

SILENT VIGIL FOR PEACE

In front of Borough Hall Monday nights from 5:30-6:30. This vigil is silent and peaceful in the Quaker tradition. Feel free to join us. Bring a candle and a peaceful sign if you wish.

Iraq is not America's to sell

International law is unequivocal - Paul Bremer's economic reforms are illegal

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[The Guardian](#)

Bring Halliburton home. Cancel the contracts. Ditch the deals. Rip up the rules. Those are just a few of the suggestions for slogans that could help unify the growing movement against the occupation of Iraq. So far, activist debates have focused on whether the demand should be for a complete withdrawal of troops, or for the United States to cede power to the United Nations.

But the "troops out" debate overlooks an important fact. If every last soldier pulled out of the Gulf tomorrow and a sovereign government came to power, Iraq would still be occupied: by laws written in the interest of another country; by foreign corporations controlling its essential services; by 70% unemployment sparked by public sector layoffs.

Any movement serious about Iraqi self-determination must call not only for an end to Iraq's military occupation, but to its economic colonisation as well. That means reversing the shock therapy reforms that US occupation chief Paul Bremer has fraudulently passed off as "reconstruction", and cancelling all privatisation contracts that are flowing from these reforms.

How can such an ambitious goal be achieved? Easy: by showing that Bremer's reforms were illegal to begin with. They clearly violate the international convention governing the behaviour of occupying forces, the Hague regulations of 1907 (the companion to the 1949 Geneva conventions, both ratified by the United States), as well as the US army's own code of war.

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 shredded that simple rule with gleeful defiance. Iraq's constitution outlaws the privatisation of key state assets, and it bars foreigners from owning Iraqi firms. No plausible argument can be made that the CPA was "absolutely prevented" from respecting those laws, and yet two months ago, the CPA overturned them unilaterally.

On September 19, Bremer enacted the now infamous Order 39. It announced that 200 Iraqi state companies would be privatised; decreed that foreign firms can retain 100% ownership of Iraqi banks, mines and factories; and allowed these firms to move 100% of their profits out of Iraq. The Economist declared the new rules a "capitalist dream".

Order 39 violated the Hague regulations in other ways as well. The convention states that occupying powers "shall be regarded only as administrator and usufructuary of public buildings, real estate, forests

and agricultural estates belonging to the hostile state, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct." Bouvier's Law Dictionary defines "usufruct" (possibly the ugliest word in the English language) as an arrangement that grants one party the right to use and derive benefit from another's property "without altering the substance of the thing". Put more simply, if you are a housesitter, you can eat the food in the fridge, but you can't sell the house and turn it into condos. And yet that is just what Bremer is doing: what could more substantially alter "the substance" of a public asset than to turn it into a private one? In case the CPA was still unclear on this detail, the US army's Law of Land Warfare states that "the occupant does not have the right of sale or unqualified use of [non-military] property". This is pretty straightforward: bombing something does not give you the right to sell it. There is every indication that the CPA is well aware of the lawlessness of its privatisation scheme. In a leaked memo written on March 26, the British attorney general, Lord Goldsmith, warned Tony Blair that "the imposition of major structural economic reforms would not be authorised by international law".

So far, most of the controversy surrounding Iraq's reconstruction has focused on the waste and corruption in the awarding of contracts. This badly misses the scope of the violation: even if the sell-off of Iraq were conducted with full transparency and open bidding, it would still be illegal for the simple reason that Iraq is not America's to sell.

The security council's recognition of the United States' and Britain's occupation authority provides no legal cover. The UN resolution passed in May specifically required the occupying powers to "comply fully with their obligations under international law including in particular the Geneva conventions of 1949 and the Hague regulations of 1907".

According to a growing number of international legal experts, that means that if the next Iraqi government decides it doesn't want to be a wholly owned subsidiary of Bechtel and Halliburton, it will have powerful legal grounds to renationalise assets that were privatised under CPA edicts.

Juliet Blanch, global head of energy and international arbitration for the huge international law firm Norton Rose, says that because Bremer's reforms directly contradict Iraq's constitution, they are "in breach of international law and are likely not enforceable". Blanch argues that the CPA "has no authority or ability to sign those [privatisation] contracts", and that a sovereign Iraqi government would have "quite a serious argument for renationalisation without paying compensation". Firms facing this type of expropriation would, according to Blanch, have "no legal remedy".

The only way out for the administration is to make sure that Iraq's next government is anything but sovereign. It must be pliant enough to ratify the CPA's illegal laws, which will then be celebrated as the happy marriage of free markets and free people. Once that happens, it will be too late: the contracts will be locked in, the deals done and the occupation of Iraq permanent.

Which is why anti-war forces must use this fast-closing window to demand that the next Iraqi government be free from the shackles of these reforms. It's too late to stop the war, but it's not too late to deny Iraq's invaders the myriad economic prizes they went to war to collect in the first place. It's not too late to cancel the contracts and ditch the deals.

• A version of this article appears in [the Nation](http://www.thenation.com).
www.nologo.org