

## Chapter 15

# The Neo-Colonial State of Exception in Occupied Iraq

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### ABSTRACT

*This paper explores the immediate post-conflict period following the 2003 Coalition invasion of Iraq, analysing the political strategy of economic exceptionalism violently and illegally imposed by the Coalition partners. The government of occupation, Coalition Provisional Authority, (CPA) ensured the disbursal of revenue and the accumulation of profits at an accelerated rate with few administrative controls or mechanisms of accountability. In the case of the post-invasion transformation of Iraq, routine corporate criminality, facilitated by the government of occupation, is revealed as an important means of producing and reproducing (neo) colonial power relations. The systematic corruption of the reconstruction economy unfolded in a liminal space opened up by the suspension of law. This neo-colonial 'state of exception' became the mode of domination that sought political and social transformation as part of the 'reconstruction' process in post-Saddam Iraq.*

### INTRODUCTION

This paper explores the immediate post-conflict period following the 2003 Coalition invasion of Iraq. It describes a post-conflict period that can be characterised as a strategy of economic exceptionalism that was violently and illegally imposed by the Coalition partners. Elsewhere, I have argued that the routine law breaking and corruption that dominated the Iraqi reconstruction economy quickly became normalised as part and parcel of the occupation (Whyte, 2007 and 2008). This research showed how systematic fraud and bribery served a useful purpose for the Anglo-

American occupation as part of a wider system of economic domination designed to provide structural advantages to Western firms entering the Iraqi economy. The government of occupation, Coalition Provisional Authority, (CPA) ensured the disbursal of revenue and the accumulation of profits at an accelerated rate with few administrative controls or mechanisms of accountability. In the case of the post-invasion transformation of Iraq, routine corporate criminality, facilitated by the government of occupation, was revealed as an important means of producing and reproducing (neo) colonial power relations.

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The systematic corruption of the reconstruction economy unfolded in a liminal space opened up by the suspension of law. As this paper will show, this 'state of exception' was most visible in the suspension of Iraqi sovereign law and the establishment of impunity for all US nationals (and some categories of the nationals of all Coalition states). The paper therefore explores a specific moment of state/law/power in which the normal rule of law was suspended under emergency conditions. In this case, the extreme form of neo-colonialism imposed on Iraq was made possible by a military invasion which, in so far as it constituted a violent and illegal crime of aggression, suspended the international legal order. The neo-colonial project was subsequently secured by the imposition of a wholesale suspension of the country's constitutional order.

In this paper, I argue, following Nader (2007), that a principle of 'lack' or 'deficit' was the core justification for the plunder and 'reconstruction' of Iraqi society. This was justified on the basis that the system of rules that governed the Iraqi economy and society were primitive and therefore lacked the necessary values that enabled proper integration into the global economy. It was the primitiveness of the Iraqi economy and 'lack' of conformity with the so-called Washington Consensus that provided the chief rationale for tearing-up the Iraqi constitution and re-writing the country's laws.

## BACKGROUND

Giorgio Agamben (2005) is perhaps the best known writer to analyse the form of contemporary states of exception. In his book *State of Exception*, he points out that the tendency of governments to resort to non-lawful means under the pretext of a 'war on terror' is nothing new. In a historical analysis that includes Napoleon's state of siege in 1811, Lincoln's suspension of *habeus corpus* in 1861, the Italian states of siege in Palermo, Naples

and Milan in the latter half of the 19<sup>th</sup> century, Roosevelt's assumption of extraordinary powers in 1933 and the Third Reich's suspension of the Weimar Constitution, Agamben maps out the resort to 'state of exception' as a regular feature of modern states.

In so far as the state of exception depends upon the suspension of law to impose a new force of law, its relationship to the rule of law cannot be defined easily; it exists neither as a lawful state nor as a state of complete lawlessness. Rather a state of exception is a state of limbo that exists in an indeterminate space, oscillating between law (in so far as a sovereign authority issues a decree or order that is, by virtue of the fact it has been made by the sovereign, claims a legal source) and non-law (in so far as the normal rule of law, or the normal rules of legal procedure have been suspended or erased).

For Agamben, the state of exception represents something fundamental to state power. It is not merely a result of bad government, or a pathological condition, but, is, following Schmitt's famous statement that the sovereign is "he who decides on the state of exception" (Schmitt, 1950/2003) the very foundation of state sovereignty. Starting from this point Agamben shows how the state of exception has become an almost permanent condition in the most powerful and advanced states. The US detention centres of Abu Ghraib and Guantanamo represent the highest stage of development of the state of exception, and rather than being understood as aberrations or the extremes at the margins of state power, they represent the latest manifestations of an ever-present core of state/law/power. The state of exception that is so clearly discernible at Abu Ghraib and Guantanamo therefore acts as a kind of hidden matrix that we can use to chart the course of contemporary politics.

A key aspect of sovereign power that his analysis reveals is the relation between the sovereign and its ability to reproduce the space between law and non-law in which a "secret solidarity between law and anomie" is revealed. The state of exception

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