Iraq. Handover or not, America will remain in Iraq for years to come and this will surely quash any hopes of an independent sovereign Iraqi state.

4. The Pretence Of Sovereignty In The Interim Government

The Iraqi Interim Government is to assume, with the 30th June handover from the Coalition Provisional Authority (CPA), the rare distinction that we call sovereignty; the capacity for independent decision and exercise of will. Sovereignty is not a commodity that can be sold in parts – it comes as a whole, yet it has become popular to speak of partial sovereignty. If we must speak of partial sovereignty, then by looking at just how much has been taken away from the whole we can make up our own minds as to whether what is left deserves to be characterised, even in part, by the word sovereignty.

This chapter seeks to examine the facts that surround the framework that will regulate the new Iraqi government, the constraints it is subject to and what real power it has in governing Iraq.

4.1 The US establishes a new constitution for Iraq

The Interim Government will be bound by a constitution devised, many months ago on 8th March 2004, by the Coalition Provisional Authority and the Iraqi Governing Council. The new Iraqi government will therefore be constrained by an old US inspired constitution. This constitution articulates a 'Transitional Administrative Law' (TAL) which will be the legislative framework for Iraq and which the interim government will be bound by. The constitution states in its preamble, "This Law is now established to govern the affairs of Iraq during the transitional period until a duly elected government, operating under a permanent and legitimate constitution achieving full democracy, shall come into being."⁸⁶.

A new constitution established by an occupying power contradicts the Hague Regulations which UN resolution 1483 (which recognised the United States and United Kingdom as the Iraq's occupying powers) cited when it called upon them to "comply fully with their obligations under international law, including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907."⁸⁷ The Hague regulations state that an occupying power must respect "unless absolutely prevented, the laws in force in the country". The Coalition Provisional Authority has completely disregarded these regulations in establishing the "Transitional Administrative Law".

In a leaked memo on 26th March attorney general, Lord Peter Goldsmith, advised Prime Minister Blair on the 'illegality' in the context of international law of re-writing the constitution. He said, that in his view "the imposition of major *structural economic reforms* would not be authorised by international law," and that "the longer the occupation of Iraq continues, and the more the tasks undertaken by an interim administration depart from the main objective [of disarming Saddam], the more difficult it will be to justify the lawfulness of the occupation."⁸⁸

Lord Peter Goldsmith's reference to "the imposition of major structural economic reforms" exposed the colonial necessity of changing the old constitution. Key elements of the old constitution presented a number of obstacles to US interests, such as outlawing the privatisation of key state assets and barring foreigners from owning Iraqi firms, and reveal why the US may have considered it necessary to replace it. Without rewriting the Iraqi constitution it would not have been possible for all sectors of Iraqi industry to be privatised by American Firms⁸⁹. A new constitution allows the US occupying administration to shape Iraq according to its own economic interests as well as its political, military and security interests.

This chapter will analyse clauses and articles of this Transitional Administrative Law, together with US activities prior to the hand-over, in the context of evaluating what real power the interim government holds and what it will be prevented from doing by this US authored constitution. That it was the US who authored this constitution, both directly and through the Governing Council it appointed at the start of its occupation, provides insight as to its aim and shows with whom the real power to decide Iraq's future rests.

It is important to note that the constitution describes the 'transitional period' as consisting of two phases. The first phase shall begin with the formation of an Iraqi Interim Government, which will take power on 30 June 2004. The second phase shall begin after the formation of the Iraqi Transitional Government that shall take place after elections for the National Assembly have been held. This second phase shall end upon the formation of an Iraqi government pursuant to a permanent constitution.

4.2 The Interim government cannot legislate or alter legislation that has been promulgated by the CPA.

Article 3 of the new constitution reveals that the interim government is bound by the law devised by the Coalition Provisional Authority and has no power to fundamentally change it. It states, "This Law is the Supreme Law of the land and shall be binding in all parts of Iraq without exception. No amendment to this Law may be made except by a three-fourths majority of the members of the National Assembly and the unanimous approval of the Presidency Council". Since the National Assembly is not in existence, the Interim Government will not be permitted to legislate, whether on fresh matters or amendments to current laws. Instead, the interim government has no real legislative powers and can be considered to represent no more than a partially autonomous administrative body.

The constitution also states in Article 26, "Except as otherwise provided in this Law, the laws in force in Iraq on 30 June 2004 shall remain in effect unless and until rescinded or amended by the Iraqi Transitional Government in accordance with this Law." Since the Transitional government doesn't come into existence until after the Interim government has been dissolved, on 30th June the Iraqi administration will be powerless to overturn the various contracts and laws that have been passed by CPA prior to its institution, but is rather bound by them.

It is hard to imagine a sovereign government that has no capacity to alter its own legislation.

4.3 The Interim government cannot rescind spending commitments that have been made by the CPA

The Program Review Board (PRB), which is the Coalition Provisional Authority's (CPA) spending arm, has recently embarked on a spending spree with the funds from the Development Fund for Iraq (DFI). On May 15th the board approved nearly \$2 billion in spending in what the Iraq Revenue Watch Program described as "hastily conceived projects on the eve of its completion deadline" and that the projects were "poorly planned". The report goes on to say "It does not appear that all relevant ministries were consulted in the development of these funding requests."⁹⁰

Under UN resolution 1546, the new Iraqi Interim government must honour outstanding obligations under the Development Fund for Iraq (DFI), which is the main repository for Iraqi oil revenues. The DFI was established by UN resolution 1483 and was responsible for collecting 95% of oil revenue as well as other sources. It is also under the authority of occupying force, according to the same resolution. As of June 9 it held \$10.1 billion.⁹¹

Questions remain outstanding as to why these appropriations were not made when the 2004 budget for Iraq was adopted and subsequently revised in March. Why are such large amounts of discretionary cash being committed to programs prior to establishing mechanisms for implementing them? Why are these spending obligations being introduced at the last minute rather than allowing the in-coming government to make such decisions? What is clear is that the new Interim government has no authority to refuse to meet the cost of these projects.

4.4 The Iraqi Armed Forces shall be under the operational command of US Commanders

Order 67 of the Iraqi Ministry of Defence consolidates the control of all Iraqi troops and security forces under the Ministry of Defence and its head, Mr Allawi, who will report directly to the American administrator of Iraq. The order states: "all trained elements of the IAF, to include the ICDC when transferred to the IAF, shall at all times be under the operational control of the Commander of Coalition Forces for the purpose of conducting combined operations and providing other support in accordance with CPA Orders Number 22 and 28, respectively, and any future relevant CPA Orders. The interim Minister shall exercise administrative control over elements of the IAF that are under the operational control of the Commander of Coalition Forces".

The interim and transitional governments will have "administrative control" over the forces of Iraq. This means that they are permitted to organise the forces as they see fit, be responsible for appointments, establish training and other requirements, and developing the working policies to regulate the forces. However, they will not be in operational control of the forces and that means that they cannot deploy the forces for action. Only the US commanders will be able to command the Iraqi forces in action.⁹²

4.5 Iraq will not be permitted a sizeable military force

The US has sought to prevent the emergence of any substantial military force in Iraq, instead assuming responsibility for most of Iraq's security through its own leadership. According to Jacinta Carroll, director of defence policy for the Coalition Provisional Authority, "Iraq will have a lightly-armed standing army and no heavy field artillery, if tanks and attack aircraft were needed, Iraq would have to rely on US-led forces".⁹³ This serves to protect US forces in Iraq from coming under any substantive attack from Iraqi forces in the event of an unexpected deterioration of relations in Iraq, whether that be as a result a sudden change in political leadership, factions within the army deciding to direct hostilities against the US presence or if the military attempts to assume power itself. It also acts to ensure that the security of Iraq is not in the hands of Iraqis, but in the hands of the US, creating a perpetual dependency on their continued presence.

To curb Iraq's access to heavy weapons, observers say the occupation authorities have signed a \$259m contract with US company Anham Joint Venture to be sole supplier of arms to Iraq's armed forces for the next two years. All but 20 per cent of the defence ministry's 2004 \$1.5bn budget stems from US funds, say coalition officials, and Iraq's share is earmarked for the payment of salaries, not equipment. In addition, the coalition has impounded Iraq's remaining heavy weapons and is hampering the issue of end-user certificates for fresh supplies, say western security experts. An American defence adviser in Baghdad this week said that Iraq also remained under "a partial UN weapons embargo".⁹⁴

Downsizing and limiting the capabilities of the Iraqi army is not only a current stipulation, but also a strategy for the future. The interim constitution prevents Iraq from collecting any significant weaponry, military equipment or military capability. Article 27 of the constitution, "The Iraqi Transitional Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, non-production, and non-use of nuclear, chemical, and biological weapons, and associated equipment, materiel, [sic] technologies, and delivery systems for use in the development, manufacture, production, and use of such weapons." This is likened to the vision of a 'de-militarised' Iraq, as the US did with Germany and Japan after the Second World War, central to its strategy of removing Weapons of Mass Destruction from Iraq - a policy the US has pursued beyond Iraq in other parts of the Middle-East and indeed the Muslim World.

4.6 The Interim government cannot adopt emergency powers

No better example of this is the Iraqi Prime Minister's attempts to deal with what he termed as the 'persistent insurgency'. On 21st June the Iraqi Prime Minister announced plans to strengthen and refocus the armed forces to deal with this insurgency. In order to do so, he announced that the interim government was likely to take emergency measures in some parts of the country to deal with these security threats. However, on 23rd June, just two days later, the US-led occupation authority in Baghdad warned Iraq's interim government not to carry out its threat of declaring martial law, insisting that only the US-led coalition has the right to adopt emergency powers after the June 30 handover of sovereignty. A senior coalition official in Baghdad said: "Under the UN resolution, the multinational force will have the power to take all actions traditionally associated with martial law."⁹⁵ In the context of preventing the interim government from adopting such emergency measures, it was reported in the Financial Times that a Senior American officials said "Iraq's authorities are bound by human rights clauses in the interim constitution, known as the Transitional Administrative Law, prohibiting administrative detention."⁹⁷ Furthermore, United Nations Security Council resolution 1546 sanctions the use by *foreign* forces in Iraq of "all necessary measures" to provide security. Mr Allawi subsequently backtracked from his original remarks saying, "No, I didn't specifically say martial law meaning martial law".⁹⁶ The incident demonstrates that the US will continue to exert incredible direct and indirect pressure on the interim government to ensure it acts in manner not threatening to its interests.

4.7 The Interim and Transitional governments shall have no authority to remove Western values embodied in the constitution

Article 3 of the constitution, referred to in part under section 4.2, describes the values upon which Iraqi society should be built when appropriating rights for the 'Iraqi people'. It also prevents the interim government and the Transitional Government from making any amendments or behaving in a manner that restricts these rights. The article carries the provision, "Likewise, no amendment may be made that could abridge in any way the rights of the Iraqi people cited in Chapter Two". Stipulated in Chapter 2 of the constitution are the inviolable rights of the citizens of Iraq.

These rights are no more than those associated with liberal secular democracy, the value system that forms the basis of most western societies. Indeed this provision is consistent with George W. Bush's strategy for the Middle East, and a key reason for occupying Iraq, to introduce the liberal secular values of freedom and democracy to the region. As he stated in November 2003, "Iraqi democracy will succeed, and that success will send forth the news, from Damascus to Tehran, that freedom can be

the future of every nation... Therefore, the United States has adopted a new policy, a forward strategy of freedom in the Middle East".⁹⁷ What is clearly absent, however, is the right of the Muslims of Iraq to live according to the Islamic shariah law for which there have been calls from all sectors of the population. They are given the right to talk about Islam and to believe in it, but not to live politically by it.

4.8 The Interim government is to have little executive control over Iraq

Since the interim government will be unable to alter orders issued by the CPA that have passed into legislation, the Coalition Provisional Authority has been actively issuing a number of Orders, and Paul Bremer a number of edicts, which the interim government will effectively be bound by during its tenure. The CPA has created new commissions, which will assume considerable powers once held by a number of Iraqi ministries. These include the establishment of an important new role of security-adviser, which will be responsible for training and organising the new Iraqi army and paramilitary forces, along with monitoring institutions that will audit individual ministries and permit ongoing U.S. involvement.

This section seeks to highlight examples of how these CPA activities and Orders, issued prior to the interim government coming into existence, demonstrate that the Interim government is to have little executive control over Iraq.

4.8.1 THE INTERIM GOVERNMENT WILL HAVE LITTLE CONTROL OVER THE MEDIA

The Coalition Provisional Authority's Order 65 established the "Iraqi Communications and Media Commission". It states: "... The Commission shall be solely responsible for licensing and regulating Telecommunications, Broadcasting... until the formation of an Iraqi government pursuant to a permanent constitution, the body vested with national legislative authority may terminate the appointment of the Director General or a member of the Board of Commissioners only upon two-thirds vote. Until such transfer of full governance authority, the Administrator shall have sole authority to terminate the appointment of the Director General or a member of the Board of Commissioners."⁹⁸

This will mean that the media and telecom commission will be able to collect media licensing fees, regulate television and telephone companies, shut down news agencies, extract written apologies from newspapers and seize publishing and broadcast equipment with little control from the Interim government. The Wall Street Journal⁹⁹ recently reported that "Haider al-Abadi runs Iraq's Ministry of Communications, but he no longer calls the shots there. Instead, the authority to license Iraq's television stations, sanction newspapers and regulate cellphone companies was recently transferred to a commission whose members were selected by Washington." Mr. Abadi was reported as saying that installing a government that can't make important decisions essentially "freezes the country in place." He adds, "If it's a sovereign Iraqi government that can't change laws or make decisions, we haven't gained anything"

4.8.2 THE MINISTRIES WILL BE MONITORED BY THE OFFICE OF THE INSPECTOR GENERAL

The Coalition Provisional Authority's Order 57 established "The Office of the Inspector General", a monitoring body that will have appointees inside every Iraqi ministry. Appointed to five-year terms, the inspectors will be allowed to subpoena witnesses and documents, perform forensic audits and issue annual reports. Order 57 states: "Inspectors General shall report directly to the relevant minister and shall respond to requests or inquiries submitted by the Coalition Provisional Authority (or the body of the Iraqi administration vested with national legislative powers). In cases involving allegations of misconduct by the relevant minister, an Inspector General shall report to the Administrator (or to the Commissioner on Public Integrity), upon the transitional Iraqi administration's assumption of full governance authority in Iraq."¹⁰⁰ Even though the Inspector General shall report to the relevant minister, the US appointed Administrator has the right to overturn the decision as indicated in the text of the order.

4.8.3 THE GOVERNMENT OF IRAQ SHALL BE MONITORED BY THE BOARD OF SUPREME AUDIT

The Coalition Provisional Authority's Order 77 established another body, "The Board of Supreme Audit", set-up to monitor the Iraqi Interim Government and oversee a number of other inspectors. It shall have wide-ranging authority to review government contracts and investigate any agency that uses public money. Mr Bremer will appoint the board president and his two deputies and they can't be removed without a two-thirds vote of Iraq's parliament, which is not due to come into existence until sometime next year.

The order states: "The Board shall work in conjunction with the Commission on Public Integrity and the Inspectors General of individual ministries to ensure that the Iraqi government remains honest, transparent and accountable to the people of Iraq... The head of the Board shall be the Board President who shall be supported by two Deputy Presidents. The Administrator shall appoint the initial Board President and Deputy Presidents after consultation with the Governing Council. The terms of

these appointments shall end after five years, or one year after the adoption of a permanent constitution pursuant to the Transitional Administrative Law, whichever is sooner."¹⁰¹

4.9 Conclusion

As examples of the Transitional Administrative Law demonstrate, the Interim Government has very few powers and is subject to close oversight by pre-established bodies. Not only does the interim government lack much power to act and behave independently, it will be under the close scrutiny of the US through these commissions, monitoring boards and advisers who will continue to play a significant role in nearly every ministry. The Interim Government will therefore be ineffectual in making any real difference to the situation in Iraq, as they are prevented from making key decisions regarding the future of Iraq and are bound by the constraints of the constitution that was chosen for them. If they do attempt to exercise their own will, their actions will be subject to the scrutiny and veto by the US through its embassy in Baghdad and the various bodies that represent the tentacles of US influence throughout the fabric of the interim government. The US has therefore issued a number of stipulations which describe what the interim government cannot do, leaving very little it can do.

The Interim Government therefore represents a nominal body. In the context of being handed back the sovereignty of Iraq from the Coalition Provisional Authority, the constitution to which it is bound and the elements of US influence in Iraq which will continue to remain, demonstrate only that 30th June does not represent a real transfer of power at all, but demonstrates the changing face of US occupation.

5. The Iraqi Parallel With Afghanistan

Afghanistan became the first country, on the 7th of October 2001, to be attacked following 9/11 as part of the war on terror. Charles Krauthammer, a former Carter administration official, explained the following month that a “decade-long folly—a foreign policy of norms rather than of national interest – is over”¹⁰² and that America should go it alone regardless of the limitations of the United Nations. Afghanistan is an example of the US imposing its will and sets the blueprint for Iraq. Following the fall of the Taliban, America handpicked a head of state and forced all parties to co-operate with the US inspired vision for the country. However, in Afghanistan, as in Iraq, the security situation remains far too volatile for a stable government to assert central control over the country. Also, as in Iraq, the political option that represents the will of the people in Afghanistan is unacceptable to America.

5.1 Afghanistan: “Nation Building” begins

The Bonn conference of December 2001 appointed Hamid Karzai as the head of the interim power-sharing council in Afghanistan¹⁰³. A ‘loya jirga’ was later convened in Kabul in June 2002. The objective of this gathering was to select a transitional head of state, and to accord the status of ‘participant’ in the process to invited delegates while eliminating others from the political medium. This was a necessary precursor to the constitutional process.

The true function of the loya jirga, which can be likened to a great assembly of notables, was to anoint Hamid Karzai President of Afghanistan and to legitimise the interim government. This would require engineering the elimination of former King Zahir Shah as a contender for head of state.

The convening of the loya jirga was met with great enthusiasm by all strata of Afghan professional society who hoped for a new beginning after years of civil war and the threat of vicious marauding warlords. Fifteen hundred delegates arrived and eight hundred of them signed a petition calling for the popular former king, Zahir Shah, to be selected as the nation’s leader, but they were to be disappointed because the outcome had already been decided: Frederick Starr and Martin Strmecki in an op-ed piece for the New York Times on the 14th June 2001 wrote, “America’s envoys pressed the king to withdraw himself from consideration, in effect pre-empting the loya jirga from selecting the nation’s leader by itself.”¹⁰⁴ Then, before Zahir Shah could even make his own announcement, Zalmay Khalilzad, (now US ambassador to Afghanistan) told the press “The former King is not a candidate for a position in the transitional authority. He endorses Chairman Karzai.”¹⁰⁵

Once Hamid Karzai seized control he went on to choose the ministers in the government. Two delegates had this to say: “Our hearts sank when we heard President Hamid Karzai pronounce one name after another. A woman activist turned to us in disbelief: ‘This is worse than our worst expectations. The warlords have been promoted and the professionals kicked out. Who calls this democracy?’ ... Three powerful Northern Alliance commanders ... have been made vice presidents ... these are the very forces responsible for countless brutalities under the mujahideen government ... as the loya jirga folded its tent, we met with frustration and anger on the streets. ‘Why did you legitimise an illegitimate government?’ one Kabul resident asked us. The truth is we didn’t ... we delegates were denied anything more than a symbolic role in the selection process.” No surprise then that Zalmay Khalilzad was brought in to repeat this work in Iraq, to reward CIA agents and ex Ba’ath party leaders and generals.

5.2 Hamid Karzai: credentials

Hamid Karzai is widely perceived to have been imposed upon Afghanistan as an American puppet. Prior to his appointment as ‘Transitional Head of State’ Karzai had been an often-present figure at the US State Department, the influential National Security Council and on Capitol Hill. He had visited the United States from his former base in Quetta to meet regularly with US diplomats and security officials. According to a report in the French paper, *Le Monde*,¹⁰⁶ he has also acted as a consultant for UNOCAL, one of the major oil companies that sought to establish a gas pipeline route through southern and western Afghanistan in the mid-1990’s. Karzai was invited by the US ‘Viceroy’ in Afghanistan, Zalmay Khalilzad, to discuss Afghanistan at RAND. Karzai also met periodically with Christina Rocca, who is now Assistant Secretary of State for South Asian Affairs. Khalilzad was in a good position to look after US interests in Afghanistan because he was “a consultant to the RAND Corporation, a special liaison between UNOCAL and the Taliban government. Khalilzad also worked on various risk analyses for the project.”¹⁰⁷¹⁰⁸

While Karzai is a Durrani Pashtun, and the son of a tribal chief, he himself doesn't hold any particular allegiance or following amongst the Pashtuns. He was in fact a secondary choice for the position of head of state. The first choice was Hajji Abdul-Haq of Nangarhar – a famed mujahideen commander who had well cultivated links with the CIA. However, Abdul-Haq was captured by the Taliban immediately after he infiltrated into the Nangarhar area in October 2001 and was executed. US Secretary of Defence Rumsfeld subsequently acknowledged the failure of a US rescue attempt to extricate him. Karzai, who infiltrated into Afghanistan soon after the execution of Abdul-Haq, almost met with a similar fate. However, he was rescued and airlifted to Pakistan by a US military extrication team¹⁰⁹. He was subsequently taken to Kabul after its liberation and installed there as the head of the new administration. The US tried to bolster him by allying other prominent Pashtun leaders with him, leaders who had the support of the Pashtun population. Principal amongst these was the surviving brother of Abdul-Haq, Hajji Abdul-Qadeer. With the assassination of Qadeer in July 2002, Karzai emerged as the unchallenged Pashtun option for heading the country as President following general elections.

5.3 Elections delayed until September.

The Presidential elections that had been scheduled for June 2004 have been pushed back to September 2004 based on security concerns and the recommendation of the UN¹¹⁰. The current on-going voter registration drive, initiated in December 2003, was also part of the problem. As of April 2004, out of the estimated 10.1 million eligible voters the government seeks to register, only 1.5 million had been registered¹¹¹. Despite fears of ethnic conflict, resulting from elections that are not expected to be fully representative, the US administration is very keen for elections to take place before the US home elections in November, as it would mark a success for Bush's policy in Afghanistan. US Ambassador Zalmay Khalilzad in a press briefing at the US Institute of Peace (USIP) warned, "If you hold no election at all ... the crisis of legitimacy could be severe ... The current state of mind is to hold elections come hell or high water."¹¹²

5.4 Lack of any central authority in Afghanistan.

The deals being made in Iraq with disparate factions and former members of Saddam's old regime to control various towns and provinces follows the model of Afghanistan. The president of Afghanistan, Hamid Karzai, has no authority in Afghanistan, or even in Kabul. A leading analyst at the Brookings Institution calls him "... basically the mayor of Kabul during daylight hours."¹¹³ The Washington Post, four months after the last major military operation in Afghanistan, reported that the president "has been unable to extend his authority much beyond Kabul, the capital".¹¹⁴ Nearly two years later, nothing has changed: Time magazine reported, "Hamid Karzai is lonely. He is huddled, as always, deep inside his presidential palace in Kabul, protected by towering stone walls, growling dogs and US bodyguards."¹¹⁵ When asked how he intended to crack down on the power of regional warlords, Karzai replied, "The demands of the Afghans are very straightforward. They want disarmament and the removal of warlords, they want corruption to end, and they want the emergence of an efficient, streamlined, coherent government."¹¹⁶ Wishful demands are not a very convincing alternative to the much-needed plans of a government in control.

So much for taking control, Afghanistan recently received an increase in US troop levels to 20,000¹¹⁷. In what is a further indictment against the nature of the security situation in the country, and a proof of Karzai's abject dependency upon America, he was forced to disband his personal security detail and take on American protectors. Previously Karzai's security had been in the hands of a group of 'Kandahari' loyalists. This was unacceptable to Tajik defence minister Fahim who is in charge of the state's militia. Unwilling to accept Tajik bodyguards, for fear of assassination, Karzai then had his security entrusted to a group of 46 US military personnel. If the security of a head of a state is dependent upon a foreign occupying power¹¹⁸, it is completely unrealistic to envision that head of state as being able to implement independent policies, or even to assert authority independently.

The situation was so bad last November that the UN Security Council sent a high-ranking delegation to Afghanistan to bolster the country's leader, Hamid Karzai, "amid signs that his authority is steadily slipping to powerful warlords and warnings that an opium boom could turn Afghanistan into a failed state run by drug cartels".¹¹⁹

The drugs situation is so bad that Afghanistan contributed "almost three-fourths of the world's opium demand last year ... twenty times that during the Taliban's last year"¹²⁰

As for the UN mandated drive for weapon removal that has been ongoing in the country, the pronouncement of a UN military spokesperson overseeing the surrender of weapons accurately describes the reality - "junk" - in reference to what the warlord led militias have so far surrendered in that empty venture. They are maintaining their essential heavy weapons and surrendering rusting obsolete weapons to be considered compliant with the UN sponsored drive so as to not be singled out or reprimanded.

These examples illustrate that far from bringing stability and security to Afghanistan, the US attacks have left a power vacuum filled by competing criminal warlords. Each of these warlords commands a heavily armed militia and large swathes of territory. The result is a precariously perched regime, loyal to, and dependent upon, the US.

5.5 American abuse, torture, and murder of prisoners began in Afghanistan.

The events in Iraq are neither isolated incidents nor confined to Iraq. Following the release of images depicting physical abuse and torture at four prisons in Iraq, information has been forthcoming about a number of previously unheard of detention facilities in Afghanistan. A leading human rights organisation claims there are as many as seven unreported interrogation facilities in Afghanistan, the most notorious of them being named 'the Pit' in Kabul¹²¹. It has turned out that the abuses from Abu Ghraib prison followed the application of harsh measures (torture) first learned in Afghanistan.

5.6 Conclusion

Hamid Karzai's analysis is, "Afghanistan is not yet capable of standing on its own feet."¹²² With the worsening security situation and diminishing confidence in the Interim Iraqi Government the future looks not too dissimilar to the debacle of nation building in Afghanistan.

6. An Islamic Alternative—Separating Fact From Myth

What manner of government should Iraq have? Who should be its leaders and what should be its constitution? Of prior consideration, however, should be the question: who should decide the future of Iraq? An army of occupation has for one year asserted that the US will decide the future of Iraq: the form of government which has been chosen for that future is in accordance with the political philosophy of the people of the US.

The political philosophy of the people of Iraq, their historical experience and current aspirations cannot, however, be disregarded. Iraq will sadly remain in turmoil, like her neighbours, till its people are allowed to truly take their destiny in their own hands – and Islam is the natural ideology to define this destiny because Islam is the root political philosophy of the people of Iraq and has been so for thirteen centuries. Were Islam to gain ascendancy, what would the future Iraq look like?

We propose an alternative form of government, one that the people of Iraq must be allowed to choose for themselves, which has a historical precedent of success. This is the Khilafah ruling system – known more commonly in the west as the Caliphate. It was formally abolished after thirteen hundred years of rule in 1924, following the British occupation of modern day Turkey and the installation by coup of a secular movement into the heart of Turkish politics. The result was that Turkey, where the capitol of the Khilafah latterly had resided, along with the whole of the Middle East suffered lasting disintegration with attendant ethnic and sectarian violence. The brooding discontent caused by unnatural and despotic governments, including some that are formally considered democratic, are the subject of daily report.

6.1 Khilafah

Iraq's multi-ethnic population comprising many sects lived generally in peace under the Khilafah ruling system for thirteen hundred years till the British invasion of 1917. From that time until now, Iraq has suffered the results of colonial and neo-colonial rule and interference. The return of the Khilafah is the only viable alternative for remoulding Iraq's now fragmented peoples back into a coherent society. The details of this system of ruling that follow are taken from "The Ruling System of Islam" by Taqiuddin an-Nabhani.¹²³

6.1.1 AN OVERVIEW OF THE KHILAFAH SYSTEM OF RULING

The Khilafah is a political system from the ideology of Islam that enshrines: the rule of law, representative government, accountability by the people through an independent judiciary and the principle of representative consultation.¹²⁴ It is government built upon a concept of citizenship regardless of ethnicity, gender or creed and is totally opposed to the oppression of any religious or ethnic grouping.

The highest executive post is the post of khalifah who appoints ministers without portfolio to assist in ruling, and governors for the various regions. The legislative sources are the Quran and sayings of the prophet Muhammad. While differences of interpretation of these sources can occur, as with any legislative sources, the particular interpretation adopted by the Khalifah must be justified before an independent judiciary, which has the power to remove him from his post should he flagrantly deviate from the boundaries of credible legal interpretation (*ijtihad*). The khalifah is appointed by the people, and hereditary rule by supposed divine right is forbidden. Consultation is one of the pillars of ruling and is best served by the establishment of representative councils composed of men and women from all religions and ethnic groupings within the state.

While this system differs from western liberal democracy in a number of ways, there are some surface similarities. It must, however, be realised that though Muslims in Iraq sometimes use the term democracy it is the Islamic concept of the rule of law, the right of the people to appoint their own leader and open accountable government that they aspire to. This has hitherto been denied them by the western backed quisling regimes that hitherto have taken away all their political rights and whipped their backs. Egypt, for example, has just gone through elections to its consultative upper house of parliament with 80% of the seats going to the ruling party. The darker side of Egypt's façade of democracy is commented upon by Mona Makram-Ebeid, a prominent Egyptian politician and human-rights activist "They [the government] always manage to get a hold of Islamist leaders and put them in jail, then release them when the elections are over".¹²⁵ Egypt's president Mubarak has won a majority in each of

the three elections held since his appointment twenty three years ago – what helped him was that nobody dared to stand against him.

The Middle East's experience of democracy to date is of a deceptive formality of elections, which serve only to rubber stamp dictatorial rule. Failure to realise this will lead to frustration, later, when the Muslims of Iraq appear ungrateful to the west for removing Saddam Hussain and offering in his place western style liberal secular democracy.

6.1.1.1 THE RULE OF LAW

The arbitrary rule by the whim of self-appointed presidents and kings that has plagued Iraq and the whole Middle East is anathema to the principle of the rule of law within Islam's political system. The application of the law is in the hands of an independent judiciary that has a special section called the 'court of unjust acts' whose task is to investigate impropriety on the part of members of the executive against the people. As for individual wrongdoing – the khalifah is subject to the same laws and penalties as the rest of the people because he is not considered a sovereign over his subjects. The same cannot be said for the Queen of England – she is, constitutionally speaking, the law itself making it a logical impossibility for her to be subject and sovereign at the same time. The publication of former US President Bill Clinton's autobiography should remind everyone of the events that demonstrate how some men can be above the law in western government - with or without a monarchy. We prefer that all the people, including the khalifah, be subject to the law.

6.1.1.2 REPRESENTATIVE GOVERNMENT

The finer application of the concept of representation in government is a matter of considerable debate in western political philosophy. The first political use of the concept is commonly referred back to the seventeenth century as referring to: "one (legal) person acting on behalf of a group of people, as in the first and still the most influential discussion in political theory, chapter 16 of Hobbes's *Leviathan*."¹²⁶ The conceptual basis of the khalifah is also considered one of representation, though the logic by which the concept arises is different to the path taken by Thomas Hobbes. Hobbes's representative derives authority from an assumed human state of nature to become an absolute sovereign who predates law. The khalifah is considered a representative of the people in the sense of implementing pre-existing societal rules that were addressed to the society as a collective whole, but require embodiment in an authority tasked with implementation of these rules on behalf of the society.

The khalifah is appointed to his position according to the will of the people. The process is called *baya* in Arabic and can assume many styles including voting by ticking a card, text messaging or email. The consultative assembly (called *majlis al-shura* in Arabic) is the arm of state that will oversee the process whenever the position of khalifah becomes vacant.

6.1.1.3 ACCOUNTABLE OPEN GOVERNMENT

Linked closely to the concept that the khalifah is a representative of the people in adopting and implementing divine rules over the society is the concept of accountability. It is a right of the people to question or criticise the decisions of the ruler because he is a servant of the people ruling on their behalf. The widely quoted saying of the second khalifah, Umar ibn al-Khatab, with which he began his rule encapsulates his perception of ruling as securing the rights of all people without distinction: "by Allah, he that is weakest among you shall be in my sight the strongest, until I have vindicated for him his rights; but him that is strongest will I treat as the weakest, until he complies."¹²⁷ The Khilafah system does not permit corporate interests to hijack government at the expense of the interests of the people that it is meant to serve.

6.2 The myths surrounding the Islamic Khilafah

The war on terror has transcended hunting out those responsible for the September 11th attacks on innocent civilians in America to a call for the elimination of all forms of political ruling that do not conform to the measure of secular liberal democracy. There is only one source for such divergence from the accepted dogma: Islam. To that end, many objections to the idea of Muslims ruling by a system from their own political philosophy have been raised in the west.

6.2.1 ISLAMIC RULE IS NOT THEOCRATIC

Donald Rumsfeld spelt out his fears of a clerical theocracy in Iraq: "how would we feel about an Iranian-type government with a few clerics running everything in the country, the answer is: That isn't going to happen."¹²⁸ A clerical priesthood running around giving "divine" injunctions in all aspects of human activity is not a feature of the Khilafah.

The Khilafah is a human state run by fallible and accountable human beings who implement laws, derived from what Muslims believe to be divine legislative sources, over societal interactions. Areas covered include; taxation, company and contract law, inheritance, marriage and divorce, how to treat prisoners of war, the rights of citizens, the duties of government and its structure and the penal code.

Unlike the priestly authority of Europe's dark ages, Islam does not restrict knowledge to the religious realm. The Khilafah never tried to insist that people believe the world to be flat, and would never ban, as President Bush has done, stem-cell research, with its revolutionary potential for human healing.

We cannot help but wonder, however, about America's own theocratic aspirations if people like Lt. Gen. William G. Boykin say publicly that he sees the war on terrorism as a clash between Judeo-Christian values and Satan. Appearing in dress uniform before a religious group in Oregon last June, Boykin said Islamic extremists hate the United States "because we're a Christian nation, because our foundation and our roots are Judeo-Christians. ... And the enemy is a guy named Satan."¹²⁹

6.2.2 WOMEN IN THE ISLAMIC STATE

Under the Khilafah system women had the franchise and participated in the political process from the very beginning of Islamic rule. Not only were women able to vote, but they were able to own property – the wife of the prophet Muhammed, Khadija, was in fact a wealthy businesswoman. The right of women to own property is a relatively recent concept in the west. Education is open to men and women and surely this is a necessity rather than a luxury. Women have, however, been prohibited from holding the ruling posts of khalifah, *wazir* (assistant) or *wali* (governor). In this respect we do limit the political posts a woman can hold – both in practice and principle. Other posts of seniority such as the judges, military, managerial, running universities, teaching in schools and civil service are open to women and men upon merit without distinction.

It is understood that in this respect our concept is at variance with the doctrine of freedom as an absolute concept. It may be some comfort to reflect, however, that reality itself is at variance with freedom as an absolute concept. While in principle the President of the US can be a woman there never has been a woman President, despite the fact that in a statistical sense one might expect a free society to have a woman President with a fifty per cent chance at any given time.

The restrictions upon freedom, that do exist in any society where people are free from the terror and insecurity that would result due to their neighbour's unrestrained enjoyment of their freedom, do not pose for us the paradoxical conundrum that they pose for societies that have abstracted the concept in absolute utopian terms.

Finally, we do believe in the right of women to walk the streets without the fear of rape, murder and abduction. We do believe in the right of women to receive equal pay for doing the same work as their male colleagues. We do believe in the right of women to gain employment and receive promotion, based upon merit, without having to show off their bodies and endure sexual innuendo and worse. We do believe that women should not be considered the property of any and every man who wishes to compare her to, and give her a score based upon, the images in promotional advertising and men's magazines. We do believe that men and women gain honour by their work, and that women have a special privilege in being the mothers of every nation and for that they deserve special regard.

6.2.3 THE ISLAMIC STATE WILL HEAL ETHNIC AND SECTARIAN TENSIONS

It is claimed that Islamic rule cannot work because it does not gather competing ethnicities and sects and place them into a shared platform or parliament from which to rule. There are fears of sectarianism in Iraq based upon a Shia Sunni divide and it is claimed that Iraqis need a secular government to safeguard them against a struggle for domination by one group over the other. This assumption is the most dangerous assumption in the case of Iraq. It is exactly the competing petty interests of different groupings that will sow the seeds of civil strife for years, if not decades, to come. What is needed in Iraq is a unifying force, and a potent one at that.

Western style democracy is doomed to failure in Iraq because of the ethnic and sectarian tensions that have been greatly exacerbated by Saddam Hussain's repressive policies. These tensions are too great for a system based upon majority rule when people adhere so strongly to sectarian or racial agendas. In this respect, minorities, who have experienced the harshest repression, have very great fears. Already the ethnic cleansing that is removing Arabs from the lands that Saddam forcibly put them on as part of his Kurdish policy is creating refugee camps many tens of thousands strong.

The Washington Post reported tensions within the interim government earlier this month: "Kurdish and Shiite Arab leaders are arguing over a section of Iraq's interim constitution, approved in March, that allows voters in any three provinces to nullify a permanent constitution by a two-thirds vote... Jalal Talabani and Massoud Barzani, Iraq's two most prominent Kurdish politicians, warned in a letter to President Bush this week that Kurds would refuse to participate in the central government if the Shiites do not honour the March agreement. Two weeks ago, the Kurds similarly threatened to pull out of the interim

government unless they received more prominent cabinet assignments.”¹³⁰ The prospect of civil war does indeed loom over the horizon in Iraq and the potential battle lines are many.

That being said, the majority of the people of Iraq believe in Islam, and Islam alone has proven to be the only force capable of unifying Arabs, Kurds, Turkmen and others. While the Arab Kurdish tensions, that owe much to the persecution under Saddam and forced ethnic resettlement of Northern Iraq, are creating a quiet humanitarian disaster in Iraq at this very moment, it was Kurdish fighters under the command of the Kurdish leader, Saladin, who played the pivotal role in aiding Arabs in Palestine and Syria against the European armies of the crusades. Those Arabs were Muslims, Christians and Jews and the banner they fought under was the banner of the Islamic Khilafah whose justice they believed in regardless of religious affiliation. T. W. Arnold, in his book “The Preaching of Islam,” wrote about inter-ethnic relations and the treatment of non-Muslims who lived under the Ottoman Khilafah: “though the Greeks were numerically superior to the Turks in all the European provinces of the empire, the religious toleration thus granted them, and the protection of life and property they enjoyed, soon reconciled them to prefer the domination of the Sultan to that of any Christian power.”¹³¹

Not only is the Khilafah a state for all ethnicities, but also its leadership is not restricted to Arab, Kurd, Turk or other. In fact, the last period of Islamic rule was the Ottoman period, during which Turks ruled Arabs, and there was no disparity in the concept of Turks ruling Arabs until the ill-fated western concept of the nation state was brought into the imagination of Arabs, Turks and others during the nineteenth century. The objective of ethnic propaganda was to sow seeds of destruction into the Islamic state that was then an obstacle to further colonisation by the European powers in three continents. Sadly, the destructive notion of racial superiority combined with political weakness during the last decades of the Ottoman Khilafah were effective in precipitating the final demise of the once powerful Islamic state. The people of the Middle East are still suffering from the effects of this pernicious racialism, and no western style governments in the region have proved a match to contain it.

If the people of Iraq were to choose the Khilafah form of government it could readily heal the wounds of ethnic hurt because it is blind to the racial distinctions of ethnicity and it could deal with sectarian differences because it is by nature tolerant to faith of whichever brand – even to faith in no faith. The bond that binds the people of the Khilafah is the bond of citizenship – the other option is years of turmoil and strife akin to those bloody years of strife in Northern Ireland or Lebanon.

Sadly, one cannot help but suspect that all this is well known to those who carried out the war on Iraq. Certainly, if Iraq’s people do become distracted into fighting each other, whether politically or militarily, it will be all the more easy for Iraq’s 2000 or so US diplomats at the American embassy to get on with their shady business of manipulating the growing tragedy which is Iraq for the sake of other interests.

6.2.4 THE KHILAFAH SYSTEM DATES BACK TO THE 7TH CENTURY SO HOW COULD IT WORK TODAY?

There are four reasons for argument such as this

1. First, is the incorrect analogy between things, such as computers, which become outdated by better models, and thoughts that are simply judged to be correct or not regardless of their age. Nothing is detracted from the idea of democracy by observing that it can be traced back to the ancient Greeks, while computers are considered ancient, and obsolete, within the space of a few years. From this point of view it is irrelevant how old the ruling system is, and if modernity were a criterion by itself then communism, which came after both Islam and secular liberal democracy, would have been worthy of universal acceptance.
2. Second, the seventh century is not considered a very enlightened era in European history. It was a time known as the dark ages. Nevertheless, it came after the far more advanced Roman civilisation fell, ushering in a period of regression that lasted centuries. The dark ages of Europe were in fact running parallel to a golden age for other nations – most notably the adherents of Islam. The association of the seventh century with dark and backward times is, therefore, a purely regional matter.
3. Third, it is argued that laws may be good for the time they are made but that the reality changes with time making them irrelevant. Islam’s legislation dealt with human relationships between people, which are largely fixed in nature. What does change are the tangible means of attaining their interests. When two parties enter into a contract, the legislation of the seventh century is not made redundant by the internet of the twenty first century because the legislation is not tied to the specific instance of the relationship in question. Where uncertainty does arrive, then Islam has established the principle of juristic reasoning (*ijtihad*) that enables the jurist to use his mind to derive new law base upon analogy and linkage of new realities such as cloning to existent concepts such as lineage and marriage in the case of human cloning.
4. Fourth, the values and social mores of western society are in a state of constant flux and what seems appropriate now was scandalous fifty years ago. Social mores and values within Islamic society are taken from the same source as the

political philosophy of the Khilafah. This means that there is no disparity between morality and law to necessitate changing the law – both are tied to the same anchor.

6.3 The myth that without US tutelage Iraq would descend into chaos and insecurity

It is part of the arrogance of neo-colonialism to assert the right of people to determine their own political future with one hand and yet take that right away with the other. It is claimed that if left to themselves the people of the conquered nation would choose the wrong form of governance.

It is claimed that if the US and her allies left Iraqis a completely free hand to determine their own future the country would be ripped apart by insecurity and ethnic and religious violence.

The problem with this argument is that Iraq is already in chaos, and the occupation powers have no credibility with the people of Iraq. The near daily sight of burning vehicles surrounded by spontaneous scenes of jubilation at the reversal for western forces are testament to the near universal rejection of occupation and its attendant lack of security. The great numbers of uncounted Iraqi civilian casualties is tragic evidence of this. The Iraqi police and trainee army are seen as collaborators with the occupation and seem helpless to defend themselves against routine attacks by insurgents. What security could they thus provide for Iraq as a whole without legitimacy in their eyes?

6.4 The people of America would never have accepted a foreign constitution

The imposition of a western form of government over Iraq is akin to the British writing the Declaration of Independence for the Americans instead of Thomas Jefferson. When the Americans fought against British colonial rule in North America they could never accept that any authority other than their own should decide their principles of government. How then can the foreign imposition of the semblance of democracy be acceptable to the people of Iraq? Such an insult could never be the basis for peace and security.

6.5 The real solution for Iraq

The only solution capable of bringing peace and prosperity to Iraq is government by a representative of its people, on behalf of its people, that is built upon the beliefs and political philosophy of its people. The only serious historical precedent is government based upon the Khilafah model that had ruled Iraq for thirteen centuries. President Bush did speak recently of another alternative for Iraq when he said that he was “bringing back a 5,000-year-old civilisation”¹³²—it seems that he would prefer to resurrect the bones of the Babylonian king Nebuchadnezzar than consider the possibility of the people of Iraq opting for Islam.

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