

Preface

The present collection of some 600 documents on the Occupation of Iraq is the result of ten years of research and hunting down documents in different parts of the world. It covers the occupation of Iraq from the planning stages of the invasion of the country in early 2002 to the transfer of governing authority by the occupying powers, the United States of America and the United Kingdom, to the Iraqi Interim Government on 28 June 2004. The book presents the first complete set of all Regulations, Orders, Memoranda and Public Notices issued by the U.S.-led occupation administration of Iraq, the Coalition Provisional Authority (CPA), several of which were never published on the CPA's website or promulgated in *Alwaqai Aliraqiya*, the Official Gazette of Iraq. These acts addressed everything from the de-Ba'athification of Iraqi society and reforming the criminal justice system to disbanding the Iraqi army and amending existing Iraqi laws. The CPA stood up new security organizations, including a new Iraqi army, the Iraq Civil Defence Corps, and the Facilities Protection Service. It created new departments and ministries for Iraq, including the Ministry of Electricity, the Department of Border Enforcement, the Ministry of Science and Technology, the Ministry of Environment, the Ministry of Human Rights, and the Ministry of Defence. To fight endemic corruption, the CPA established an Iraqi inspector general system, based on the U.S. model, and a Commission on Public Integrity. It appointed an independent electoral commission to ensure free and fair elections and promulgated regulations seeking to decentralize authority in Iraq by devolving power to regional and local government. The CPA also reformed trade and banking laws, the penal code, government salaries, and traffic regulations; opened the country to foreign investment; and established a modern stock exchange. Some of the CPA's legal acts have shaped the economic and political system of present day Iraq and will be part of the country's legal order for years to come. The book also includes some 120 other CPA and CPA-related documents selected from more than 5000 unclassified CPA documents and received under freedom of information requests lodged in the United States, the United Kingdom, Australia and Switzerland. These documents include instructions and proclamations to the Iraqi people in the early stages of the occupation, organizational charts, internal legal opinions, diplomatic notes, international agreements concluded by the CPA with other States, and numerous internal memoranda for the head of the CPA, Ambassador Paul L. Bremer, on legal, diplomatic and political issues. The book also presents for the first time all 235 resolutions passed by the Iraqi Governing Council (IGC) between July 2003 and June 2004. The resolutions as well as many of the 25 other important IGC documents (including various political statements, press releases and decrees of the Council's Higher National De-Ba'athification Commission) have been translated from Arabic and are presented here for the first time in English. These documents are complemented by the relevant United Nations documents on the occupation of Iraq¹ as well as some 50 policy documents of the United States, the United Kingdom and the Iraqi opposition movement as well as all relevant fatwās (religious rulings) of Grand Ayatollah Ali al-Sistani which were shaping the internal Iraqi political process during the occupation.

¹ UN documents are reproduced by kind permission of the United Nations Secretariat, Publications Board, New York.

Academic writings on the occupation of Iraq during and in the immediate aftermath of the occupation did not have the benefit of access to all the documents. Some of the findings on the creation of the CPA, the transition from the Office of Reconstruction and Humanitarian Assistance (ORHA) to the CPA, the relations and responsibilities of the occupying powers, the process of de-Ba'athification, the relationship between the CPA and the IGC, the privatization of State-owned enterprises, and the legislative powers of the IGC, to name but a few, might have to be reassessed in the light of the documents reproduced here.

The documents have been collected from a variety of sources, including *Alwaqai Aliraqiya*, the official CPA website and other internet sites as well as government publications and archives. The idea for the book was born in March 2003. From the first day of the occupation some 40 websites in English and Arabic were monitored on an almost daily basis.² Many of these websites, and the documents published there, are no longer available. Printouts were, however, taken at the time to preserve the record and are on file with the author. In June 2003, the CPA launched its own website at <http://www.cpa-iraq.org> which became one of the main sources of information on the occupation of Iraq. The website carried transcripts of speeches by CPA administrator L. Paul Bremer and other officials, fact sheets on Iraqi ministries, public-service announcements, press releases, and official documents such as regulations, memoranda and orders issued by the CPA. At the beginning of October 2003, the layout of the web page and its content was changed for the first time; a second change followed at the end of October. The URL of the CPA's website was changed in November 2003 to <http://www.iraqcoalition.org/>. Subsequent changes to the layout occurred in mid-December 2003, at the end of March 2004 and at the end of May 2004. Each time, not only the layout but also the content of the website was changed. It was noted 'with regret that the Coalition Provisional Authority has impeded the scholarly and historical survey of the occupation by purging large portions of the material once available at the CPA website'.³ Monitoring the CPA website throughout the occupation allowed the author to preserve most of the documents later dropped from the website such as public service announcements, newsletters produced by the CPA ministries, public notices, the original versions of CPA Orders and Memoranda, and the CPA Daily Updates published in the early days of the occupation. A list of all documents available on the CPA's website can be found in chapter X. At the time of writing, the latest version of the CPA's website is still available online. On 29 June 2004, one day after the end of the formal occupation, the CPA website carried the following notice: 'This site for the CPA-Iraq Coalition will no longer be updated. It will remain available for historical purposes until June 30, 2005.' The date was later changed to June 30, 2006, and finally dropped altogether for the notice to read: 'It will remain available for historical purposes, only.' However, there is no guarantee for this to continue indefinitely. The search function on the page has already been disabled.

² cpa-iraq.org/, cpa-ig.org/, iraqcoalition.org/, defendamerica.mil, vcorps.army.mil, usaid.gov/, state.gov/, rebuilding-iraq.net/, iraqdirectory.com/, export.gov/iraq/, iraq-today.com, centcom.mil/, tides.carebridge.org/, iamb.info/, iraqibusinesscenter.org/, countdowntosovereignty.org/, centaf.af.mil/ramcc/, cjt7.com/, iraqmofa.net/, whitehouse.gov/, electroniciraq.net/, sistani.org/, dfid.gov.uk/, humanitarianinfo.org/, agoodplacetostart.org/, mod.uk/, reliefweb.int/, unjlc.org/, baghdadbulletin.com/, ncciraq.org/, debaath.com/, iraqprocurement.com/, iraq.pogar.org/, defenseink.mil/, un.int/, ukun.org/, motiraq.org/, kurdmedia.com/, kurdistanobserver.com/, krg.org/, irffi.org/, iwpr.net/, nahrain.com/, faylee.org/, 9neesan.com/, menalmuheetlelkaleej.com/, iraqipapers.com/, rumsfeld.com/, waranddecision.com/.

³ Miller, Russell A., 'Before the Law: Military Investigations and Evidence at the Iraqi Special Tribunal' (2005) 13 *Michigan State Journal of International Law* 107-154 at 126, n. 73.

While most of the CPA legal and legislative acts (regulations, orders, memoranda and public notices) were made available on its website, only the version published in *Alwaqai Aliraqiya* is authoritative and has the force of law. A comparison of the online and print versions of the documents shows that their text and the date of their creation are not always identical.⁴ The Official Gazette of Iraq has been published since 1921. On 17 June 2003, the CPA published the first post-war issue of *Alwaqai Aliraqiya* in both English and Arabic. It took the author some three years to acquire a full set of the relevant issues of *Alwaqai Aliraqiya*.⁵ The author is greatly indebted to Mr Jason Majid, Attorney-at-law, then head of the Iraq law practice at the Doha head office of law firm Al Tamimi & Company, for providing him with copies of *Alwaqai Aliraqiya* through the firm's Baghdad office. The Official Gazette of Iraq is a good example of the volatility of the internet. While the relevant issues of the Gazette had been available for some time at <http://iraqog.org/>, they disappeared again with the expiry of the website in 2010. Not all the CPA's legal acts have been published in *Alwaqai Aliraqiya* as can be seen in the Comparative Table of CPA Legal Acts in chapter I, section 6. Those that are available in *Alwaqai Aliraqiya* are reproduced in the version printed there.

If it was difficult to get hold of copies of the relevant issues of *Alwaqai Aliraqiya*, it proved almost impossible to find the text of the resolutions adopted by the CPA selected 25-member Iraqi Governing Council. From 13 July 2003 to 1 June 2004, the IGC operated alongside the CPA, assisting the latter in the administration of occupied Iraq. During that time, the IGC adopted 235 resolutions dealing with everything from the de-Ba'athification of Iraqi society and the creation of special criminal tribunals to the privatization of Iraqi State-owned enterprises. In addition, it drafted laws, made political statements and issued numerous press releases. The large majority of these documents were available only in Arabic. For several years the author had tried to find the resolutions of the IGC with only limited success, when in 2007 he learnt of a collection in Arabic of the Resolutions of the Iraqi Governing Council.⁶ Unfortunately, the collection could not be found in any library. It took several months and the invaluable help of Ms Tessa Gregory, a Solicitor with Public Interest Lawyers in Birmingham, to acquire a copy of the tiny 167-page booklet in Baghdad and to bring it via Jordan and Lebanon to the United Kingdom. It took a dedicated team of young Arabic speaking scholars another three years to translate the resolutions as well as other important IGC documents. I am most grateful to Ms Nisrine Jafaar, Mr Jordan Toone, Mr Muhammad Zubair Abbasi, Dr Marie Ghantous, Mr Ghaleb Mashni, Mr Joseph Leavitt, and Mr Marco Brandl for all their help with translating these documents.

Over the last couple of years numerous CPA and CPA-related documents have become available on the internet through freedom of information requests. The author himself has lodged more than 60 such requests. Many more documents could have been reproduced. It was thus inevitable to make a selection. By and large, internal CPA documents have been

⁴ See e.g. CPA Order No 59 [Doc 82] published in *Alwaqai Aliraqiya* No 3982 (June 2004), 55, and the version available at <http://www.iraqcoalition.org/>.

⁵ See *Alwaqai Aliraqiya*, vol. 44, no 3977 (17 June 2003) - vol. 45, no 3986 (September 2004). The first two issues were distributed 'Free of Charge'. Following issues cost ID 1000 and later ID 2000.

⁶ Anbari, Sabah Sadiq (ed.), *Resolutions of the Governing Council 2003-2004* [in Arabic] (3rd edn., Baghdad: Encyclopedia of Arab Laws, 2006). Some of the resolutions could also be found in Arabic on the website of the Encyclopedia of Mesopotamia at <http://www.nahrain.com/>, as well as other Arabic language websites. Most of these websites are no longer available. Copies of the original resolutions are on file with the author.

included only if they shed light on the organization and functioning of the CPA or their content is of legal relevance.⁷

A project like this can only be undertaken with the help of many people. Besides those mentioned already, I am particularly grateful to Ms Fay Miller, Information Resource Centre, U.S. Embassy London; Ms Dawn Kral, United States Export-Import Bank; Mr Chanaka Wickremasinghe, Legal Advisers, Foreign and Commonwealth Office; Mr Doug Wilson, Legal Adviser, British Embassy Baghdad; Cdr Alan Cole, Royal Navy; Mr Aaron Renfro; Ms Kristina Schönfeldt; and the Secretariat of the Iraq Inquiry in the United Kingdom for providing me with documents and information. I also gratefully acknowledge the financial support provided by the Law Faculty of the University of Oxford and St Anne's College, Oxford, a member of which I had the privilege to be from 2003 to 2011. Finally, I am most indebted to Holly Wesener, JD for compiling the index and proofreading the whole text.

*Institute for Public International Law
University of Bonn
December 2012*

STEFAN TALMON

<http://www.pbookshop.com>

⁷ Further, shorter documents can be found in the Chronology of Events section in volume I: *The Governance of Occupied Territory in Contemporary International Law*.