

“No Blood for Oil”: The Unfinished Story of Iraq’s Oil Law

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In this interview, investigative journalist Greg Muttitt talks about efforts by US occupying forces, multinational oil giants and Iraq’s newly-minted ‘leaders’ to privatise the war-torn nation’s coveted oil sector

*No Blood for Oil” was a slogan featured on many a sign in demonstrations during the run up to the US-led invasion of Iraq, and throughout the early years of the occupation as global opposition to it grew. But as Iraq faded from the headlines in 2009, the struggle over its oil continued. In the following interview, Greg Muttitt, investigative journalist and author of the groundbreaking *Fuel on the Fire: Oil and Politics in Occupied Iraq* (2012), discusses the attempts by occupying forces, multinational oil giants, and newly minted Iraqi “leaders” to privatise Iraq’s oil.*

Having worked directly with Iraq’s oil unions, Mitt also describes the heroic role that Iraqi civil society played in challenging these efforts, how it all shook out and where it might be headed today, at an especially sensitive moment when the Iraqi labour movement is facing a series of fresh attacks. The audio interview was conducted on 13 July 2012, and what follows is an edited transcript.

Ali Issa (AI): Based on the hundreds of US/UK documents you have unearthed, what were your findings about the role of oil in the Iraq War?

Greg Muttitt (GM): Unsurprisingly, the documentary record shows that oil was a central part of the strategic thinking behind the war, and consistently shaped the conduct of the occupation. My book is primarily about what happened during the occupation. The United States, Britain, and the “international community” were keen to see Iraq’s oil developed through foreign investment. It was not so much about helping out their own corporations – that was a secondary concern for them.

What they wanted was to see foreign investment in Iraq as a starting point for opening up the other nationalised industries, especially of the region, so as to get oil flowing more quickly. Iraq’s oil sector had been nationalised since the 1970s. The nationalisation took place mostly in 1972, and the final phases of it continued until 1975. Essentially, what they wanted to do was to reverse that: put multinational oil companies back in the dominant role in the Iraqi oil sector.

AI: You place the struggle over Iraq’s ‘oil law’ at the centre of Iraq’s recent history. What is the oil law, how has it evolved, and what is its present status?

GM: The oil law was drafted in 2006, after the first post-Saddam permanent government

was formed. Then the Bush administration pushed it especially hard through 2007.

The law had three purposes. The first was to create a framework in which multinationals would have a primary role in developing Iraq's oil industry, and to determine exactly the extent of that role, what rights they would have, and the extent of their powers. The second element was to clarify how that would work in an emerging federal system in Iraq.

To put it simply: With whom would they sign contracts? Was it with the central government in Baghdad, or was it with regional governments – in particular, the only one that exists so far, the Kurdistan regional government?

The third element of the law was to essentially dis-empower parliament in relation to decisions around oil. . . . Since 1967 Iraq has had a law in place, No. 97, which said if the government were to sign contracts to develop oil fields and run them, the parliament would have to sign a specific piece of legislation to approve them.

[In other words,] the parliament would have to say, "We support and agree with this contract and we give it validity in law." That was still in force in 2003, and indeed in 2006. The government could legally sign contracts with foreign companies. But if it did so, it would have to get the OK from parliament for them to have any force.

Therefore, the most important role of the oil law of 2006/2007 was not [so much] to allow contracts to be signed by multinationals, as that was already possible. It was to allow them [i.e., the contracts] to be signed without parliament having any oversight.

Incidentally, the importance of parliamentary oversight is that oil accounts for over 95 per cent of government revenue. So it is quite reasonable for parliament to have some say in how that works.

So this was the oil law. The United States, Britain, the International Monetary Fund (IMF), and other financial institutions wanted to see it passed as soon as possible once the permanent post-Saddam government was formed in May 2006. As soon as that happened, the United States and Britain started to say, "Your priority is going to be to pass the oil law."

I have documents from that period which make this very clear. They moved very quickly to draft an oil law in August 2006, and it basically delivered those three asks of it. Getting this law passed in parliament became the major political priority of the United States.

AI: But the law did not pass. What prevented its passage?

GM: There were two barriers to it passing. Only one of them was recognised. First, there were disputes between Iraq's politicians – primarily, between Kurdish politicians and everyone else. The dispute was over the degree of decentralisation.

Essentially, it was a squabble between politicians – who thought only about their own interests, or about their ethno-sectarian groups' interests – about which of them would get the right to sign contracts and thereby control revenues. This dispute over decentralisation slowed down the law's progress, and people on either side of that debate leaked it to their allies.

This led into the second factor, which was the overwhelming opposition within the Iraqi population to giving multinationals such a central role. I think this was very well known by

those in the US administration and those in the Iraqi government. So the way they planned to deal with that was by not telling anyone that this oil law was going through. But it leaked in October 2006.

Once it leaked out, it started to spread into civil society. In December 2006 I attended a meeting of Iraq's trade unions in Amman. They were discussing the law and decided that they were going to campaign against it. Their strategy, which began in early 2007, was basically just to get it known about: to tell people about it.

So they produced pamphlets, which they handed out to their members and to the general public. They also organised conferences, public meetings, demonstrations, etc. The more this was done, the more people knew about it, the more anger there was that in secret this government – that had a fairly limited mandate given the circumstances of an election under occupation – was trying to push something through that the occupation powers were demanding, and that looked like it would do considerable damage to Iraqi interests and the Iraqi economy.

Iraqis feel very strongly that oil should remain in Iraqi hands, not least because of their historical experience with foreign companies. So, during the course of 2007, this opposition spread. One after another, new groups and new constituencies got involved in it.

AI: What did the Bush administration do?

GM: At the same time that opposition to the oil law was spreading, through the first half of 2007, the Bush administration was ramping up pressure on the Iraqi parliament to get it passed. They were very frustrated and angry that it had not been passed at the end of 2006. All the time, they claimed publicly that it was the dispute with the Kurds over decentralisation that was holding things up. They then claimed that the law was about the sharing of revenues between different groups, which it was not at all.

The surge, which was announced in January 2007 and sent an extra thirty thousand troops to Iraq, was very clearly one side of a two-part strategy. You can read this in the documents published by the Bush administration at the time. It was called “The New Way Forward,” and its two parts were . . . to send thirty thousand troops, to control and pacify the country, and . . . to use that control delivered by extra military force to push Iraqi politicians to deliver what they called “benchmarks” – markers of political progress.

By far the foremost among these was passing the oil law. It was all they ever talked about. In meetings with members of the Maliki government, US administration officials kept saying, “When are you going to pass the oil law? Where’s our oil law?”

Also during this period there were very strong indications from the US military that if the oil law was not passed, the Maliki government would no longer have the support of the United States. . . . Maliki very clearly understood this as a threat to remove him from his job. So, through the course of 2007, you had pressures increasing on both sides.

On one side you had pressure from Iraqi civil society started by the trade unions, but spreading into broader civil society – religious and secular – along with the professionals who ran the oil industries since nationalisation. All of them were saying, “This oil law is bad news for Iraq; don’t pass it.” At the same time, you had the Bush administration applying more and more pressure to get it passed.

AI: What was the outcome?

GM: The popular opposition to the oil law grew so great that it started to spread into parliament. And members of the Iraqi parliament started to see a political opportunity in opposing the oil law, and a political threat in supporting it – a threat to their future political careers.

By around July 2007, the majority of the Iraqi parliament was against it. The US administration had set a deadline for passing the oil law – September 2007 – and this was when General Petraeus and Ambassador Crocker were going to report to congress on how the surge was going, and they were very clearly saying to the Iraqi government, “Give us the benchmarks, give us the oil law by September, otherwise you will face all of these consequences that we warned you of.”

But by that stage it was a majority of the parliament that was against the oil law; they could not therefore get the oil law approved by parliament. The September deadline arrived, and there was no oil law. Today there is still no oil law.

To me that is quite a remarkable story, and it is an untold story. It is remarkable in that Iraqi civil society was able to prevent the United States from getting this absolutely vital objective, in which they had invested so much political capital, simply through talking about it.

It was partly a measure of the distance between what the United States was demanding – and absolutely desperately wanted – and what the vast majority of Iraqis really passionately felt should happen. But I think the consequence beyond that is that having invested all that political capital and having failed to get the oil law, September 2007, I think, marked the beginning of the decline of US influence in Iraq.

We saw that much more clearly through the course of 2008, in particular, the failure to get the treaty to keep US troops indefinitely – the Status of Forces Agreement had a three-year term limit. But I think it was this moment, having thrown all that political capital into getting something and then failing, which marked the shift in Iraqi politics from being absolutely dominated by the United States to having a rising Iraqi voice.

AI: Why then are multinational oil companies in Iraq now?

GM: In the latter half of 2009, the Iraqi government awarded several contracts to foreign companies – BP, Shell, Exxon and so on – even without the oil law, and without showing them to parliament. They are a hybrid form of contract, not the production-sharing agreements the companies really wanted, and, importantly, they are technically illegal, since Law 97 is still in force and they have not been approved by parliament.

AI: The challenge to the oil law succeeded, so the contracts could be declared illegal by a future Iraqi government. What are the conditions necessary for a second challenge to these contracts?

GM: After the first contracts were signed in 2009, there was a member of the Iraqi parliament – Shatha Al-Musawi – who challenged the first of the contracts, which was with BP, in the Iraqi Supreme Court. Her challenge was unsuccessful, but not on substantive legal grounds. Rather, it was stopped on process grounds.

The Supreme Court has been quite problematic over the last few years, in that the Maliki government has had increasing influence over its decisions, and that has been seen in a number of decisions that have gone the way that Maliki wanted them to, rather than where the law as written should have pushed it.

That was seen especially after the 2010 election when Maliki was given the right to form the government rather than it being given to Allawi. That decision was the Supreme Court's. There are strong indications that he has channels of influence.

In the case of Al-Musawi's challenge to the BP contract, what happened was that the court ordered her to pay a deposit of three hundred million Iraqi dinars, which was about \$225,000 at the time. She was ordered to pay that, and it would be returnable if she won.

She did not have that kind of money, so the case collapsed. So in order to carry out a legal challenge in Iraq, I think what would be needed would be some means of containing government influence over the Supreme Court.

A way of containing that might be a set of institutions that are backing the case financially, institutionally, and politically, such that it becomes difficult for the Maliki government to steer the court or for the court to side with the Maliki government. But that is the major block there.

On the other hand, I think that where such a challenge could come from is most likely the government itself. This is traditionally where challenges to contracts come from in oil-producing countries. A government says, "This is not in our interest, we are going to change the terms, or we are even going to cancel it."

This has happened a lot over the past decade around the world. Now companies use legal mechanisms in the contracts to prevent governments from doing that – to get the contracts judicable in international investment tribunals, rather than in the country's courts.

The fact is that these contracts are not validated within Iraqi law. That Iraqi law requires parliamentary approval, and parliamentary approval has not been sought or given, means that if a future Iraqi government were to change the terms of the contracts or even tear them up, and if the companies concerned went to an investment tribunal – in Europe or in the United States – the government could argue, and I believe it would have a very strong case, that these contracts are not legal, because look: here is the law No. 97 of 1967, it is still in force, it says you have to get parliamentary approval, you did not, they are void.

Now the conditions for that to happen would be a government that believed there was a problem with the contracts, and probably it means a different government from the current one. It would be politically embarrassing, to say the least, for the current government to argue that they are illegal on the basis of what this same government did not do – namely, take it to parliament. So a change in the government could drive this.

But Iraqi politics strike me as very fluid at the moment. I cannot predict what the nature of the Iraqi political system will be in a year's time. I think it is hard to say whether Maliki will still be there; it is more likely that he will than he will not, but I would not put a great deal of money on it.

AI: In their rejection of the oil law, did you get a sense of what unions and civil society was positively hoping for? Are their concrete visions, like the

nationalisation of pre-1990 Iraq, or do they differ?

GM: When you look at the history of the Iraqi oil industry, the most successful period, of which Iraqis in the oil sector are very proud, is the period immediately after nationalisation. So from 1972 to 1979, for instance, production increased from 1.5 million barrels a day to 3.5 million.

They were finding greater quantities of reserves each year than were found in the whole of the rest of the world put together. What I heard, especially from the senior managers and technicians in the oil industry, was that if you wanted to run a technically successful oil industry in Iraq – and that was what they were interested in since they were technocrats – then the way to do it is to keep it in the public sector. The only reason you would privatise it and bring in foreign companies would be for ideological reasons.

I think the only problem with keeping the oil industry in the public sector was that Iraq was behind on technology as a result of the sanctions period. But many people recognise that technology is something you can buy. You can hire a company like Schlumberger to come and install some of its new separators, or pumps, or whatever it is.

They can install them, they can train the Iraqis how to use them, and they can even operate them for a couple of years until the Iraqis have got the hang of it – quite straightforward. But that is very different from signing a 20-year contract that gives a company like BP or Exxon control over the oil field, management of it.

I think where there was some debate was exactly how far you could go in terms of letting foreign companies in. There were varying degrees of pragmatism towards that. Some said, “Well maybe it’s okay to have BP for five years. Or maybe it’s okay to have BP as long as they are in a junior role.”

The absolute objection was to the idea of putting a company like BP in control, having the primary management and decision-making role for a long period, like 20 years – especially when there was home-grown Iraqi expertise. So that’s what I was hearing.

AI: You have written that the decimation that the sanctions caused triggered a kind of slow rebuilding of the oil industry by many of the technicians that remained, and all of that then played an important role in fostering a sense of ownership of that rebuilding. So the other side of the reaction to sanctions seems to have been a maintenance - and even strengthening - of a national consciousness that then played an important role in Iraqi civil society’s response to the oil law.

GM: The way one of the oil workers in Basra put it to me was, “Look, we Iraqis have rebuilt our oil industry three times. We rebuilt it in the late 1980s after the war with Iran; we rebuilt it after the 1991 Gulf War, and we did so then under sanctions, when it was especially difficult; and we rebuilt it again after 2003. Halliburton was getting paid for doing it, but essentially doing nothing. We have rebuilt our oil industry three times, and that gives us a sense of ownership over, and belief in, our oil industry. This is something we rebuilt. It’s very different from when you pay someone to come in and rebuild it for you. And that’s not something we will willingly hand over.”

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