

Challenges of Founding a New Government in Iraq

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The US government in its occupation of Iraq has neglected the importance of founding. Hannah Arendt insists that a government gets its authority from the integrity of its founding moment. The first four parts of this paper involve explaining and scrutinizing Arendt's position on founding her claim (1), then applying her insights to the current Iraq situation (2) and the larger US project of establishing democracy in the Middle East (3). Arendt likewise had ideas of the form of government which would best preserve people's ability to act as peers and free citizens. The second half of the paper will explore Arendt's idea of participatory democracy (4), then look at the set-up of new councils and assemblies in Iraq in light of her ideas (5). I ascertain that while the US government has paid lip service to (and partially implemented) a participatory democracy paradigm, their practice has departed from the model in significant ways. I will conclude by arguing that if Arendt is right, Iraq is likely to experience trouble in gaining authority and legitimacy for its new government. I argue that Arendt's analysis sheds special light on the causes of the new Iraq government's problems. Such an analysis serves as a cautionary tale for any further ideas the US may have for "spreading democracy" throughout the Middle East in a similar way.

1. Arendt's Conception of Founding a Government

Even someone who is not convinced of Arendt's philosophical perspective could agree based on common sense that we prefer our beginnings to go well. If something starts out well, we become confident that it will continue in a good way. If we are off to a bad start, it takes extra energy to turn things around in a constructive way. Something new catches our eye. People often especially remember how something new begins, be it a trip, a relationship, a marriage, or a novel. When things later go badly, one might exclaim, "I knew it from the start..." People might even think in terms of omens. If something starts out well, it was "meant to be..."

Arendt characterized political action in general as the ability to start something new. In contrast to human behavior, which repeats the predictable, human action breaks out of a strict causal frame and demonstrates human freedom. The unpredictability of action can be frightening; not only do we not know exactly what we ourselves will do, but we can never really know how other agents will respond to our actions. Arendt therefore speaks also of the "boundlessness" of action insofar as we can never know the repercussions of our current actions. The "frailty of human affairs," as Arendt calls it, motivates some people (and governments) to retreat from action and engage instead in more predictable control and repetition. But there is never any assurance of future outcomes.¹

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Arendt insists that a participatory government where people rule themselves must be founded and made permanent in structures and institutions. Arendt looks to revolution, and not reform, as the occasion in which political freedom can be founded.² Two steps are needed to have a successful revolution. The first step, which she called rebellion, has liberation as its end: whatever tyrannical dictator is in control is gotten rid of. But the revolution is not accomplished yet. The end of revolution is the foundation of freedom, and this does not come automatically after rebellion. It must be founded by the people themselves, and given a structure so that the people will be able to continue participating in a concrete way. To this end of self-government, a constitution must be drafted and ratified. Arendt insists that rebellion and liberation are futile if not followed by constitution-making.³ The experience of a foundation, and the conviction that a new story will soon unfold, will make people eager to preserve the new order and make it stable. The stability and authority of a government derive from its beginning.⁴ While the “founding moment” has sometimes been equated with the moment of constitution making, that would be too reified an answer. The founding moment may indeed happen then, but Arendt’s description has less to do with that clear historical marker and more to do with a shared experience – the political realm is constituted by people speaking and acting together.⁵

Arendt argues that a government’s authority comes from its founding moment. The Romans argued that “once something has been founded it remains binding for all future generations.”⁶ But what is authority? Authority is not based on force or violence; it is an obedience in which humans retain their freedom. But authority is more than just persuasion. She quotes Mommsen as saying that authority is “more than advice, less than a command, and advice which one may not safely ignore.” Plutarch argued that authority was “a central weight, like ballast in a ship.”⁷ Through authority, citizens are compelled without coercion or violence.⁸ Those who are “in authority” today receive their authority from some kind of descent or transmission from those who laid the foundations. The authority of the living depends on the founders.⁹

A possible criticism of Arendt is that the founding moment of a government is not, after all, all that important. One could argue that a government can rule effectively even if its founding moment is forgotten or even, more strongly, held in disrepute. Allen Buchanan argues that legitimacy is more important than political authority. On his definition, political legitimacy means that an entity is morally justified in wielding political power, and has a monopoly on the making and enforcing of laws. For him, legitimacy is conferred on a government if it protects the basic rights of all its citizens, and provides the protection using means that uphold basic rights. Also, a government must not come to office by deposing a legitimate wielder of power. (This leaves open the possibility that a revolutionary government, or an invading and occupying government, could be legitimate as long as the government it deposed was illegitimate). Buchanan claims that a government does not have to be democratic or morally optimal in order to be legitimate, for that would conflate real government with ideal government. However, being democratic helps people accept a government because it answers the question why, if all people are equal, some have the power to make and enforce laws while others do not. Regardless of whether a government is democratic or not, if the existing political power is willing to uphold human rights, then he argues that there is a strong moral reason for citizens to support that government, regardless of issues of how it was founded.¹⁰

Buchanan argues that political authority is a separate issue from legitimacy. Political authority has to do with the right to be obeyed. Locke supplies a variation of this theme by

insisting that it is our fellow citizens who demand our obedience through a mutual contract. Supposedly a government that is considered authoritative will have an easier time getting citizens to comply with its rules. But Buchanan is skeptical and says that there is no proof that this is so. A government need not be authoritative, for people can decide to comply to laws for prudential, religious, or moral reasons, and not necessarily or primarily because they think they owe obedience to the government. If Buchanan is right, we could expect that at the time of a new government's founding, the most important question asked by the citizens would be whether the laws are acceptable, and not the conditions under which the new government was founded. In fact we can imagine that people would be willing to forget the particularities of the founding moment and support the government as long as it is in place and willing and able to uphold human rights as both means and ends. We can also imagine, on his view, that if a person is convinced that God wants them to submit to the government, or if they can see a long-term benefit in obeying, they will do so, regardless of its foundation or democratic structure.

I doubt that Buchanan is right. The fact that so many political actors in Iraq today mention the circumstances under which their country was conquered and continues to be controlled by occupying powers shows that Iraqis have not cast aside such concerns to focus instead on the new government's human rights record. It may be the case that some people decide to cooperate with a ruling power out of expediency. It may also be that people think that they have no choice but to obey the government, either because custom and conformity dictate, or due to religious sanctions. But in the last two centuries the revolutionary spirit has defied this easy capitulation to the powers that be. For an occupying power to argue that it should remain in power because it (and it alone) brings order, stability, legality, and human rights to the occupied territory is an old imperialist cliché.¹¹ While today's occupiers may hide their paternalism and propose to give freedom and democracy to all, if they do not actually provide the context for democracy it is bound to be noticed by those who find themselves frustrated and shut out from political life. I argue that Arendt's account of the importance of founding new government in freedom can make sense of people's longing to escape foreign (or even home-grown) domination and their reluctance to conform to a government whose founding seems arbitrary or unjust.

Albrecht Wellmer argues that in today's Western democracies there is no alternative to basing the legitimacy of rule on the normative universalism of human rights. But these rights are not only the preconditions to politics but also topics for political discourse. It is within political discourse that people decide how to interpret and practice these basic rights.¹² Citizens decide how to protect rights in their country (in tension with their internationally accepted meanings in the abstract, such as in the UN Declaration); obviously some government imposing its conception of human rights upon them from the outside will not have the same interpretation and emphases, and will be experienced as an intrusion. Buchanan's government that imposes human rights rule on another country will have bypassed this essential step in which a country comes to a deeper understanding of what human rights mean for them.

2. Founding Democracy in Iraq

From our above analysis we would conclude that Iraqis need a chance to experience themselves as political actors, who together can say, "now we are doing this for ourselves." They would have the feeling of a new beginning. Hussein was toppled, but that is only part one of the story. Part two is when the people, through concerted action and mutual consent,

create new laws for themselves. The authority (understood in Arendt's sense) that arises from the integrity of this moment would convince millions of Iraqis to abide by the new set of laws and follow new political leaders in whom they place their confidence.

People familiar with the difficulties facing the new government in occupied Iraq will realize how far from this ideal the situation has strayed. The new beginning of the "founding moment" was understandably delayed by the need for an interim government in the immediate aftermath of the war. But the kind of interim government Iraq was saddled with made the founding of a new government nearly impossible.

Many US citizens accepted the idea that US troops in Iraq would be there only temporarily, to insure the installation of "Islamic democracy" and the "rule of law." As retired US General Jay Garner (first head of US reconstruction efforts for Iraq) said in April of 2003, "We're only going to stay here long enough to start a democratic government for them."¹³ But how do you create and install a democratic government for recipients? In *On Revolution*, Arendt noted that there was an "enormous difference in power and authority between a constitution imposed by a government upon a people and the constitution by which a people constitutes its own government."¹⁴ Arendt refers to the constitution created for Germany after World War One. The constitution was modeled on the US Constitution, and although Arendt in general approves of the ideas in that document, she notes that imposing it on other countries did not work due to the "mistrust" of those who had to live under it. Germans nicknamed the government under that constitution "the system" and did not consider it legitimate. If the "founding moment" is crucial to ensuring governmental authority, then any future Iraq government seen to be created and/or imposed by the US is bound to be shaky from the start.

In the context of Iraq, the founding of a new government by the action of peers was missing at the start. However, it seemed that the US was trying to orchestrate a special moment in history. Ahmed Chalabi, a favorite of the Pentagon, was a banker who used his own fortune to found the Iraqi National Congress, based in London. The US Military flew Chalabi and 700 of his fighters (called the "Free Iraqi Freedom Fighters") to Nasiriyah on April 5, 2003, where they helped capture one of Hussein's "most wanted" aides.¹⁵ Perhaps this was an attempt by both Chalabi and the Pentagon to create for Chalabi his moment of participation in the liberation of his country in order to give him more legitimacy later on, since, as Andrew Arato notes, those who were heroic and self-sacrificing in indigenous revolutions usually have a stronger claim to represent the people even before elections.¹⁶ Douglas Feith, Under-Secretary of Defense for Policy, claimed that he wanted to train 5000 Iraqi exiles to accompany US troops, but his request was ignored by Central Command.¹⁷ Such a move would have highlighted a partnership with Iraqis and made them look more active regarding Hussein's removal.

Chalabi was chosen by US administrators as one of 25 members of the Iraqi Governing Council (IGC) in July, 2003. The US also picked the new Prime Minister and President of the interim government. However, there was a debate between the Pentagon and neo-conservatives on one side, who argued that only the exiles are capable of ruling Iraq, and the State Department on the other, which said it was concerned that "there is something inauthentic about Iraqi exiles."¹⁸ One council member, Sheik Ghazi Marshal Ajil al-Yawar, asserted: "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."¹⁹

Many Iraqis were reluctant or unwilling to accept the US-appointed Iraqi Governing Council as legitimate, saying the members aren't true "representative(s) of the people," and

that they did not want to cooperate with an occupying power.²⁰ Since members of the Governing Council were appointed by American administrators, and because of the US role, many considered the council “a tool of American interests.”²¹ Ali al-Husaini al-Sistani considered the interim Iraq government to have dramatic legitimacy problems.²²

The domination of IGC decisions by Paul Bremer, chief American administrator, was apparent from early on in the process. Bremer retained veto power over their drafting of the interim constitution. In February 2004, Bremer “publicly threatened to veto any attempt to impose Islamic law.”²³ This raises questions: what kind of representative system is it, when the leading Iraqi representatives can have their decisions vetoed by an American administrator?

Many critics of the war and the occupation suggested that the US should relinquish power to the United Nations. It was very reluctantly that Bush on September 24, 2003 asked the UN to help in Iraq – but clearly stipulated that the key decisions would still be made by the US.²⁴ While increased UN involvement would check the unilateral nature of the US occupation, many Iraqis were not anxious to have the UN play a large role.²⁵ After all, it was the UN which, after the US invasion of Iraq, voted to give the allied forces “sweeping assumption of authority over Iraq’s political development and its billions of dollars in annual oil revenues.”²⁶ The wide-ranging authority which the UN granted the occupying powers was unprecedented. Habermas earlier voiced concern that the United Nations could damage its reputation if it tried to “redeem’ the irredeemable,” that is, to buckle under US pressure and support the occupation.²⁷

Despite earlier reluctance to call upon the UN, in spring of 2004 the US government decided that the new government of Iraq could gain more legitimacy if the UN had an increased role. Lakhdar Brahimi was chosen as the UN special envoy to Iraq, and in the beginning many were optimistic, saying his diplomatic skills could aid Iraqis in coming to a consensus about the specific shape of their new government.²⁸ But soon Brahimi was calling Bremer “the dictator of Iraq.”²⁹ Brahimi said he only agreed to accept Iyad Allawi as prime minister because of American pressure. Brahimi complained, “You know, sometimes people think I am a free agent out here, that I have a free hand to do whatever I want,”³⁰ and suggested he would have done things differently if he had been given the opportunity. Brahimi was concerned that Allawi’s working relationship with the US Central Intelligence Agency would “undermine his credibility with the Iraqi people.”³¹

One of Iraq’s Shiite parties immediately released a document complaining that the selection process used to pick members of the new government marginalized popular Islamic leaders and seemed preoccupied with ensuring that leaders chosen will be “sympathetic with American interests.”³² In fact, undue US influence was so blatant that the Bremer-dominated IGC’s first choice for President, Adnan Pachachi, declined the offer. Pachachi was concerned that “the notion that he was the favorite candidate of the Americans appeared to have wrecked his credibility with the Iraqi people.”³³ With Pachachi declining the offer, the IGC gave Sheik Ghasi al-Yawar the Presidency, and then dissolved itself.³⁴

On this unsure footing, the 33 chosen to assume political office upon transfer of sovereignty on June 30, 2004, made up what has been called a “caretaker government.”³⁵ While no one had actually been elected, many held titles that are usually presumed to be the result of an election. It is no surprise that those in the new offices are friendly to US interests. Hoshyar

Zebari, the new foreign minister of Iraq, quickly stated that Iraq needed the continued presence of troops from the US and other nations “for some time.”³⁶ Prime Minister Iyad Allawi, in his first news brief, said that the new government might decide to impose a state of emergency, including curfews and a ban on public demonstrations.³⁷ Some ex-CIA aides who remember when Allawi orchestrated car bombings in the early 1990s to sabotage Iraqi government facilities noted the irony of Allawi’s fighting insurgents in Iraq today. One summed it up as a case of “Send a thief to catch a thief.”³⁸

Iraqis know that freedom of speech, freedom of assembly, and freedom of the press are central to democracy. Perhaps they keenly anticipated the restoration of such freedoms. When Bremer closed down the *Al Mustaqila* newspaper, and then later also closed *Al Hawza*, the newspaper of Maktada al-Sadr’s followers, people took to the streets in protest. Bremer argued that these newspapers incited hatred of Americans. Such actions give many Iraqis the impression that the newspapers are being closed because the US does not agree with its political expressions – and they note the contradiction between those actions and the supposed attributes of a democracy.³⁹

Egyptian philosopher Hassan Hanafi has argued that those who are thwarted in the expression of their political views might, out of frustration, turn to violence. He therefore argues that governments in the Middle East should guarantee people’s freedom of speech and political participation. People need a legal channel of expression. Even if they want to create an Islamic political party, by making such a party legal, the party will be able to “express its grievances against the status quo and its hopes for their ideal societies.”⁴⁰ In fact Maktada al-Sadr, in response to his newspaper’s closure, led troops in a prolonged and pitched battle against US forces. Al-Sadr’s fight against the US occupation at least temporarily united the Shiites and Sunnis against a common enemy. The uprising undermined extensive US efforts to win over the Iraqi people with promises of jobs and civil projects.⁴¹ Al-Sadr finally agreed to lay down his arms because of assurances that he would be able to participate in the political framework of the country.⁴² That such reconciliation was possible with al-Sadr is testimony to Hanafi’s insistence on the importance of legal political participation. So why was Allawi already willing to clamp down on political expression at the beginning of his role in governance? Clearly such a strategy is self-defeating.

The ceremony involving the transfer of power to the new “sovereign” government of Iraq came two days early, out of fear that insurgents were planning to upset the June 30, 2004 transfer of power. The ceremony was held “deep inside the heavily fortified area known as the Green Zone,”⁴³ where US military has complete control – hardly a picture-perfect setting for a “founding moment” when Iraqis come together as peers to found their new government.

High hopes were then placed on the elections of January 30, 2005. Bush said that the elections would be an “historical marker” – a new beginning for Iraq. But even before the election commentators were skeptical that elections under current conditions could lead to a new dawn, since they would lack the legitimacy required to end civil strife.⁴⁴ Over 300,000 US and Iraqi troops protected voters, and yet eight suicide bombers in Baghdad caused casualties at polling booths.⁴⁵ The names of the 7,000 candidates were not revealed until the final days of January out of concern for their safety, with the result that they were not able to campaign.⁴⁶ While overall participation was better than expected, many Sunni Muslims refused to participate, and within days their religious leaders challenged the legitimacy of the balloting. Mohammad Bashar al-Feidh said: “We cannot participate in the drafting of a

constitution written under military occupation.”⁴⁷ As it turns out, the elections have not been the panacea for Iraq’s political ills. Former Baathists and others disgruntled with the new Shiite-dominated government have relentlessly fought the new government and remaining US occupying forces, with high military and civilian casualties.

The Bush administration’s claim to be have promoted democracy in Iraq has recently been problematized further by Seymour Hersh’s claims that the Bush Administration first went along with a plan promoted and pushed by the State Department’s Bureau of Near Eastern Affairs and the National Security Council to covertly send funds to Allawi’s campaign to win the January elections. They feared that without this special help, the Shiites friendly to Iran would win a landslide victory. When this plan was opposed by another State Department bureau (Democracy, Human Rights, and Labor), the White House changed its tactics. It then promulgated a highly classified “finding” which would have authorized the CIA to fund persons and parties in other countries who are promoting democracy. While worded vaguely, the intent was clear: it could be used to fund Allawi and his party. While the Congressional committees that reviewed such classified “findings” are not public, a CIA official speaking to Hersh said Nancy Pelosi had made the following objection: “Did we have eleven hundred Americans die so that they could have a rigged election?” While the “finding” was subsequently dropped, several election observers in Iraq noted that it was clear that Allawi’s campaign was being swamped with funds from unknown sources.⁴⁸ Iraqis who have perceived this kind of meddling have greatly resented the interference.

In places like Ramadi and Anbar Province, only two per cent of eligible voters voted in the January election. More voted in Fallujah, which was heavily guarded against insurgents who might have tried to intimidate voters. But even there, postelection disillusionment with the government runs high. The promised payments to rebuild Fallujah after the US-led raid have not been made by the new government, which considers it a low priority. Residents of the heavily guarded town chafe under restrictions and often feel humiliated. The most common demand among Sunnis is a timetable for the withdrawal of US troops.⁴⁹ The insurgency has raged on for months after the elections. By June 2005 Iraq’s interior minister put the civilian death toll at 12,000. Other groups tallying deaths have come up with figures between 22,000 and 100,000.⁵⁰

Following the January elections, the US became worried that the religious Shiite majority would undo the secular nature of the Iraq state. They have therefore been desperate to offset the power of the religious Shiites by backing not only secular Shiites like Allawi, but also by courting the Sunnis, funneling reconstruction money through their contacts to reinforce their loyalty to the US.⁵¹ These unusual-seeming alliances between US forces and their ostensible Sunni enemies can only be understood in the context where the winners of the democratic elections – the religious Shiite parties – may now be seen as a bigger threat. After all, the US hoped to have a US-friendly government win the elections, so that Iraq could then influence Iran, a country Bush included in his “axis of evil.” But now Iraq’s Prime Minister al-Jafaari has signed an extensive pact with Iran involving one billion dollars in aid.⁵² This is certainly a case of what Arendt called the unpredictability of action – although more astute observers might argue that Bush and company should have seen such a possibility when they first imagined their plan to topple Hussein.

The interim constitution outlined a process for writing a constitution. It set August 15 as the deadline for the new constitution, with only a six-month extension available. The next step is to elect a five-year government, scheduled for December 15. The new constitution has to pass a vote first in the parliamentary constitutional committee (PCC), then in the assembly.

Meetings of the PCC take place in the Green Zone behind heavy fortifications. Whether the committee will make the August 15 deadline is unclear. The current Chair of the PCC, Humam Hammoudi, suggested that the interim constitution would not be able to be a model for the new constitution because it was “an American document.”⁵³

The current constitutional procedure seems certain to marginalize Sunnis, since they accounted for only two of the 55 who had won PCC, and 17 of the 275 member assembly, assuring that they will be outvoted. Many now encourage Sunni participation to overcome Sunni feelings of alienation from the new regime, which may be fueling the insurgency. In June Sunni Arab leaders presented a list of Sunni Arabs willing to help draft the constitution. The list was narrowed to fifteen proposed members, who would not have formal voting rights but whose input would be taken seriously. Two of the fifteen openly stated that they were Baath supporters; two others are suspected of having been senior party members during Hussein’s regime. The urge to include Sunnis in hope of reducing the insurgency is counterbalanced by the fact that many of the current National Assembly members were brutalized and exiled by the Baath Party.⁵⁴ After earlier fighting only for election measures that would increase Shiite clout in the new Iraq, al-Sistani is now backing a plan for a system of elections that would ensure Sunni participation. Parliament members would be chosen from each of the nineteen provinces. Assembly seats would be chosen district by district. This would mean that no matter how low their turnout, Sunnis would always be represented. In this way, al-Sistani makes it clear that he wants a government in which all Iraqis have a share.⁵⁵ A victory for Shiites at the expense of a continued insurgency is not a favorable outcome. Without Sunnis coming on board a common government, Iraq’s founding of a new government will be derailed.

3. The Wider Context: The ‘Democratic’ Project for the Middle East

How did the US get involved in a project to foster – or fashion – democracy in Iraq? An idea of “Iraqi exceptionalism” was expressed by Mohamad Makiya (an Iraqi exile and associate of Chalabi) in his book *Cruelty and Silence*. As explained by George Packer, the idea, which was embraced by Donald Rumsfeld, Paul Wolfowitz, Douglas Feith, and others, including President Bush, was that “a democratic Iraq would become an example of change for the rest of the region. Political Islam would lose its hold on the imagination of young Arabs.”⁵⁶ Some refer to this idea as a “new domino theory.” In contrast, Thomas Carothers predicts that the US-led war in Iraq will do the opposite – namely, strengthen the Islamists. Carothers argues that foreign invasions rarely create democracy. Of the 18 regime changes forced by the US in the twentieth century, only five led to democratic governments. Even if Iraq were to succeed in being democratic, the idea that a truly democratic government would be pro-American cannot be guaranteed. Packer notes that not since the Vietnam War has the US fought a war with such grand ambitions – “To change the political culture of a country, maybe a whole region.”⁵⁷ Journalist Walter Shapiro is concerned that an American version of “‘we know best’ hubris” can be found in the hundred-page document “Moving the Iraqi Economy from Recovery to Sustained Growth.”⁵⁸ The presumption that the world can only progress by closely copying one’s own model is a hallmark of colonialist thinking.

In February 2004, the Bush administration circulated a draft proposal calling for a “Greater Middle East Initiative,” which it wanted to present to the G-8 meeting that June. One European diplomat reacting to the document noted that it shows no sign of any consultation with local governments. President Hosni Mubarak of Egypt also criticized the draft, saying

that the Bush administration was acting “as if the region and its states do not exist, as if they have no people or societies, as if they have no sovereignty over their land, no ownership.”⁵⁹ Mubarak warned that those who attempt to impose reforms and changes from outside a society are doomed to fail because people will reject what they feel is a foreign imposition. Arab leaders stated that it would not be helpful for the US to try to paint itself in a leadership role of bringing democratic reform to Arab countries.⁶⁰

How does one create “Islamic democracy?” Certainly, creative Islamic intellectuals could come up with a democracy that appeals to Islamic ideals, which, combined with a people’s movement, could be realized, but how could the US government successfully create let alone impose this rare hybrid from the outside? That such a hybrid is direly needed is shown by the fact that enemies of the United States like al-Zarqawi, who opposed the Iraq election as well as the “principle of democracy,” argued that candidates who stood for election sought to be demigods, and those who voted for them were infidels.⁶¹ He is most likely referring to certain strains of Islamic political theory, such as the position advocated by Pakistani political theorist Mawlana Mawdudi, which explains that God alone is the ruler of the world, and humans on earth who hold government positions as “vice-regents” do so only insofar as they are given the authority by God and enforce God’s rules found in the Qu’ran. From that perspective, those who claim to govern due to being elected by the people are usurping God’s authority on earth, thereby trying to be gods themselves.⁶² Perhaps Zarqawi’s strategy was to appeal to people’s sense of religious obligation in order to ensure their boycott of the elections. (Clearly, Arendt’s claim that nowadays people no longer appeal to religion to sanction government from above does not apply to contemporary religious fundamentalists.) Rather than considering Zarqawi and his ideas a reason to redouble efforts to bring democracy to the Middle East, it would be important to notice that Zarqawi and those like him take the extreme position they do in response to the US imposition on their region.⁶³

In the introduction to her book *Islam and Democracy*, Fatima Mernissi explains the difficult situation of Arab intellectuals who have been advocating Western-style democracy in their countries after the first Gulf War. Arab women who had looked up to the West as overcoming its violent past by advocating ideals like democracy and human rights now saw the West wage war against them. The ideals began to lose their credibility. Meanwhile, the need for reforms and women’s rights within Arab countries gets put on the back burner when there is a need to resist an outside aggressor. She asks, “How can an Arab woman, I ask, insist on raising with her own group her problem, which is the *hijab*? How can she demand the negotiation of new boundaries for the sexes if her group feels naked and vulnerable in a world where bombs in a fury of passion can single out Baghdad?”⁶⁴

4. Arendt on Participatory Democracy

While Arendt herself did not use the term “participatory democracy” but rather *isonomy* or self-rule to denote her favorite form of politics, other commentators have applied the phrase to her paradigm.⁶⁵ The Athenian polis, American town halls, and revolutionary councils were all examples for her of politics at its best. The main problem with the US Constitution, according to Arendt, is that it gave no official standing to the townships and meeting halls, which beforehand had been the space of most public discussion. Emerson called the latter “the unit of the Republic” and the “school of the people.” But soon there was less public freedom than before the Revolution. Most of the power was handed over to the state and federal

governments. This situation upset Jefferson. He felt that for people to be able to love their country, they must have an experience of their country as a living presence.⁶⁶

Near the end of his life, Jefferson came up with a plan for a ward system. Because the counties themselves were too big to allow for real participation, he proposed to subdivide them into wards, with each ward allowing for political participation of its citizens in their own affairs. The wards would be “subordinate, indeed, and yet important.”⁶⁷ Arendt approves of Jefferson’s idea of the ward system. She says it shows that he realized that no one could be happy or free without participating and having a share in public power.⁶⁸ Sheldon Wolin notes with some surprise and perhaps skepticism that Arendt based her model of democracy on “an obscure proposal advanced by Jefferson in a private letter written nearly a quarter century after the ratification of the Constitution.”⁶⁹

The early colonies that Arendt praises were not governments of rulers and the ruled, since they had their own representatives, “freely chosen by the consent of loving friends and neighbors.”⁷⁰ She holds up the council system as a paradigm:

The councils... were not nominated from above or supported from below. With respect to the elementary councils that sprang up wherever people lived or worked together, one is tempted to say that they had selected themselves; those who organized themselves were those who cared and those who took the initiative.... From these ‘elementary republics,’ the councilmen then chose their deputies for the next higher council, and these deputies, again, were selected by their peers, they were not subject to any pressure either from above or from below. Their title rested on nothing but the confidence of their equals.⁷¹

Here Arendt describes a paradigm for a representative government that is not repressive. She calls it the “federal principle.” Although it probably results in a pyramid-shaped government of several increasingly smaller layers, which is the shape of any authoritative government, the authority is structured totally differently from most governments. While in all authoritarian governments we know of, authority is filtered down from above, in this case authority would have been generated neither at the top nor at the bottom, but on each of the pyramid’s layers; and this obviously could constitute the solution to one of the most serious problems of all modern politics, which is not how to reconcile freedom and equality but how to reconcile authority and equality.

The new emphasis on a pyramid that is generated from the bottom up and at each level, not the top down, solves the problem of why people should consent to what their representatives decide. Today’s problem of authority is the question, “Why agree with and obey the government?” Arendt’s answer is that the representatives enjoy the confidence of their peers. She notes that in contemporary US politics, this feeling among the electorate that they must follow the government’s rules because it is they, the electorate, who have chosen their representatives, feels unconvincing. As Arendt describes, today there is an “obvious phoniness of this dialogue in modern party government, where the voter can only consent or refuse to ratify a choice which is made without him.”⁷²

5. Democratic Governance in Iraq

Would Arendt love the sudden orchestrated flourishing of local government under the Coalition Provisional Authority (CPA) in Iraq? In April 2003 the army had warned Iraqis not to try to claim authority in the political void that appeared immediately after the toppling of Hussein. Lt. General David McKiernan had issued a proclamation which said “The coalition

alone retains absolute authority within Iraq.”⁷³ While McKiernan used the word “authority,” from an Arendtian point of view, it was not at all clear that the US and its coalition had authority at that moment. Chances are the general meant instead that since the US had demonstrated military control of the area, they were in command. For Arendt, this would be a misapplication of the word. But a similar use is found a year later in May 2004, when US military forces “installed” a governor in Najaf after troops regained the area from al-Sadr’s militia, thereby restoring “American-backed authority.” The new governor, Adnan al-Zurufi, had been an exile living in Detroit.⁷⁴

Some of the local democratic structures that the US has tried to implement in Iraq might have impressed Arendt – if they were instituted properly. US authorities created nine district councils in Baghdad, whose representatives were sent from 88 neighborhood advisory councils. Those nine district councils sent representatives to work with Paul Bremer III on the Baghdad City Advisory Council. All in all, 800 representatives were involved.⁷⁵ US military civil affairs officers recruited townspeople for the neighborhood councils, screening candidates to exclude Baath Party supporters. The neighborhood councils chose representatives for the district councils, and they in turn chose the members of the City Council.⁷⁶ Above them would be provincial councils, which would help to elect a National Assembly. Such a system was supposed to promote the idea that the interim government was legitimate despite lack of direct elections. Some Iraqis liked the model, saying that “power will flow up instead of down.”⁷⁷

It is interesting that US soldiers and civil affairs officers were trying to use the federal system that Arendt so admired, although they do not even use it in the US. But the model is not quite like Arendt’s, and the differences played a key role in undermining its authority. While the middle layers of the pyramid mimic Arendt’s federal ideal, the lowest level representatives were not elected but chosen, and the top level could not make its own decisions but was instead ruled by Paul Bremer.⁷⁸ The middle of the pyramid hovers ungrounded, while Bremer’s influence at the top puts into play the top-down dynamic Arendt’s model is meant to ward off.

The federal model in use in Iraq was designed by the Research Triangle Institute, an organization contracted to do such work by US Agency for International Development (USAID).⁷⁹ RTI had rough going after winning its first contract. Originally budgeted at \$467 million over three years, USAID decided to cut funding in half after the first year, forcing layoffs. Then, the US government did not renew RTI’s contract for the third year. USAID’s inspector general found that RTI’s contract budget was “developed to justify spending the available funding... rather than being based on an assessment of actual or estimated needs.” However, RTI won a second contract in April 2005, worth \$90 million, to implement the next phase of local governance. Some RTI employees admit that their job description was daunting. The contract pledged them to create “interim representative bodies that are culturally acceptable, transparent, and accountable,” with increased participation of women and religious and ethnic minorities. RTI was supposed to find “the most appropriate ‘legitimate’ and functional leaders” with whom the coalition forces could work. But an RTI employee said, “A legitimate political figure [in Iraq] – I don’t know how you would define that exactly.”⁸⁰

What would happen if the Iraqi people, as Arendt describes, spontaneously organized themselves, elected leaders, and formed their own councils? RTI’s website admits that such a thing did happen in Ref’ai, Garna’at bin Sa’aed, and Suq’ash Shukyukh. The spontaneous

town councils were organized by traditional leaders and proceeded without any “official” sanction from the US-organized government in Baghdad. RTI notes that rather than fight or disband these organizations, they worked with them.⁸¹ Just how the cooperation proceeded between the spontaneous people and the corporation is not explained. In September 2003, al-Sadr’s followers began to form their own councils in Sadr City. But then RTI came along and dismantled them. In October 2003 al-Sadr’s followers stormed an RTI office and replaced its council members with their own. Finally US armored vehicles and Iraqi police came to remove and arrest them.⁸² But the council handpicked by RTI did not always fare well. Arthur Vidal relayed the story of the November 9, 2003 killing of Mohammed al-Kaabi, the elected chairman of the Sadr City District Advisory Council because he refused to submit to US soldiers during “what he saw as a humiliating weapons search.”⁸³

In the meantime, at the top of the pyramid was L. Paul Bremer III, the chief American administrator in Iraq. Filkins explains that at best, Bremer was considered “earnest and hard-working, the benevolent despot they never had.”⁸⁴ The US hold on Iraq’s government has not ended with the handover of power to Allawi, or with the January 30 elections. In March 2004 Bremer passed a law “further opening up Iraq’s economy to foreign ownership, a law that Iraq’s next government is prohibited from changing under the terms of the interim constitution.”⁸⁵ Laws like this compromise Iraq’s sovereignty, and ensure the US’s “indirect” neo-colonial rule even after their official pullout, whenever that may be.

There have also been continual financial scandals. In the final days before the transfer of power in June 2004, the US distributed \$20 billion from the UN’s Development Fund for Iraq (coming from Iraqi oil funds) as well as frozen and seized Iraqi assets. Democratic Rep. Henry Waxman charged that the disbursement was “characterized by significant waste, fraud, and abuse.” Much was distributed as cash without a paper or electronic trail.⁸⁶ A judge in Virginia struck down a suit to use the False Claims Act to prosecute companies for procurement fraud during the period when the US-led CPA ran Iraq. The judge said that since Iraqi funds were at stake, they could not be prosecuted under the law. Procurement expert Steven Schooner argued that the judge’s ruling sends the message that Americans won’t take responsibility for their poor stewardship of other people’s money.⁸⁷ In Iraq, Allawi’s government has been charged with corruption by the new Commission of Public Integrity for its exorbitant contracts, although Allawi charges that the Commission is politically motivated and trying to discredit him.⁸⁸

Conclusion

At this point I would like to entertain a possible objection. A reader might think that, yes, Iraq’s government is going to fail, not because Arendt’s philosophy is right, but only due to contingent factors having to do with the specific Iraq situation. It is not the case that people will never accept an imposed constitution; imposed interim constitutions have worked, and led to functioning democracies. Also, much less participatory democratic governments have been considered successes, so there is no need to hold new governments to stringent tests; we can consider them a success if they have a minimally acceptable democratic form. In that case, the argument would go, the lesson is not to focus on the founding moment and local governing structures, but rather to pay more attention to other factors that can affect the transition to democracy.

In his work on constitutions, Andrew Arato notes that governments were imposed on Germany and Japan after their defeat in World War II, yet they were able to make the

transition to democracy. But he further notes that each had constitutional governments before the 1930s, and only suffered under dictatorship for 12–15 years.⁸⁹ Certainly, past experience with democratic government is one of many factors that can help to make democracy work despite its imposition. This paper does not mean to argue that the founding moment and participatory democracy alone are necessary and sufficient conditions for a revolution to succeed and a democracy to work. Wellmer cites other factors that play a role: historical contingencies, cultural traditions, material circumstances, and the commitment of individuals.⁹⁰ The paper suggests a more modest position: that structures of local democracy and citizens' understanding of (and appeal to) their government's founding moment play a much larger role than is usually acknowledged. (A further study might look into whether successful transitions in other countries might be due in part to the positive presence of these two factors; for example, perhaps there were enough citizens in Germany and Japan who were willing to consider the toppling of their dictatorships and their liberation by US and allied forces an appropriate context for founding a new government.) I contend that Arendt's insights are ignored at one's peril. This is a particularly important message at a time when the US is charting out a roadmap to democracy in an entire region, even before any sure signs of success have been registered in Iraq. A deeper understanding of the dynamics of democracy, such as those Arendt emphasizes in her founding moment and pyramid-shaped, bottom-up federalism, could dispel mistaken notions of easily giving other countries democracy.

Nowadays many new constitutions are not cases of mutual promising, but rather formulaic imported "success stories" from the US and Europe. David Butler Richie agrees that governments need an authentic act of founding, but notes that constitutional founders in emerging states often draw from or copy existing documents, then impose them on their own people, who may have pre-existing social, political, or legal cultures that are at a variance with the documents. Such practices are encouraged by US legal consultants, who give "expert" help in such matters. Butler Richie argues that this conceptual domination undermines the authenticity of the document and hinders its practical use. He quotes Edward Mearns, who argues that constitutions cannot be exported or easily transplanted; as with an organ transplant, there is the question of whether the host body will accept or reject the organ.⁹¹ Perhaps copying documents seems a welcome short-cut to fresh drafting, or perhaps it seems to be sticking with a "tried and true" method, but it can certainly come across as prefabricated. South Africa is often cited as a success story: a country that engaged its citizens in open fora and involved them in the fine points of drafting in such a way that the document, drawn in part from existing foreign constitutions, was nevertheless felt to be really theirs.

As for the RTI-style of controlling models of democratic participation, there may be "transplanting" problems. Critics of the early-1990s quick transitions to multiparty democracy in Africa have often noted that such transitions were not always as successful as they seemed. Some, like Kwasi Wiredu and Kwame Gyekye of Ghana, argued that there were more concrete structures for local participation in Akan traditional governing structures than in the so-called "modern" democracy imported from the West. Others in Africa pointed out the ease with which multiparty democracies could be manipulated by inflows of cash from sources with vested interests.⁹² Fareed Zakaria was at first a supporter of US intervention in Iraq. He is now concerned that the presence of "easy money" for Iraq's government – either from the US or by using oil revenues to pay for the government's operating budget – means that it does not have to be accountable to its citizens.⁹³ In fact, like so many other neo-colonialists, elected political leaders may decide that it is in their interest to shore up their power by ensuring the continued favor of the US rather than their own citizens.

Since the elections, the insurgency has grown. This brings us back to Buchanan's claims about what people will or will not accept regarding a new government. Political opponents of the current Iraq government claim that the US had no right to invade Iraq in the first place. Even the UN's Kofi Annan has said that the US invasion was illegal.⁹⁴ If the invasion was illegal, opponents argue, then the new government is illegitimate and has no authority. To go along with it now for reasons of expediency would be to cooperate with evil and give undeserved status to the occupiers. Non-cooperation, and, in the extreme case, violence against, the new government would be the only proper response. Further doubts regarding the rationale for US and coalition forces invading Iraq were provided by the release of the Downing Street memo, which shows that British Intelligence had warned Tony Blair and Foreign Minister Jack Straw that the US was "fixing" its facts and intelligence about weapons of mass destruction (WMDs) to support its policy of attacking Iraq. The revelations are leading many to feel confirmed in their suspicion that Bush had long ago planned to attack Iraq for reasons other than the alleged WMDs.⁹⁵ Perhaps the real motives were to activate the plan created earlier by Cheney's Project for a New American Century (PNAC) in their document "Rebuilding America's Defenses" (2000). The plan suggests that Iraq should be attacked and occupied so that it can be home to several permanent US military bases, giving the US a launching pad to exert its influence throughout the region.⁹⁶

Bush's speech in June 2005 avoided all discussion of the rationale for going to war, and did not address the issue of the Downing Street memo. As Bush's communications director explained, "The past is the past. The president is addressing the question of what we are doing now."⁹⁷ That is the attitude that asserts that the integrity of the "founding moment" is not important. But opponents of the current Iraq government are still discussing the "beginnings." Reporters in Iraq in June 2005 still find people who refer to their government as a foreign imposition, their politicians as "puppets," and their sovereignty as merely formal.⁹⁸ The original pretext for war, as well as continuing US manipulation of the political scene, must be addressed and rectified, even if it involves an apology. It is true one cannot turn back the hands of time and un-invade Iraq, and that Iraq will have to make the best of the current situation, but not by sweeping the messy details of false pretexts for war under the rug. It is no wonder that those who now rule Iraq will want to distance themselves as much as possible from the American heritage and influence. They do not want to continue the US legacy, but rather break away and start a new beginning of their own.

The US's argument that its control of Iraqi political outcomes will best ensure the protection of human rights (a necessary ingredient for legitimacy, according to Buchanan) is complicated by its role in the Abu Ghraib and Guantánamo Bay prisoner mistreatment scandals. Despite US armed forces attempts to make the Abu Ghraib scandal look like the errant actions of a small handful of personnel, the responsibility for the atrocity can be traced higher up to government documents that outlined situations in which torture would be acceptable.⁹⁹ While US fear of religious Shiite control of Iraq's government may in part be due to fear of erosion of people's rights under such a rule, the US should realize that it is in part their role in imposing foreign ideas that caused the backlash of return to repressive interpretations of Islamic rule.¹⁰⁰

While one can only hope for the sake of the Iraqi people that something good comes out of this whole ordeal, existing signs seem to point to extended conflict. But experiencing a false or limited democratic freedom may whet one's appetite for the real thing. At best, given the

current situation, we can only hope to help Iraqis gain a window of opportunity in which they can found their own democracy – a particularly fragile opportunity, given the banning of rallies, shutdown of newspapers, possible manipulation of elections, and other unfortunate narrowing of discourse. Iraqi democrats also face the challenge of reviving democratic terms and ideas which have been stretched beyond recognition and deployed hypocritically. Then there is the endlessly thorny issue of sorting out whom to trust as their representatives, and whether the “taint” of cooperation with US occupation forces will be decisive.

Still, one good sign was the peaceful transition from Allawi’s rule to Jaafari’s.¹⁰¹ This may mean that, with the eyes of the world on the situation, the Iraqis could get the democratic government they vote for. Encouraging wider support for elections and the resulting government will not be easy with the issue of the new government’s “beginnings” unresolved. The influence of Islam could easily overtake the secular model, particularly if Iraqis are trying to assert their identity as separate from their US sponsors. But perhaps peers will then have a chance to discuss among themselves how to uphold their own human rights, and how to shape their own democracy, in their context.

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