

Cheney's Oil Law For Iraq Is Neocolonial Theft

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Although a great deal more is at stake in the Iraq war than oil, there can be no doubt that the rich petroleum reserves of the country have stood high on the agenda of the war party since long before the 2003 invasion, and continue to be the focus of policy for the occupying powers.

Alan Greenspan, of all people, recently let the cat out of the bag, when he reported in his autobiography, *The Age of Turbulence*, that the war was “largely about oil.” Brennan Nelson, the Minister of Defense of Australia, one of the “coalition of the willing,” also admitted this when he stated on July 5, that “resource security” was one of his country’s priorities for defense and security, and that Iraq was part of that equation.

On one level, this motivation for the war, as summed up in the anti-war movement’s slogan, “No blood for oil,” is all too facile; the deeper reasons behind the invasion must be sought in the neoconservatives’ longterm strategic aim to destroy Russia and China, as perceived economic-political threats.

As outlined in a series of strategic doctrines drafted by various task forces under the direction of Dick Cheney, from 1991 to 2002, the neocons asserted the right of the United States, as the (in their eyes) sole remaining superpower after the collapse of communism, to intervene with preemptive wars, including with nuclear weapons, against any nation or group of nations which the U.S. perceived to constitute a potential threat against its hegemony. Iraq did not and does not represent such a threat, but Russia, China, and India, especially if allied, do.

From this explicitly articulated strategic outlook, the war against Iraq has been essentially a stepping-stone on the way to the bigger targets. In fact, among the plethora of strategic doctrine papers churned out by Cheney’s task forces, the 1996 “Clean Break” concentrated on the plans for regime change in the Middle East, through wars or political destabilizations. Then-Prime Minister Benjamin Netanyahu immediately adopted the doctrine as his own, as he announced in an address to a joint session of the U.S. Congress, and, once the events of September 11, 2001 had paved the way, those wars were launched: after Afghanistan, came Iraq, then Lebanon and Syria (through the political operation triggered by the murder of Rafiq Hariri). Now, Iran is next on the list.

As stated, the purpose of these wars was not to grab the oil, as a thing in itself. However, as anyone familiar with the appetites of the Bush-Cheney crowd knows, they are not averse to making a few billion bucks in the course of overthrowing regimes and occupying countries. And, controlling the flow of oil, is also a means of containing resource-dependant countries like China.

The recently drafted Iraqi Oil Law is a case in point. If one were to write an unbiased executive summary of the law, it would have to contain the following points: The purpose of the legislation is to open Iraq's vast, undeveloped oil fields to exploitation by international oil companies (read: the friends of Cheney and Bush) in a modern version of early twentieth-century colonial ventures for oil. In order to exercise control over the oil, U.S. military forces will be forced to extend their tour of duty, and set up the biggest embassy in the world, thus dashing hopes for Iraqi sovereignty.

If current Prime Minister Nouri al-Maliki is unwilling or unable to force through the legislation, he can be replaced by Cheney favorite Iyad Allawi, a man closely associated with the process leading to the law. As a postscript to such a summary, one must note the shameful fact that there has been, to date, only one U.S. Congressman, Dennis Kucinich, who has unmasked the outrageous aims of the law, and started a fight around it.

The Oil Law Per Se

The U.S. government has repeatedly characterized the oil law as one of the "benchmarks" for the Iraqi government to prove itself. Yet, nowhere has Washington made details of the bill public. Instead, its contents have been made available only through press leaks, beginning with an item published on a website al-ghad.org by Professor Fouad Al-Ameer, picked up then by niqash.org, and then by [Iraqi blogger Raed Jarrar](#), who translated an Arabic version into English.

That version can be found on www.box.net/public/ehdzt13d71, which gives the link to www.IraqiOilLawRaedJarrar.pdf.

The draft of the law was issued by the Council of Ministers Oil and Energy Committee, entitled Republic of Iraq Draft Iraqi Oil and Gas Law No. ____ of 2007, and bearing the date 15 February 2007. The document is a piece of cheap sophistry, to put it charitably; while solemnly repeating that "Oil and Gas are owned by all the people of Iraq in all the Regions and Governorates," as per the new (U.S.-drafted) Constitution, it proceeds to outline how new institutions will be set up, to place those natural resources under the control of foreign interests.

In the Preamble, it is stated that "To help the Iraqi Ministry of Oil focus on its main duties of creating policies, planning, and supervision, while achieving the necessary upgrading to enhance operational quality, the oil activities operated solely by the Ministry of Oil have to be transferred to technical and commercial entities and institutions including an independent Iraq National Oil Company, to provide authorities to the Regions and Producing Governorates." Immediately thereafter, it states that "the rehabilitation and further development of the Petroleum industry will be enhanced by the participation of <international> and national investors of recognized technical, managerial and operational skills as well as robust capital resources to help upgrade and develop national expertise and efficiency in the Petroleum sector" (emphasis added).

In Chapter II: Management of Petroleum Resources, Article 5: Competence of Authorities, the most crucial new institution is introduced, the Federal Oil and Gas Council.

This FOGC, to be created by the Council of Ministers, will be presided over by: "the Prime Minister or his nominee" and will include:

“1. the Federal Government’s Ministers of Oil, Finance, and Planning; 2. the Director of the Iraq Central Bank; 3. a Regional government minister representing each Region; 4. a representative from each Producing Governorate not included in a Region; 5. the Chief Executive of important related petroleum companies including the Iraq National Oil Company and the Oil Marketing Company; and 6. Experts in petroleum, finance, and economy, with their number not exceeding three (3), to be appointed for a period not exceeding five (5) years based on a resolution from the Council of ministers.”

Then, enter the “international players”:

“To assist” the FOGC in “reviewing Exploration and Production contracts and Petroleum Fields’ Development plans, the Council relies on the assistance of a panel called the ‘Panel of Independent Advisors’ that includes oil and gas experts, Iraqis **or foreigners**”. (emphasis added)

Formally speaking, the Ministry of Oil maintains significant powers: to create legislation, issue regulations, and to be “the competent authority to represent the Iraqi Republic in regional and international forums” as well as to “negotiate with other countries and organizations multilateral and bilateral treaties related to Oil and Gas,” etc. But, that same Ministry of Oil is to undergo rather substantial reorganization. As Article 7: Reorganizing the Ministry of Oil, specifies, the ministry has to “create the important institutional and methodology changes to reflect its new responsibilities and duties” including a “new department” which is “specialized in planning, developing, and following up the process of obtaining rights.” Here “It is permissible that the negotiation and rights team include expert advisors with a distinguished <international> reputation and experience.”

Now, what is the Iraq National Oil Company? The law states that the INOC is “a holding company fully owned by the Iraqi Government ... financially and administratively independent and runs on commercial basis.” The INOC is to manage and operate <existing> producing fields, and to participate in discovered, but not yet producing fields. The INOC operates the pipelines and export ports “during a transitional period not exceeding two years until the reorganization of the companies in the Ministry is completed.” After that, the FOGC “shall decide the entity responsible of (sic) operating the Main Oil and Gas Pipeline Network and the export ports in Iraq....”

As for the “discovered but not yet developed fields,” the Ministry should propose to the FOGC what methods are to be used. The FOGC decides. And, “it is permissible to develop these Fields in collaboration with **reputable oil companies** that have the efficient financial, administrative, technical, operational capabilities according to the contracting terms and the regulations issued by the Federal Oil and Gas Council” (emphasis added).

Article 9: Grant of Rights details that the “rights for conducting Petroleum Operations shall be granted on the basis of an Exploration and Production contract ... between the Ministry (or the Regional Authority) and an Iraqi **or Foreign Person**, natural or legal....” (emphasis added). The model contract requires “National control; Ownership of resources; Optimum economic return to the country” as well as a good return to the investor etc. etc. etc. But, when one comes to the nitty-gritty of the contracts, as detailed in Chapter III, Article 13, the colonialist nature of the operation becomes clear. First, “An Exxploration and Production Contract shall give the holder an exclusive right to conduct Petroleum Exploration and production in the Contract Area.” The time allotted for operations to make a discovery, is four years, extended by another two years, and again another two, if required. Then, once a

discovery has been made, the right is further extended two years, to assess its value. Then, "INOC and other holders of an Exploration and Production right may retain the exclusive right to develop and produce Petroleum within the limits of a Development and Production Area for a period to be determined by the Federal Oil and Gas Council varying from fifteen (15) to twenty (20) years"! And, "In cases which for technical and economic considerations warrant longer Production period, the Federal Oil and Gas Council, on newly negotiated terms, has the authority to grant and extension not exceeding five (5) years."

(The reference in Article 9 to the rights of the Regional Authority to sign contracts is very important. Although it goes beyond the bounds of our treatment here (and will be dealt with in an upcoming article on the threats to Iraq's territorial integrity), these powers given the Regional Authorities have made it possible for the Kurdish region to make independent deals with numerous foreign oil companies. On October 7, AFP reported the views of Kurdish premier Nechirvan Barzani in a Wall Street Journal OpEd, to the effect that the Kurdish Regional Government had signed eight production-sharing agreements with international oil and gas concerns since its oil law in August, and was looking forward to signing two more. It is largely thanks to the new oil regime, which has given the "right" to the Kurds to sign such deals, that the centrifugal tendencies in that region, toward establishing an independent "Kurdistan," have been encouraged.)

In sum, all the key institutions, existing and new, are influenced—not to say controlled—by of the "international advisors, experts, etc." These include the INOC, the FOGC and the revamped Ministry of Oil. To round out the picture, transport is also guaranteed. Article 18 states that the INOC, as transporter of the pipelines, property of the Federal Government, "have the obligation to transport, without any discrimination and on reasonable commercial terms, the Petroleum of third parties...." The contracts also "confer the right to construct and operate Field Pipelines," according to Article 22.

The Devil In The Detail

Although the term per se is not used in the draft text referenced here, the key component of the fraud perpetrated by the draft oil law, is what is known as a Production Sharing Agreement (PSA). This is the actual content of Article 9 cited above.

What is a PSA? Gregg Muttitt, of PLATFORM, was the first to blow the whistle on PSAs in a November 2005 article, entitled ["Crude Designs: The rip-off of Iraq's oil wealth"](#). The PSA was a new contractual agreement, he explained, which emerged in the 1960s, in Indonesia. "Whereas in a concession system," as was common in the colonial era, "foreign companies have rights to the oil in the ground, and compensate host states for taking their resources (via royalties and taxes), a PSA leaves the oil legally in the hands of the state, while the foreign companies are compensated for their investment in oil production infrastructure and for the risks that they have taken in doing so." The company which invests to explore, drill and produce, uses its oil sales to recoup these investments, known as "cost oil." After covering these costs, the company reaps "profit oil," which it divides with the country, according to contract.

As Muttitt explains, there are a number of serious disadvantages to Iraq in such PSAs. "They fix terms for 25-40 years, preventing future governments from changing the contract.... Secondly," he writes, "they deprive governments of control over the development of their oil industry.... Thirdly, they generally over-ride any future legislation that compromises

company profitability, effectively limiting the government's ability to regulate.... Fourthly, PSAs commonly specify that any disputes between the government and foreign companies are resolved not in national courts, but in international arbitration tribunals which will not consider the Iraqi public interest" (p. 24).

Since the PSAs are to be applied to those fields in Iraq which have been discovered but not developed, as well as those not yet discovered, it is important to take a look at the facts and figures in this respect. As Muttitt, and others, have documented, Iraq, which holds the third largest oil reserves in the world, has 115 billion barrels of known reserves, and is thought to have in addition, a whopping 100-200 billion barrels of undiscovered reserves! According to figures released by the Iraqi Oil Ministry in March 1995, when Saddam Hussein was still in power, figures cited by Muttitt, there were 25 Iraqi oil fields categorized as "undeveloped," which were slated for development, once sanctions were lifted.

If anyone were skeptical of the arguments provided here against PSAs, he or she should consider the fact that big oil producers, allied to the U.S., like Saudi Arabia and Kuwait, as well as designated enemy Iran, have rejected PSAs, by constitution and national law. If this is imposed on Iraq, it will signify a dramatic shift in the country's traditional oil policy; as Muttitt notes, the oil industry has been public in Iraq since 1972, and the rights to develop oil in 99.5% of the nation had been in public control since 1961.

Iraqi Oil Law: Made In USA/Britain

It should come as no surprise that the infamous oil law, which will effectively hand over the country's national resources to private foreign interests, was not an Iraqi invention. Rather, it was concocted in the U.S. and long before the bombs started falling on Baghdad. Dick Cheney, in his incarnation as executive of Halliburton, back in 1999, told the Institute of Petroleum in London: "By 2010 we will need on the order of an additional fifty million barrels a day. So where is this oil goin to come from? ... While many regions of the world offer great oil opportunities, the Middle East with two-thirds of the world's oil and the lowest cost is still where the prize ultimately lies." (quoted by Muttitt, p. 7). Soon thereafter Cheney became head of the Energy Task Force, whose secretive meetings put Iraq and its oil on their agenda.

As documented in an article by [Ed Spannaus, in Executive Intelligence Review](#) (September 12, 2003), Cheney and co. had detailed plans for seizing Iraqi oil after the war. Paul Wolfowitz, then Deputy Secretary of Defense, had told the House Budget Committee Feb. 27 that the costs of the war could be defrayed easily by Iraq's "\$15 billion to \$20 billion a year in oil exports," adding, "There's a lot of money there." Cheney himself, told Tim Russert of NBC's "Meet The Press" March 16, that since Iraq had "the second-largest oil reserves in the world," there would be no problem with financing, once production levels had been restored.

Cheney had done his homework. As Spannaus reported, Cheney's task force came out with a report specifying that the Persian Gulf region, with 67% of proven world oil reserves, "will remain vital to U.S. interests." The task force secretly developed a map, showing precisely where Iraq's oil fields were, where the refineries and terminals were located, and what projects were already on the agenda for oil and gas, including a .list of "Foreign Suitors for Iraqi Oil Field Contracts." The existence of the map, Spannaus reported, was made public due to the efforts of Judicial Watch, a watchdog group which got the information pursuant to a court order in July 2003. Interesting is the fact that the charts and maps dated to March 2001—long before the invasion!

There were a number of initiatives launched by the Bush-Cheney administration, to secure control over Iraq's oil. These included a plan by Halliburton and Bechtel, among others, to "mortgage future Iraqi oil revenues to pay for their reconstruction efforts" whereby the Ex-Im Bank would issue bonds covered by future revenues. To protect the oil multinationals against legal snags, the U.S. drafted U.N. Resolution 1483, which gave legal immunity for revenues from oil deposited in the Development Fund for Iraq, controlled by CPA Administrator Paul Bremer at the time. Bush signed an Executive Order 13303 on the same day as the U.N. resolution (May 22), which granted U.S. oil companies and contractors immunity from any complaints dealing with Iraqi oil. Yet, even such imperial decrees could not guarantee full protection from international law. Thus, the need to put through a law in Iraq itself.

Further aspects of the U.S. involvement in Iraq's oil law are noted in an extremely useful chronology of events compiled by [The Center for Grassroots Oversight](#). In April 2003 the State Department's Oil and Energy Working Group explicitly endorsed PSAs as a formula which would protect the oil companies from changes under future governments. In that same month, the U.S. dispatched hundreds of economic advisors to work with the ministries of the occupation government.

In September of 2003, then-Prime Minister Iyad Allawi made recommendations to the Supreme Council for Oil Policy: PSAs should be applied to development of all fields other than those already in production. This meant that 17 of 80 known fields would be under government control, the rest to be given over to the private sector—as later enshrined in the oil law. In March 2004, two former oil industry executives were named as advisors to Iraq's oil ministry: Mike Stinson of ConocoPhillips and Bob Morgan of BP. In June, the new Minister of Oil was Thamir al-Ghadban, a British trained oil engineer.

Several Iraqi politicians weighed in on the side of oil privatization: the infamous Ahmad Chalabi (who had provided Cheney with fabricated "intelligence" on Iraq's alleged weapons of mass destruction), in his capacity as deputy prime minister and former chief of the energy council, stated in November 2005, that Iraq needed "to have production sharing agreements, but that has to wait until after the formation of parliament." Hussein al-Shahristani, the new oil minister, spoke in May 2006 of the "need to pass an oil and gas law to guarantee the right conditions for international companies to help develop the Iraqi oil sector."

In the middle of 2006, Ronald Jonkers, a D.C. lawyer, was dispatched to Iraq to work on the new law. By July the first draft was ready, as worked out by Iraqis Tariq Sharif, Farouk al-Qassem and Thamir al-Ghadban, and contained the PSAs as a leading feature. The U.S. government and nine leading oil companies then reviewed the draft in July, after which U.S. Energy Secretary Samuel Bodman went to Baghdad, and urged politicians to "pass a new law, a new hydrocarbon law under which international companies will be able to make investments in Iraq." Shahristani told the Financial Times he thought the law would be ready soon.

The International Monetary Fund, not to be left out, also reviewed the draft in September. U.S. oil multinationals sent teams into the country. Meanwhile, inside Iraq, a committee of political figures from Iraq's different ethnic/sectarian groups convened to discuss the law, and presumably finally had a chance to look at the carefully guarded text. At that point, conflict broke out among different groups regarding the alleged sharing of oil among them. On January 16, 2007 the Iraq Oil Committee approved the draft, followed by the cabinet, which gave its okay on February 26. At that point, the only entities which had read the text, aside

from its ostensible authors and the Iraqi cabinet, were the IMF, the oil multinationals, and the British and U.S. governments. The Iraqi parliament, not to mention the broader public, were still in the dark. As soon as the light dawned on them, all Hell broke loose.

Iraqis Mobilize Against The Sellout

Anyone who has visited Iraq, knows that, whatever the government may be, there are certain red lines that the nation and its people will not allow to be crossed. A people with thousands of years of history, does not readily relinquish its national identity, its independence and its sovereignty. The fact that an armed resistance continues to the present day against the foreign occupation is dramatic confirmation of this. The growing resistance to the sellout of the country's natural resources, is another.

The resistance to the oil law has come from many sectors of Iraqi society: intellectuals, oil workers, politicians and others. The first major sign of resistance appeared in February, when the head of the Federation of Oil Unions in Basra, Hasan Jum'ah 'Awwad al-Asadi, denounced the draft law, on grounds that Iraq needed no outside "help" to produce oil. He cited the fact that oil workers had proven able to restart production after the devastating war "without any foreign expertise or foreign capital." Days later, on February 8, the oil labor unions sent a letter to President Jalal Talabani telling him he should reject any law based on PSAs, which, they said, were "a relic of the 1960s." The oil workers passed from verbal protests to mass actions on June 4, when they went on strike in Basra. Al-Asadi, speaking for his 26,000-worker union, called for a role in the law, saying the existing draft gave foreign companies too much control.

On June 18, Reuters reported on the U.S. tour of Faleh Abood Umara, general secretary of the Southern Oil Company Union and the Iraqi Federation of Oil Workers' Union, who was telling crowds that the law was "a raid by the international oil cartel," and that unions would mobilize to stop it. He said they would "take strong measures, even including stopping the flow of oil." He pointed out that, "We are the ones who run the pumps to the ports and we also control the ports." On July 16, they made good on their threat, as 300 oil industry workers demonstrated against the law in Basra.

Political leaders in the parliament also balked at the bill. On July 4, one day after the cabinet had approved an amended draft, leading Sunnis from the Iraqi Accordance Front, which had boycotted votes on the bill, said no draft should be considered by the legislative body until its members returned. The Sunni Association of Muslim scholars added that it was forbidding any vote on the bills. Even inside the government, protest was raised. Iraqi Minister of Planning and Development Cooperation Ali Baban, told Voice of Iraq on July 20 that he would resign if the law passed without radical changes. He also called for "a referendum on this law, or distributing copies of the draft to all Iraqis to be aware of the bill articles." Joining this protest was the block of radical Shi'ite leader Moqtadar al-Sadr, whose spokesman announced they would not support any law which would allow occupying firms "whose governments are occupying" powers to sign oil deals. "The most serious problem with the law," the spokesman quoted by AFP said, "is the production-sharing agreements, which we categorically reject."

Opposition In The U.S.

The Iraqis' opposition to the draft oil law is based on two major considerations: that it economically would cost the country billions, and that, politically, it would drive the final

nail into the coffin of the country's sovereignty. Thus, it is to be expected that, no matter how many comprador politicians in the Iraqi government may campaign to implement the law, it will not function.

Inside the U.S., it is lamentable that so few politicians have had the guts to stand up against this atrocity. Rep. Dennis Kucinich has stood out as one exception. On May 23, Kucinich, who has been an opponent of the Iraq war, as well as of the threat of an Iran war, took to the floor of the House of Representatives in order to provoke a full discussion of the Iraq oil law. "Any attempt to sell Iraqi oil assets during the United States occupation," he said in his bill HR 1234, "will be a significant stumbling block to peaceful resolution. There must be fairness in the distribution of oil resources in Iraq." Following President Bush's progress report on September 14, Kucinich stated: "The Bush Administration has no intention of ending this war. They have given non-negotiable demands for privatizing the oil." Noting the objections even within the Iraqi parliament, Kucinich said Bush's continuing to push for it constituted "a misuse of power and a violation of international law. "

On September 18, Kucinich upped the ante, following news of an oil deal struck between the Hunt Oil Company of the U.S. and the Kurdistan Regional Government. Kucinich called for a Congressional investigation to determine what role the administration might have had in the deal, considering that the privately held oil company is based in Texas, and that its founder, Ray Hunt, is close to Cheney, as well as being a donor to Bush. (Hunt was finance chairman of the Republican National Committee for Bush in 2002, contributed \$100,000s to Bush activities, and was a member of the President's Foreign Intelligence Advisory Board) The Congressman pointed out that the Hunt Oil deal also exposed the intent of Cheney's Iraqi oil law, to privatize the sector.

As announced on his website, Kucinich has sent letters out to Secretary of State Condi Rice as well as Henry Waxman, chairman of the Oversight and Government Reform Committee, demanding the Hunt deal be examined. These initiatives are to be supported, but are unlikely to yield serious results as single initiatives. More important is Kucinich's resolution HR. 333, which calls for the impeachment of Dick Cheney. Ultimately, the only way to shift U.S. policy on Iraq from its current neo-imperial thrust, to a policy of cooperation among sovereign nations in the interest of regional, and world, peace, is to remove Cheney from power, now. The fact that Kucinich initiated the demand for impeachment in the House indicates his awareness of this as the top priority. The question is: when will his fellow Democrats, who claim to oppose the Administration's war policy, finally stand up and join the impeachment drive?

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