

GOVERNING IRAQ

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GOVERNING IRAQ

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The horrific bombing of the UN headquarters in Baghdad on 19 August 2003 has focused renewed attention on the question of who, if anyone, is capable of governing Iraq in the current highly volatile environment and, in particular, on what ought to be the respective roles, during the occupation period, of the Coalition Provisional Authority (CPA), the Interim Governing Council and the United Nations. This report proposes a new distribution of authority between the three – potentially acceptable to the United States, the wider international community and the majority of Iraqis – which would enable Iraq's transitional problems, including the critical issue of security, to be much more effectively addressed.

The problem of who is to govern Iraq, and how, will persist until national, democratic elections are held and power is fully transferred to a sovereign government. But the conditions for such elections will not exist for some time, possibly as long as two years: the security situation has to stabilise, a democratic constitution has to be adopted, voters have to be registered, and – arguably – at least the beginnings of a pluralistic political culture have to visibly emerge. In the meantime it is not realistic, on all available evidence to date, to expect the CPA to be capable by itself of adequately caring for the population's essential needs and successfully ruling Iraq. Nor is it realistic to imagine that Iraqis will view the present Interim Governing Council as a credible, legitimate and empowered institution.

The most drastic solution to this dilemma is presently unimaginable: for the occupying powers simply to walk away at this stage, leaving a fully empowered Interim Governing Council the only player on the field during the transitional period. What is more realistic to contemplate is the rebalancing of the respective roles of the CPA and

the Interim Governing Council, with steps being taken to improve the latter's representativeness, vest it with more real power, and improve its executive capacity to deliver – and in this report we argue that this should be done. But more than that is needed: in particular some broader international legitimisation of the transition process, and that means a greater role for the UN in the governance process.

The Coalition Provisional Authority. The CPA until now has retained quasi-exclusive authority, with Washington's approach translating into an unwillingness to involve seriously either the Iraqi people or the international community. Since its early missteps, the CPA appears to have engaged in some salutary self-correction and has registered some real successes. But fundamental problems remain. Policing troubles are mounting and they have not been addressed with policing solutions. Instead, coalition troops unsuited to the task have been called in, leading to inevitable mistakes at the cost of both innocent lives and Iraqi national pride. Basic infrastructure has not been rebuilt. Iraqis lack jobs and subsistence income. The CPA lives in virtual isolation, unable to communicate effectively with the Iraqi population. It has yet to correct some of its most counterproductive decrees such as the disbanding of the entire 400,000-man army and the large-scale de-Baathification. Meanwhile, the occupation's U.S. face has heightened suspicion and anger in Iraq and parts of the Arab and Muslim worlds where many view it as part of Washington's agenda to reshape the region.

Opposition to the foreign occupation is becoming stronger and more violent. It comes in various shades: Baathist loyalists; nationalists; Islamists, who for the time being are predominantly Sunni;

tribal members motivated by revenge or anger at the occupiers' violation of basic cultural norms; criminal elements; Islamist and other militants from Arab and other countries. At present, the vast majority of Iraqis give no indication of supporting armed resistance; but, dissatisfied with current conditions and lacking loyalty to or trust in a central authority, many are not willing to oppose it either. Unless the situation rapidly is turned around, the distinctions between the different opposition groups could fade; resistance could become politically organised; radical Shiites could join the fray; and increasing numbers of Iraqis could relinquish their faith in institutional politics and look upon the resistance with greater – and more active – sympathy.

The Interim Governing Council. The formation of the 25-member Iraqi Interim Governing Council on 13 July 2003 was an attempt by the U.S. to develop an interim authority that would have legitimacy in Iraq and abroad, appease the population and deflect criticism of the occupation forces. Under current conditions, it is unlikely to meet those goals fully. The basic problems are the Interim Governing Council's political legitimacy, actual power and executive capacity. While it can accurately be described as the most broadly representative body in Iraq's modern history, selected as it was by the CPA in consultation with pre-chosen political parties and personalities, the Interim Governing Council simply lacks credibility in the eyes of many Iraqis and much of the outside world. On paper, it enjoys broad powers; in reality, few doubt the deciding vote will be cast by the U.S. A gathering of political leaders with weak popular followings, very little in common between them, no bureaucratic apparatus and a clumsy nine-person rotating presidency at its helm, it is doubtful that it can become an effective decision-making body.

The principle behind the Interim Governing Council's composition also sets a troubling precedent. Its members were chosen so as to mirror Iraq's sectarian and ethnic makeup; for the first time in the country's history, the guiding assumption is that political representation must be apportioned according to such quotas. This decision reflects how the Council's creators, not the Iraqi people, view Iraqi society and politics, but it will not be without consequence. Ethnic and religious conflict, for the most part absent from Iraq's modern history, is likely to be exacerbated as its people increasingly organise along these divisive lines.

The United Nations. The missing ingredient in Iraq's governance during the transitional period is the United Nations, which has so far been granted by the occupying powers only an advisory and wholly subordinate role. The UN has been a visible presence in Iraq, but its visibility – and awful vulnerability – has not been matched by any compensating responsibility. There needs now to be a three-way division of real governing responsibility between the CPA, the Interim Governing Council and the United Nations, embodied in a new UN Security Council resolution. The UN, as the institutional embodiment of international legitimacy, should be given, in addition to responsibility for the coordination of humanitarian relief, explicit authority over all aspects of the political transition process, including oversight of the Interim Governing Council and other transitional institutions; supervision of the constitutional process; and the organisation of local, regional, and national elections. It would, in addition, be given a defined role in supporting the development of civil society, rule of law institutions and a free media.

The UN would have a particular responsibility, through its newly constituted mission in Iraq, to identify as soon as possible, after consultation with the CPA and the Interim Governing Council, a realistic indicative timetable for the adoption of a constitution, the holding of local and functional elections, the holding of national elections (to be held within 24 months, and preferably sooner) and the withdrawal of foreign forces subject to a request to that effect by a newly elected sovereign government of Iraq.

Rebalancing Transitional Governance. Under this new distribution of authority, the CPA, in its capacity as the institutional representative of the occupying powers, would have the primary responsibility in all matters relating to immediate security and, through the restoration of infrastructure, ensuring satisfaction of the Iraqi people's basic needs. The present CPA military force would be transformed into a U.S.-led Multinational Force endorsed by the UN Security Council – with member states being encouraged to contribute personnel to such forces on an urgent basis. While civil policing would remain the primary responsibility of the CPA in the first instance, the Security Council would endorse the establishment of an international police force which would take over this role as soon as possible, and

prepare the ground for the ultimate full transfer of responsibility to reconstituted Iraqi services.

And the Interim Governing Council would, working through an interim cabinet reporting to it, be responsible for all other matters of day to day governance, including social services, economic reconstruction, trade and investment, and managing relations with other countries and international institutions. It would also work with the CPA in reconstituting Iraq's police and security forces. Although its sovereign powers would be incomplete during the transition period, it would be appropriate for the Interim Governing Council – on the recommendation of the Security Council, and with the endorsement of the General Assembly – to occupy Iraq's UN seat during that period, perhaps at the *chargé* level to underscore its temporary status.

Granting the UN a stronger role and devolving more power to the Interim Governing Council in the ways described would meet several crucial objectives. It would help overcome reluctance on the part of many countries to participate in efforts to stabilise Iraq, enabling the rapid dispatch of military and police forces. It would diminish the perception that the U.S. seeks to dominate Iraq, projecting instead the image of a broad-based international effort, including with the participation of Iraq's Arab neighbours, to rebuild the country. And it would strengthen the legitimacy of the political transition process in the eyes of the Iraqi people while accelerating steps toward self-government.

Until now, the U.S. has strongly resisted giving the UN such authority and the UN itself has not vigorously pushed for it. The Secretary General's Special Representative, Sergio Vieira de Mello – tragically killed in the 19 August attack – was able to perform a valuable role behind the scenes (not least in the construction of the Interim Governing Council) because he gained the trust of both the U.S. and important Iraqi players. But that role was never clearly defined, and the CPA remains for all intents and purposes in charge. While it is still unclear whether the bombing will change that reality, it should. The attack is yet another reminder to the U.S. that it needs partners to ensure security in Iraq; for that it needs a UN mandate. The UN has paid a terrible price for its presence in Iraq, and it deserves to exercise real responsibility.

The more Iraq's future can become a matter for the Iraqi people and the international community as a

whole, the greater the chances of success. Many of the problems that currently exist stem directly from the initial choice not to share more widely the burdens of transitional administration. Today, the U.S. ought to agree to a more effective and rational distribution of responsibility between the occupying powers, the Iraqi people through the best interim representation that can be devised and the broader international community represented by the UN. It is a step it will have to take if it is serious about addressing Iraq's most urgent priorities – restoring law and order, providing basic services and holding national elections that will genuinely transfer power to the Iraqi people.

RECOMMENDATIONS

To the United States, Other Coalition members and the UN Security Council:

1. After consultation with the Interim Governing Council, agree to a Security Council resolution clearly allocating responsibility between the CPA, the United Nations and the Interim Governing Council as follows:
 - (a) The CPA would have primary authority and responsibility for military security, civil law and order, and restoring basic infrastructure.
 - (b) The UN would have primary authority and responsibility for overseeing the Interim Governing Council and other institutions; organising local and national elections; supervising the constitutional process; ensuring transitional justice; promoting the return of refugees and displaced persons; and coordinating humanitarian relief; and a defined role in monitoring and supporting human rights and supporting the development of civil society, rule of law institutions and a free media.
 - (c) The Interim Governing Council would have primary authority and responsibility, through its appointed interim cabinet, for all other matters of day to day governance, including budgetary management, social services, education, economic reconstruction, trade and investment, and foreign relations; and a

- defined role in reconstituting Iraq's military and police forces.
2. Agree to that Security Council resolution expressly requiring the newly constituted UN Mission in Iraq to identify as soon as possible, after consultation with the CPA and the Interim Governing Council, a realistic indicative timetable for the adoption of a constitution, the holding of local and functional elections, the holding of national elections (to be held within 24 months, and preferably sooner) and the withdrawal of foreign forces subject to a request by a newly elected fully sovereign government of Iraq.
 3. Agree to a Security Council resolution that would:
 - (a) vest responsibility for military security during the transitional period in a Multinational Force led by the U.S., which would prepare the ground for ultimate transfer of responsibility to a reconstituted Iraqi defence force;
 - (b) establish an international police force for Iraq, which would in due course take over primary responsibility for policing from the CPA and prepare the ground for ultimate transfer of this responsibility to reconstituted Iraqi services; and
 - (c) encourage Member States to contribute to both the Multinational Force and the international police force.
 4. Agree, if satisfied that the composition of the Interim Governing Council is broadly representative of the Iraqi people (to the extent reasonably possible in circumstances of post-war transition), to a Security Council resolution recommending to the UN General Assembly that it occupy Iraq's UN seat for the transition period.
 7. Review existing rules of engagement for occupation forces (to be continued in operation by the Multinational Force when constituted) to sensitise them to local norms of conduct while carrying out operations.
 8. Promptly investigate through an impartial, independent body all reports of Iraqi civilian deaths or injuries in the course of post-war military operations; and publish the results, including actions taken by the CPA and compensation paid, in accessible form. With regard to civilian casualties during the war itself, implement the legislative provisions authorising humanitarian assistance.
 9. Ensure proper treatment of Iraqi detainees consistent with the applicable Geneva Convention of 1949.
 10. Create ombudsman offices throughout Iraq where civilians can bring their concerns without having to approach soldiers on the streets: these should, in particular, receive and handle Iraqi complaints of mistreatment and misappropriation of goods that occurred during military raids.

To the (newly constituted) United Nations Mission in Iraq:

11. Working closely with the Interim Governing Council, organise nationwide elections at the local (regional and municipal) level as well as functional elections for trade unions and business and professional associations.
12. In consultation with the CPA, broaden participation in the Interim Governing Council to include social and political forces that currently are not represented adequately or at all, in particular by drawing on the results of local and functional elections, and according greater weight to grass-roots forces, above all business and professional and trade associations, as well as other civil society representatives such as human rights and women's movements.

To the Interim Governing Council:

5. Ensure the Interim Governing Council has appropriate capacity, in terms of personnel and resources, to fulfil its executive tasks.
6. Transfer primary responsibility for policing to the newly constituted international police force as soon as possible, and devolve, at an accelerated pace, municipal police and other local security responsibilities to reconstituted Iraqi security and police forces.
13. Cooperate with UN efforts to include currently unrepresented and under-represented social and political forces in an expanded Interim Governing Council.
14. Name a cabinet as soon as possible and ensure that it is a non-partisan, technocratic

one, with appointments made on the basis of competence rather than sectarian or ethnic affiliation alone.

15. Ensure the early dissemination of information regarding its decisions to the Iraqi public and operate in as open and transparent a manner as possible.

To the Arab League:

16. Support adoption of a UN Security Council resolution granting the UN and the Interim

Governing Council appropriate powers and in that context assuming adoption, recognise the Interim Governing Council as the temporary Iraqi representative, allowing it to participate in the League's deliberations.

17. Support adoption of a UN Security Council resolution creating a U.S.-led multinational force and an international police force in Iraq, and member states contribute personnel.

Baghdad/Washington/Brussels, 25 August 2003

GOVERNING IRAQ

I. INTRODUCTION: THE NEW IRAQI POLITICAL SCENE

A. A MULTIPLICITY OF POLITICAL ACTORS

The fall of the Baathist regime unleashed a plethora of Iraqi political actors both new and old, from the ranks of the exile community and from within Iraq. At latest count, the country boasted more than 100 organisations. These include political parties with a national vocation as well as parties representing specific ethnic, sectarian, tribal or professional interests. In addition to the organised political forces that have long opposed the Baathist regime – communists, Islamists or Kurds – actors that dominated the political scene during the monarchy (1921-58) are vying for a renewed role: royalists, republicans, pan-Arabists, the Muslim Brotherhood, religious families, traditional political elites, Sufi leaders, along with virtually every major tribe.¹ Few have anything approaching a genuine constituency; many have high expectations. Even the vanquished Baath party reportedly is re-emerging, if not in reality then in the imagination of many Iraqis: a shadowy clandestine organisation, the Hizb al-Awda (or The Party of the Return) reportedly is organising resistance against the occupation, purportedly under the guidance of the deposed President.²

At the same time, groups organised around questions of culture, ethnicity, religion or gender, as well as single and multiple-issue groups militating on behalf of human rights, the disappeared, the environment, children, education or the arts, are appearing on a daily basis, joining the already considerable list of clubs, unions and professional associations and sowing the seeds of a reborn civil society. With a total of more than 140 daily and weekly newspapers, Iraq's media has experienced its own rapid growth.

This sudden mushrooming is remarkable yet easy to comprehend. After decades of political repression, Iraqis finally are free to speak out and organise themselves. The hyper-segmented character of Iraqi society, in which modern and traditional identities overlap and in which exiles compete with those who remained in Iraq, is another contributing factor. The delegitimisation of the sweeping ideological outlooks of the past, such as pan-Arabism, and the virtual destruction of the country's national civil and political society has served to strengthen local ties (to one's family, city, neighbourhood, province or specific religious or ethnic community); the proliferation of parties founded on such loyalties followed accordingly.

Ironically, the exponential growth in political organisations seems to be inversely correlated to the Iraqi people's interest in them.³ Fixated on material hardships and insecurity, Iraqis appear wholly indifferent to the ongoing political jockeying and baffled by the seemingly non-stop creation, merger and dissolution of parties whose political agendas remain at best vague, at worst non-existent. After more than three decades of single-party rule, Iraqis appear to be more than

¹ In the words of the Hamdani tribal chieftain, Ra'ad Ouda al-Hamdani, who is also the secretary general of the All Iraq Tribal Union, "History did not die; the tribes and notables who emerged in 1920 and created our modern state in 1921 are here to stay with all the others who came into being thereafter". ICG interview, Baghdad, 29 June 2003.

² ICG interviews with ex-Baathist technocrats, Baghdad, 8,

9 and 11 June 2003.

³ ICG interviews, May-June 2003.

simply depoliticised; for the most part, they exhibit a genuine dislike of politics. Today, it is Islam, both Sunni and Shiite, that appears to enjoy the strongest organisation and loyalty, with the possible exception of tribal and clan-like affiliations. At this stage, it represents for many an optimal vehicle for the expression of a range of social and political grievances and aspirations, the still untested and therefore still credible promise of a common Iraqi future.⁴ Iraq's political reconstruction is taking place on the basis of a society that, since the mid 1980s, has undergone a profound intensification of Islamic piety. Even Iraqi communists acknowledge this: "Under the former regime, people used mosques and religious rituals to express themselves, assert their identity, provide their lives with meaning and protect themselves. Only religious structures helped in this silent struggle against oppression".⁵

Lack of interest in the political transition does not mean lack of importance in how it is conducted. Iraqis may be concerned primarily with what is delivered rather than who delivers it, but the two questions are intimately bound together. The CPA has proved itself politically tone-deaf in some of its most critical decisions and inept at communicating with the Iraqi people. A representative local governing body with genuine powers could help avoid remaking mistakes in the future. These include the decision to broadly de-Baathicise the system – which penalised numerous Iraqis whose association with the regime was at most opportunistic and deprived the country as a whole of the services of many of its talented citizens⁶ – and to summarily disband the army and police – which created a pool of unemployed, angry, and armed Iraqis.⁷ To the extent a genuinely

representative Iraqi governing authority is empowered, the likelihood of such missteps will be reduced.

Moreover, unilateral rule by the U.S. feeds into perceptions that this is an attempt by Washington to further its own agenda, thereby increasing the prospects for a politicisation of popular discontent. Growing numbers of Iraqis will turn from frustration with the performance of the occupying powers to demands for their departure and from peaceful to violent means to effect this. Moreover, the degree to which the UN can play a political role and the degree to which a new Iraqi authority is viewed as legitimate and representative almost certainly will have an impact on the willingness of foreign countries to contribute money and personnel to the reconstruction of Iraq as well as on the Iraqi people's patience with the U.S. and UK presence.

B. VIEWS ON THE OCCUPATION

In interviews with ICG, representatives of the vast majority of Iraqi social and political forces expressed a willingness to accept the CPA and engage in a peaceful process of negotiations over the character of the transitional process. Political confrontation, let alone armed conflict, so far is overwhelmingly viewed not only as impractical but as politically undesirable; few want to see the precipitate withdrawal of the occupation forces and have to cope with the chaos and power vacuum that, they fear, would result.⁸ Only a minority – principally belonging to religious political groups – openly expressed satisfaction at the losses incurred

⁴ ICG interviews throughout central and southern Iraq, May-June 2003.

⁵ ICG interview with Shaker al-Dujayli, Iraqi Communist Party spokesperson, Baghdad, 1 June 2003.

⁶ According to Ghassan Salamé, political advisor to the UN Secretary General's Special Representative in Iraq, 1,832 university professors and 14,000 secondary school principals were forced to leave their jobs, even though most had joined the Baath in order to get work. "Today, the Iraqi population is praying for a good dentist, even if he is a Baathist". *Le Nouvel Observateur*, 14 August 2003.

⁷ See ICG Middle East Briefing, *Baghdad: A Race Against the Clock*, 11 June 2003, pp. 8-12. The number of military personnel affected by the layoffs is unclear; figures vary between 400,000 and almost 700,000. See *Los Angeles Times*, 3 June 2003. Isam al-Khafaji, an Iraqi who worked

on the Iraqi Reconstruction and Development Council – a body established by the U.S. Defense Department – on the understanding that it would act in "partnership" with the occupation authority, told ICG that it was not consulted on these key issues. ICG interview, Uithoorn, the Netherlands, 17 August 2003. Of the de-Baathification decree, al-Khafaji said, "It was the worst thing that could happen because of its sweeping nature. The Iraqis wanted a fine balance: not too lenient [i.e., a full amnesty] and no blanket de-Baathification. Now the decree is creating a backlash". The same was true, he added, of the decision to dismantle the army.

⁸ According to a 19 June 2003 poll taken by the Iraqi Center for Research and Strategic Studies (ICRSS), only 17 per cent of those surveyed wanted coalition forces to leave immediately.

by the U.S./UK forces.⁹ To this point, dissatisfaction with the performance of the occupying forces has translated in a demand that they do better, not that they depart.

In some ways, the CPA has indeed done better. Beginning with the appointment of Paul Bremer, the CPA acquired a new sense of purpose and direction.¹⁰ It has established work programs at local levels to deal with garbage collection and rebuilding schools and hospitals. There are more Iraqi policemen back at work – though still in insufficient numbers, not always effectively patrolling the streets, and seldom possessing the necessary equipment. Several hundred thousand demobilised soldiers have now been paid, responding to their growing and increasingly menacing complaints.¹¹

But the bulk of the problems remain. Pervasive criminality and insecurity, large-scale unemployment¹² and defective or undependable vital public services such as electric power and clean water have become Iraqis' daily fare. Shortcomings in the performance of the occupying forces have intensified opposition to the CPA and Iraqis made clear to ICG that their patience was running out. Violent outbursts in the previously calm south over the lack of electric power should be seen as clear warnings.

⁹ ICG interviews with leading figure from Al-Hizb al-Watani al-Muwahad (the National Union Party), led by the Sunni cleric, Ahmad al-Kubaisi, June 2003. A range of diverse Iraqi political leaders interviewed by ICG took the view that violent resistance is a futile endeavour, either by the defeated regime to stage a come-back or by regional powers to promote their interests by preventing a quick return to normalcy. ICG interviews, Baghdad, June 2003.

¹⁰ See ICG Briefing, *Baghdad: A Race Against the Clock* op. cit.,

¹¹ Bremer also took steps to heal the wounds the initial order disbanding the army had created. "The Iraq army had a long tradition of service to the nation", he said. "Many, perhaps most, of its officers and soldiers regarded themselves as professionals serving the nation and not the Baathist regime". *Los Angeles Times*, 24 June 2003. The CPA's announcement on 6 July 2003 stated that it would "undertake the monthly payment of emergency pay to former Iraqi military personnel". Certain categories of security personnel were excluded, including members of the Special Republican Guard, the Special Security Guard and the Fedayeen Saddam. CPA Public Service Announcement, 6 July 2003.

¹² Reliable statistics are unavailable but according to some reports the unemployment and underemployment rate exceeds one-third of the Iraqi labour force. *The New York Times*, 9 June 2003.

To be sure, hostility toward the former Baathist regime is still the predominant political sentiment. Never far behind, however, is Iraqi nationalism, which has been and will continue to be a powerful barrier separating Iraqis from the CPA and the occupying forces more generally.¹³

It is not any kind of nationalism, but rather a wounded and humiliated one that must cope with the reality of a quick military defeat and the massive presence of foreign troops on Iraqi soil. The nationalism is fed in equal parts by reality and myth. Although Shiites for the most part have acquiesced in the occupation, they often take pride in the South's resistance (however ephemeral) in the early days of the war and point out that Sunni regions surrendered without firing a single shot. Threats of a new "resistance" in the event the occupying forces do not live up to their commitment repeatedly come up. In the words of a teacher from Al-Sadr city, in Baghdad,

We do not want the Americans simply to point their guns at us and subjugate us like Saddam's men! For the time being, we are giving them the benefit of the doubt; if the chaos they helped bring about is not brought under control and our living conditions do not improve, we will declare Jihad against the occupiers.¹⁴

Comparisons are quickly made to the 1920 revolt against the British, who had ended the Ottoman domination of Iraq but rapidly provoked the hostility of the tribes and of the Shiite clergy.¹⁵

Among some Sunnis, the swift defeat during the war is attributed to the betrayal of the high military

¹³ The strong, underlying nationalist feelings were conveyed in Iraqis' perception of the war. One Iraqi stressed: "Don't say Baghdad fell, say the Baath fell". ICG interview, Baghdad, 9 June 2003; another lamented the "great betrayal by the Baath around the airport". ICG interview with Iraqi media worker, Baghdad, 10 June 2003.

¹⁴ ICG interview, Baghdad, June 2003.

¹⁵ See Charles Tripp, *A History of Iraq* (Cambridge, 2000), pp. 40-45. In Michael Eisenstadt and Eric Mathewson (eds), *U.S. Policy in Post-Saddam Iraq: Lessons from the British Experience* (Washington D.C., 2003), it is argued that the main reasons for Iraqi resentment of the British occupation were the alienation of tribesmen, the undermining of the privileged status of the Shiite clerics of Najaf and the lack of a clear time-frame for the British to depart. The British subsequently reduced their troops and started relying on their (Sunni) Iraqi allies in Iraq, pp. 69-70.

command, accused of having “sold Baghdad to the Americans” while rank and file Iraqi troops purportedly were willing to fight on. As a former soldier put it, “There are still hundreds of Iraqi officers who are ready to die for their country”.¹⁶

Ambiguity toward the occupation is plain. For one Iraqi writer, “We felt happy to hear that (Saddam’s) statue fell down, but I wept in pain when I saw American soldiers. We have become occupied.”¹⁷ In interviews with ICG, tribal, clerical and political leaders virtually in unison took the view that they would tolerate the U.S. presence and cooperate with the CPA but that the more the presence came to look like a long-term occupation, the more they would resist.¹⁸ Indeed, the principal political divide is ceasing to be between supporters or opponents of the Baathist regime; it is becoming the one that separates those who are willing to work with the occupying forces and those determined to undermine them. This political divide is manifested in violent fashion on the streets, as attacks against Iraqis working with the occupation forces, such as the Iraqi police, are becoming increasingly common.

Current hostility toward the U.S. is fed by several popular beliefs. These include the notion that the invasion was part of a Western plot to dominate the Middle East, embezzle Iraq’s oil and defend Israeli interests. “Oil nationalism” has been a recurrent theme since the 1991 Gulf war; it has become the dominant catchword among both supporters of the former regime and disfranchised Iraqis. As for the belief that Israel has infiltrated Iraq, it has become widespread. In one version, Jews have been seeking to buy real estate throughout Baghdad in order to control the country.¹⁹

A number of Iraqis, convinced of the omnipotence of U.S. forces, are persuaded that the shortage of power is deliberate, intended either to harm the Iraqi people or – in a joint effort with criminal gangs – to make a profit by reselling stolen generators, transmitters or melted down power lines on the regional market.²⁰ The wanton looting that took place after the fall of the Baathist regime is commonly attributed to an American desire to show Iraqis in the most negative light. “The Americans let the looters act to harm our reputation. They wanted us to appear as savages before the international media.”²¹ The arrival of U.S. companies and foreign workers (whether Korean, Canadian or Australian) is interpreted as part of an effort to keep Iraqi engineers and workers unemployed at a time when virtually all state-run industries have ceased to function and the ranks of the jobless are rapidly expanding.

In addition, many Iraqis accuse U.S. forces of heavy-handedness and insufficient cultural sensitivity. Civilians have been killed as a result of egregious U.S. errors or in cross fire; Iraqis claim that U.S. soldiers leave behind considerable material damage, breaking furniture and doors in their attempts to snuff out resistance;²² U.S. soldiers also have been blamed for stealing money and jewellery during their weapons searches.²³ Coalition forces’ raids against mosques – at times used as hideouts or as staging areas for attacks against U.S. soldiers²⁴ – and alleged confiscation of alms or *zakat*, have fuelled anger.²⁵ The use of police dogs – considered by observant Muslims as sources of impurity – has provoked similar protests. Physical searches by male soldiers of women and the storming of their private bedrooms (without giving them a chance to cover themselves properly)

¹⁶ ICG interview with a demobilised soldier, Falluja, June 2003. The charge that Saddam’s inner circle betrayed him was echoed in a statement by the former dictator’s oldest daughter Raghad in early August. “Saddam’s eldest daughter accuses his aides of ‘betrayal’” Agence France-Presse 1 August 2003.

¹⁷ ICG interview, Baghdad, June 2003. Others echoed the view: “My happiness [at the fall of Saddam] was short lived, I feel now humiliated. . . . I support the removal of Saddam but not the occupation of my country”. ICG interview with Islamist activist, Sadr city, June 2003.

¹⁸ Such sentiments were expressed by leaders of the SCIRI, the Dawa party and by Muqtada al-Sadr. ICG interviews, May-June 2003.

¹⁹ ICG heard this allegation from several Iraqi taxi drivers; preachers have also warned worshippers not to sell their

property to “Israeli agents”. ICG interviews, Baghdad, June-July 2003.

²⁰ ICG interviews, Baghdad, June 2003.

²¹ ICG interview with Shiite activist, Baghdad, 4 June 2003.

²² Some Iraqi newspapers published pictures to substantiate the claim.

²³ ICG interviews, Baghdad, June-July 2003. Iraqis often keep sums of money in their private homes, a practice that U.S. soldiers may mistake with storing cash to purchase weapons or fund resistance.

²⁴ In mid-June, several U.S. military commanders in Baghdad warned that mosques were being used to hide weapons or as launching pads for armed attacks. Al-Sabah newspaper, Baghdad, 16 June 2003.

²⁵ ICG interviews, Baghdad, June 2003.

are experienced by Iraqis as dreadful breaches of local norms and sinful transgressions of Islamic law. The charge of violating women's honour can take more mythical forms, such as when Iraqis claim that U.S. troops use special binoculars (night-vision devices) to see through their clothes.²⁶ Finally, the treatment of Iraqi prisoners is repeatedly mentioned by Iraqis as involving flagrant human rights violations.²⁷ Summing it up, a resident of Falluja put it as follows:

The Americans brutally arrest people without first checking the accuracy of their information; they violate people's privacy and their houses; they handcuff them and throw them to the ground in front of their families and neighbours. For them, honour means nothing! We Iraqis also have our dignity as any human being. We are defending our religion, our land, and our honour. We do not have the means to offer genuine resistance, but thanks to isolated attacks, we can force them to consult us and respect us.²⁸

Some of these practices may well be mandated by legitimate security concerns; still, their net effect is questionable. As in any foreign occupation, checkpoints, searches, raids have a cumulative negative effect, strengthening the forces of resistance they are designed to suppress.²⁹ By all accounts, U.S.

forces were inadequately prepared to deal with an alien cultural universe; insufficient effort was made to preserve and reconstitute the Iraqi security forces; and policing issues have been dealt with by military personnel. All in all, the CPA and coalition forces appear to have squandered much of the good will that greeted U.S. forces upon their arrival.

²⁶ This charge, along with the allegation that Shiite women were raped by U.S. soldiers, was echoed by *Al-Sa'ah*, the newspaper of Ahmad al-Kubaisi's Islamic Sunni Group on 7 June 2003.

²⁷ On the human rights issues raised by the occupation, see Amnesty International, "Iraq: Memorandum on Concerns Relating to Law and Order", 11 August 2003.

²⁸ ICG interview with Falluja notable, Falluja, June 2003. See also Human Rights Watch, "Violent Response: The U.S. Army in Al-Falluja", 17 June 2003.

²⁹ Nor is all of the behaviour justified by understandable security concerns. ICG witnessed several incidents in Baghdad in which U.S. soldiers displayed rudeness and resorted to what appeared to be unprovoked insults. Although not publicised, the U.S. military, acting under its responsibility as occupying power, receives complaints of alleged military abuses and, where possible, undertakes investigations under Judge Advocates General review and has provided compensation. A Wall Street Journal article on 4 August 2003 reported some 2500 complaints and more than 1000 adjudicated with several hundred thousand dollars paid. Without confirming the exact numbers, U.S. government officials have corroborated the process in place. With respect to civilian casualties during the conflict, the emergency Iraq Relief and Reconstruction Fund authorises "assistance for families of innocent Iraqi civilians who suffer losses as a result of military

operations." The U.S. government is reviewing how it will implement that provision, which does not involve compensation but humanitarian assistance and, in Afghanistan, generally resulted in broader assistance to benefit whole communities rather than to individuals. Public Law 108-11, Title I, Chapter 5, Other Bilateral Economic Assistance, Iraq Relief and Reconstruction Fund <http://thomas.loc.gov/cgi-bin/query/F?c108:6:./temp/~c108j8Pbfb:e37844>, ICG interview, Washington, D.C., 21 August 2003.

II. DECONSTRUCTING THE ARMED RESISTANCE

Armed resistance against the occupation is very much a minority affair, and one viewed predominantly negatively by the Iraqi population; it is localised in that it is restricted to certain parts of the country and it is decentralised “in that it is being conducted by a large number of groups, many of whom are ideologically different from one another and do not cooperate with one another.”³⁰ Still, acts of violence have been a constant feature of the post-Saddam era; U.S. military officials claim that they occur at a rate of roughly ten to 25 per day. Their nature provides important clues as to sources of discontent and possible trends should the overall situation fail to improve. Attacks have focused principally on utilities, oil facilities and U.S. troops. More recently, terrorist attacks against highly visible targets – Jordan’s embassy on 7 August and the UN building on 19 August – have occurred. As one analyst explained, the insurgents’ goals are multiple:

negative ones that are defined by what they do not want, i.e., the U.S. presence; reactionary ones that seek the return of the old order; or gut and nationalist reaction to humiliation and domination by the Other.”³¹

Initially, the U.S. dismissed the violence as isolated acts of little if any military significance; by mid-July, the new CENTCOM commander, John Abizaid, was forced to acknowledge that U.S. forces were facing what increasingly bore the hallmarks of systematic guerrilla warfare.³² Some characterised the killing of Saddam Hussein’s two sons on 22 July as a turning point.³³ But the violent

resistance is far from having a single source, patron or motivation: not all Iraqis who oppose the U.S. presence are former Saddam loyalists or radical Islamists. Although most premeditated violent attacks appear to come from those two areas, resistance stems from a multiplicity of sources in which politics, ideology, culture, poverty and mismanagement by the occupation force all play an important part.

It also is important to note that not all the violence is directed at the coalition forces; far from it. Recent weeks have seen an increase in the number of attacks on foreign civilians of which the attack on the UN headquarters building is the most tragic instance. Individuals working for international NGOs have been killed in attacks on their marked vehicles or offices. In addition, a number of Baathists have been murdered, presumably out of revenge or anger at the former regime.³⁴

A. POLITICAL MAPPING OF THE ARMED RESISTANCE

- *Members of the Old Regime.* These are considered at this point the best-organised and funded cluster of resistance; their number is difficult to assess, though U.S. sources estimate that there are somewhere between 5,000 and 9,000 hardcore loyalists at large.³⁵ They include members of the intelligence and security organisations that melted away on 8-9 April 2003, bringing with them expertise, motivation and human as well as material resources.³⁶ The CPA’s decision to disband the army and the ministry of the interior is said to have greatly strengthened this group, as it drove many alienated people to join the clandestine resistance.³⁷ A subtler, discriminating approach

³⁰ Ahmed al-Hashim, “The Sunni Insurgency in Iraq”, *Middle East Institute Perspective*, 15 August 2003.

³¹ Ibid.

³² “I believe there’s mid-level Baathist, Iraqi intelligence service people, Special Security Organisation people, Special Republican Guard people that have organised at the regional level in cellular structure and are conducting what I would describe as a classical guerrilla-type campaign against us”. Department of Defence News Briefing, 16 July 2003.

³³ “What happened to Uday and Qusay Hussein last week is essential to the process of building [Iraq’s] future”, Paul Wolfowitz, in *The Washington Post*, 28 July 2003; “[T]he death of Uday and Qusay is definitely going to be a turning point for the resistance and the subversive elements we are pursuing”, Lt. General Ricardo Sanchez, in *The*

Washington Post, 24 July 2003.

³⁴ These have been largely unreported, but appear to be occurring with some frequency. ICG interviews, Baghdad, July 2003.

³⁵ See “Assessing the Iraqi Sunni resistance”, *Policywatch*, The Washington Institute for Near East Policy, 11 August 2003.

³⁶ According to the deputy governor of the Iraqi Central Bank, on 8 April 2003 the bank’s coffers were emptied at gun point by Saddam’s son Qusay, who left with some \$U.S.4 billion. ICG interview, Baghdad, 12 June 2003.

³⁷ As ICG pointed out in an earlier briefing paper, the army was largely viewed as a victim of the former regime, not its beneficiary. ICG Briefing, *Baghdad*, op. cit., p. 8.

might have reassured segments of the former Baathist regime; instead, wholesale de-Baathification has deepened and spread discontent.³⁸ In addition, widespread looting and fire destroyed archives that could have helped vet intelligence and security officers and there have been suggestions that former Baath party members have joined the ranks of Islamic parties.³⁹

Individuals carrying out such operations appear to be driven only partly by allegiance to the former regime; other motivations include nationalist and anti-American sentiment and alarm at their loss of power and state-patronage. The apparent purpose of their acts is to destabilise the situation by creating a sense of insecurity and further disrupting vital services, thereby intensifying anti-U.S. feelings and, ultimately, driving U.S. forces out.

- *Sunni Islamists.* Since the mid-1980s, Iraq has undergone a process of Islamisation that can be witnessed in both its Sunni and Shiite variants. Neither forms a homogenous group; among Sunnis are Arabs and Kurds, old-style Muslim Brothers, veterans of the Afghan war, conservative and radical Islamists who over the years have been hosted and aided principally by Saudi Arabia (and, since the 1990s, also by Saddam Hussein). The more radical claim in both speeches and private conversation is that any Kafir, or non-Muslim, who forcibly trespasses upon the land of Islam is an illegitimate invader deserving to be fought. Fighting is *Fard 'ayn*: a universal imperative that applies to every adult Muslim in good physical and mental health. Over the years, Iraqi radical Sunni Islamists reportedly have built contacts with their counterparts in Saudi Arabia.⁴⁰ According to U.S. sources, the Islamist Kurdish Ansar al-Islam organisation is a principal perpetrator of armed attacks,

including possibly the terrorist attacks against the Jordanian embassy and the UN buildings.⁴¹

While they share with the loyalists a powerful antagonism toward the U.S., Sunni Islamists neither contemplate nor support the return of the secular Baathists to power. Over time, however, as memories of Saddam's regime recede and hostility toward the U.S. intensifies, a joining of ranks may well occur, particularly given the existing geographic overlap between the two groups. Many Sunni Islamists – including some who did not benefit during the Baathist regime – are also motivated by fear that the U.S.-sponsored post-conflict arrangement inevitably will favour the majority Shiites.

- *Tribal resistance.* Some resistance appears to be of a non-ideological ilk, motivated primarily by the occupiers' behaviour and by the urge to exact revenge or seek redress. This is particularly relevant for tribes whose members may have been killed by U.S. or UK forces in what are considered heavy-handed raids.⁴² In U.S. or UK operations in Faluja, Mosul, Ba'quba and al-Majar al-Kabir, for instance, numerous Iraqi civilians were shot and killed. It also is claimed that tribes are avenging the deaths of Iraqi soldiers who fell in combat during the war.⁴³ A former Iraqi military and tribal leader told ICG that some tribes had approached the Anglo-American forces seeking "blood money" for their lost sons but were told that no compensation would be paid for Iraqi soldiers killed in action.⁴⁴ In theory, this strand of resistance bears little in common with loyalists or Islamists. Should grievances remain unaddressed, however, a link could well develop in specific localities.
- *Soldiers of fortune.* Given the combined

Underpaid and poorly treated, its members could have become a pillar of support for the post-Saddam order; instead, many Iraqis blame the CPA for squandering this opportunity. ICG interviews, Baghdad, June-July 2003.

³⁸ Ibid., pp. 9-10.

³⁹ *The New York Times*, 28 June 2003. ICG came across full-fledged Baath party members who are now active members of Sunni and Shiite groups that actively oppose the occupation.

⁴⁰ ICG interviews with Sunni Islamist jurists, Baghdad, 28 July 2003.

⁴¹ *The New York Times*, 20 August 2003. According to Bremer, some 200 Ansar activists who fled to Iran during the war have returned since 1 May. *Los Angeles Times*, 13 August 2003. On Ansar al-Islam, see ICG Middle East Briefing Paper, *Radical Islam in Iraqi Kurdistan: The Mouse that Roared?*, 7 February 2003.

⁴² ICG interview with tribal chiefs, Baghdad, July 2003.

⁴³ According to the unverifiable estimate of an Iraqi military commander, some 6,000 Iraqi soldiers lost their lives during the war, of which roughly 10 to 20 per cent enjoyed strong tribal affiliations. ICG interview, Baghdad, July 2003.

⁴⁴ ICG interview, Baghdad, July 2003.

militarisation and impoverishment of Iraqi society under the Baathist regime, a significant number of Iraqi youth have taken to criminal violence. In this context, payments for attacks on occupation forces are widely believed to take place.

In material terms, there is no big difference between killing a driver to appropriate his brand new BMW or Mercedes and firing at a U.S. soldier. Both acts bring much-needed cash. The market will pay roughly U.S.\$5-10,000 for a BMW; it will yield roughly the same for shooting at coalition forces. The difference is that a BMW makes you a killer-thief; a U.S. soldier makes you a hero or a martyr.⁴⁵

According to high ranking Iraqi police officers who are now working under the CPA, criminality has become increasingly organised since the 1990s, but has gained in sophistication since the fall of the Baathist regime, strengthened by the addition of disfranchised ex-military or ex-intelligence officers.

- *Volunteer Militants and Islamist Militants from Abroad:* U.S. officials and some Iraqis have highlighted the role of militants from abroad.⁴⁶ How many such volunteers came into Iraq, how many remain and whether new ones continue to arrive are all disputed matters.⁴⁷ Some Baghdad residents told ICG that a few hundred who arrived at the onset of the war remain trapped in a country they would rather leave if allowed by the Anglo-American forces to do so. Having run out of cash, they

reportedly are being hosted by Iraqi families. A combination of ideological fervour, financial need and desperation is said to be driving them to carry out attacks.⁴⁸ Coalition forces should consider negotiating the return of these individuals to their host countries. Since the end of the war, another set of militants reportedly has been infiltrating Iraq. These are said to be Islamist militants for whom Iraq is seen as a new Afghanistan, the focal point for the struggle against infidel occupiers of Muslim lands. U.S. officials have pointed a finger at al-Qaeda members who they believe have entered Iraq for the purpose of perpetrating terrorist attacks.⁴⁹ According to some sources, Ansar al-Islam also is helping organise the activities of Islamist militants from abroad.⁵⁰

What of Iraq's *Shiites*? Should they be construed as part of the resistance? They generally supported the overthrow of the Baathist regime and who stand much to gain from a reordering of the Iraqi political system. For the time being, they appear for the most part to have refrained from participation in violent acts of resistance. The so-called Shiite establishment, which leads the *hawza*, or Shiite centre of learning in Najaf, has adopted a cautious approach; its leaders have refused to meet with U.S. officials but have not called for armed resistance.⁵¹ The SCIRI, arguably the best-organised Shiite party in Iraq, and which was long based in Iran, has insisted on an end to the occupation, but has worked with the CPA and joined the Interim Governing Council. The most radical, anti-American group is led by Moqtada al-Sadr, a young cleric who inherited his father's vast network of charities, schools and mosques as well as his significant popular following. This movement's ultimate objective is to wrest control

⁴⁵ ICG interview with a retired jurist, Baghdad, 31 July 2003.

⁴⁶ An Iraqi teacher who claims to have hosted some volunteers for a few days out of compassion told ICG they were "Islamic fundamentalists", principally of Jordanian, Palestinian, Syrian and Yemeni origin. ICG interview, Baghdad, June-July 2003.

⁴⁷ U.S. officials accuse Syria of allowing a number of individuals to cross into Iraq to combat U.S. troops. On 19 August 2003, Paul Bremer alleged that Syria was allowing "foreign terrorists" to cross into Iraq. *Al-Hayat*, 19 August 2003. A Syrian official acknowledged to ICG that in the early days of the war his country did not "prevent" such individuals from reaching Iraq; however, he claimed that Damascus subsequently changed its stance and closed its borders. ICG interview, Damascus, July 2003.

⁴⁸ ICG interview with Iraqi police officer, Baghdad, July 2003.

⁴⁹ Web sites believed to be connected to al-Qaeda have called for intensified efforts against the U.S. in Iraq. *The New York Times*, 13 August 2003.

⁵⁰ *Ibid.* See also United Press International, 12 August 2003.

⁵¹ In a sign that the *hawza* leadership is feeling pressure from more radical clerics, Grand Ayatollah Sistani, arguably Iraq's most respected Shiite cleric, issued a religious edict (*fatwa*) saying that the selection of a constitutional council by the CPA would be "unacceptable". Instead, he called for such a council to be elected by the Iraqi people. *The New York Times*, 1 July 2003.

of Iraq from the U.S. For now, however, while it has denounced the U.S.-appointed Interim Governing Council and al-Sadr and his followers have made fiery speeches against the occupation, there are few reported attacks on U.S. forces in areas where it is active. This general picture could rapidly change, however, if nationalist feelings and anger among Shiites over their everyday lives continue to grow.⁵²

B. GEOGRAPHIC MAPPING

The geographic location of Iraqi resistance reflects its multiple strands. Most activity has been concentrated in what is commonly referred to as the “Sunni triangle” of Faluja, Balad and Yusfiya but consists, more accurately, of two rectangles, one to the East of Baghdad in the governorate of Diyala and the other to the northwest of the capital, in the governorate of Anbar. These are areas that by and large had benefited from the Baathist regime’s largesse and almost certainly will suffer politically and economically under a new regime. Until the killing of three British soldiers in Basra on 23 August, the predominantly Shiite south has, so far, generally been exempt from violent resistance.⁵³ Finally, in the Kurdish areas in the north, the atmosphere by and large has been peaceful.

- Resistance has been particularly powerful in the governorate of Anbar, home to roughly 1-2 per cent of the Iraqi population and a reservoir of loyalty to the former regime, nationalism, Sunni fundamentalism and strong tribal solidarity. Many of its residents profited economically during the Baathist regime and marital links tied some of its tribes to Saddam

⁵² “What should be worrisome from the American perspective is the growing coincidence between Sunni and Shii nationalist views concerning the coming pillage and sale of Iraq by the U.S. and its allies”. Ahmed al-Hashim, op. cit. Tentative signs of Sunni/Shiite nationalist feelings possibly coming together surfaced with unconfirmed reports that Ahmed al-Kubaisi, a Sunni cleric, was providing support to Muqtada al-Sadr. *The Washington Post*, 27 August 2003.

⁵³ There has been no dearth of street politics and street protests in the South, however. In Basra and Najaf, street politics are the norm, often organised by Muqtada al-Sadr’s followers. ICG interviews, Najaf and Baghdad, June-July 2003. In early August, large-scale and at times violent riots erupted over fuel shortages in Basra.

Hussein’s, the Albu Nasser.⁵⁴ Bitterness at the rapid loss of status is palpable. A stronghold of anti-occupation activity is Faluja, the most conservative Sunni-tribal town in Anbar.

- Outside Anbar, three “satellite” villages have witnessed active hostility to the U.S./UK forces: Ouja, Saddam Hussein’s birth place, as well as Balad and Dhlo’iya, the Sunni villages that in 1982 helped protect Saddam from an attempt on his life. In the 1960s and 1970s, Balad and Dhlo’iya consisted of mud-hut, poor peasant habitats; during Saddam’s rule, its wealthy businessmen lived in villas and many of its residents assumed prominent positions in the army and security services.⁵⁵
- Much of the media focus has been on the areas west of the capital, but armed attacks against U.S. troops have taken place from Diyala on a quasi-daily basis.⁵⁶ It too is a relatively small governorate; unlike Anbar, though, its ethnic composition is mixed, consisting of Arabs, Kurds and Turkomen. Culturally, the Arab population is a virtual replica of Anbar, with a Sunni Islamist trend and powerful tribal allegiance. The Iraqi Islamic Party, a Sunni organisation led by Dr. Muhsin Abdul-Hamid, is active in several towns in Diyala.⁵⁷ As in the case of Anbar, Diyala’s tribes benefited from the Baathist regime’s largesse⁵⁸ and a strong anti-American sentiment pervades the region. The number of violent attacks in the province surged after the killing of the former

⁵⁴ They are referred to as *Akhwal al-Rais* (the President’s maternal uncles). ICG interviews with leading figures from Majlis Shuyukh ‘Asha’ir al-Iraq (the Assembly of Tribal Chiefs of Iraq), Baghdad, July 2003.

⁵⁵ ICG interviews, Dhlo’iya and adjacent villages, June-July 2003. During a visit to Dhlo’iya, a village some 60 kilometres north of Baghdad, ICG encountered a tense atmosphere, fraught with suspicion. Tribal chiefs in adjacent locations claimed to ICG that Saddam would vacation in those areas. “He [Saddam] loved these tribal domains for their date palm trees, water and tribal way of life. He assisted Dhlo’iya beyond imagination. And its residents are extremely unhappy now”. ICG interview with Sedam Kahiya from the Albu Amir tribe, July 2003.

⁵⁶ ICG interviews with local tribal chieftains attending a conference in Baghdad, July 2003.

⁵⁷ There also is a strong Sufi influence in Diyala, which arguably has the largest number of saintly Sufi (mystic) tombs in the country.

⁵⁸ ICG interviews with tribal chiefs from Diyala, Baghdad, July 2003.

president's two sons.

Equally instructive are the locations in this area where resistance generally has *not* been as intense as anticipated.

- In Tikrit, Saddam's hometown and the seat of the Albu Nasser tribe, notables negotiated the peaceful entry of U.S. troops into the city following the fall of Baghdad. Later, in June, a key tribal family, the al-Nida, sought to dissociate the rest of the tribe from Saddam Hussein and his branch. According to a prominent Tikriti,

They [al-Nida] had to seek reconciliation with the Iraqis at large; distancing themselves from Saddam was their political and tribal strategy to achieve that end. It was in effect an apology to the nation for the offences committed by the deposed regime and a message to those tribes that had bad blood with the Albu Nasser.⁵⁹

Since the collapse of the Baathist regime, street fights have been known to break out between residents of Ouja, Saddam's birthplace, and Tikrit, which Ouja now views as disloyal.⁶⁰

- Mosul, the third largest city in Iraq, has had a mixed record, with only some pockets of violent resistance. The city has long provided the largest number of military commanders, businessmen and prominent tribal leaders; nationalist and Sunni Islamist feelings run deep, and there was no shortage of Baathist loyalists. During the days immediately following the regime's fall, tension grew in the city; feelings of humiliation were aggravated by the deployment of Kurdish paramilitary forces to stem the looting and mayhem. The subsequent inclusion in the political process of the powerful Shammar tribe and of the Islamic party, an offshoot of the old Muslim Brotherhood, appears to have had a moderating effect. The role played in Iraq's post-conflict political life by Adnan Pachachi, a prominent Mosulite, arguably was another contributing factor.⁶¹

III. THE INTERIM GOVERNING COUNCIL

A. THE CONVOLUTED PATH

From the time of the Baathist regime's fall, U.S. policy vis-à-vis Iraq's political transition has been caught between conflicting interests and priorities. From early on, real power was vested in the Coalition Provisional Authority, whose own regulations state:

The CPA shall exercise powers of government temporarily in order to provide for the effective administration of Iraq during the period of transitional administration. . . The CPA is vested with all executive, legislative and judicial authority necessary to achieve its objectives.⁶²

That said, a prolonged foreign presence without a local face threatened to increase anger at the U.S., which would be the sole address for requests and recrimination. A second option, rapid transition to full Iraqi rule through national elections, risked preventing new leadership options and viewpoints to emerge. From the U.S. point of view, premature elections risked empowering forces seen as most hostile to it -- the Islamists and remnants of the old regime. A third option -- to appoint an Iraqi government -- would almost certainly have benefited the exiled groups whose support among Iraqis was questionable at best. While several officials in Washington perceived the exiles as a familiar and, in the case of Ahmad Chalabi's Iraqi National Congress (INC), politically like-minded lot, others considered the exiles to be largely detached from contemporary Iraqi reality and (for the time being at least) lacking a genuine constituency.

These tensions were manifest in the CPA's rapidly changing approach to the question of political transition. The first U.S. representative, Jay Garner, seemed intent on moving relatively quickly toward an Iraqi interim government dominated by the formerly exiled Iraqi groups.⁶³ Soon thereafter, his

⁵⁹ ICG interview, Baghdad, June 2003.

⁶⁰ ICG interview with Tikrit notables, Baghdad, June 2003.

⁶¹ ICG interviews with Fahrhan Hawas al-Sadid, chief of al-Sayih clan, a strong section of the Shammar tribal confederation, and with other figures from Mosul, Baghdad July 2003. For a brief history of the Muslim Brotherhood in

Iraq, see Faleh A. Jabar (ed.), *Ayatollahs, Sufis and Ideologies* (London, 2002).

⁶² Coalition Provisional Authority Regulation Number 1.

⁶³ In early May, Garner explained: "Five opposition leaders have begun meetings and are going to bring in leaders from

successor, Paul Bremer, who arrived in Iraq on 12 May, shifted course. After the vote of UN Security Council Resolution 1483 on 23 May 2003, which recognized “the right of the Iraqi people freely to determine their own political future,” Bremer embarked on a process of political consultation with members of Iraq’s political elite. The circle of Iraqi political partners gradually was substantially widened to rebut accusations of bias towards exiled politicians. Instead of a speedy formation of an interim government, the plan he put forward contemplated the appointment by the CPA within four to six weeks of a Political Council comprising some 20-30 members as well as of a Constitutional Conference consisting of 150-200 deputies.⁶⁴ Bremer justified the change, saying “If we just slap together something quick – even though that may be what some people want – it’s not going to work.”⁶⁵ The Council’s authority was, under this plan, extremely vague. It was not expected to possess the power to make decisions or appoint cabinet ministers without CPA approval.⁶⁶ In the words of an Arab diplomat at the time, “we told the Americans they should serve as the consultative arm of an Iraqi body; they seem to have chosen to name an Iraqi council as the consultative arm of the CPA. It will not work.”⁶⁷

Critical reactions from across the Iraqi political spectrum were quick in coming. Adnan Pachachi, the respected former Iraqi foreign minister, issued a stern warning: “Unless we have an Iraqi government within three weeks, chaos will reign.”⁶⁸ Ahmad al-Kubaisi, a powerful Sunni Islamist, joined his voice: “We support the formation of any

government provided that it is an Iraqi one, even if it is provisional and under the U.S. guidance.”⁶⁹ Even the more moderate Grand Ayatollah Ali Sistani, arguably Iraq’s most respected Shiite cleric, expressed his opposition. Some of the most virulent reaction came from the former exiled groups, many of whom felt betrayed by the U.S. administration. SCIRI’s leader, Mohammed Bakir al-Hakim, stated: “The Iraqi people are able to establish a national government, but the Americans are preventing this.”⁷⁰ Chalabi also criticized the proposal, arguing: “Do you realize that what you are giving the Iraqi interim authority in 2003 is far less than you gave the Iraqi government when you [the British] occupied Iraq in 1920.”⁷¹ ICG interviews with Iraqi political leaders at this time reflected intense criticism against the CPA and its plans for an interim administration. In their eyes, an administration possessing such powers would have had neither authority nor governing prerogatives.

As criticism both of the plan and of conditions on the ground grew more intense, Bremer told a gathering of Iraqi political leaders that the envisaged political council and constitutional conference would, together, constitute the “interim administration” and that it would have “substantial” executive authority to nominate ministers, prepare the budget, represent the country abroad, and convey advice on strategic issues (judicial reform, education, and so forth).⁷²

By the end of June, with armed attacks against U.S. forces occurring with increasing frequency and popular grievances mounting, the CPA announced one more - this time apparently definitive - change. Bremer now described the proposed Iraqi body as “governing council,” inching closer to the notion of an Iraqi government. The 25-person Interim Governing Council ensued and met for the first time on 13 July. UN officials took partial credit for this approach that gives greater executive powers to the Iraqi body than originally contemplated. According to Ghassan Salamé, the former Lebanese minister and present political adviser to the UN Special Representative of the Secretary General in Iraq, the UN argued persuasively that the more authority Washington possessed, the more the U.S. would be the target of criticism and attacks. Initially,

the inside of Iraq and see if that can’t form a nucleus of leadership as we enter into June. Next week, or by the second week of May, you’ll see the beginning of a nucleus of a temporary Iraqi government, a government with an Iraqi face on it that is totally dealing with the coalition”. *The Washington Post*, 6 May 2003.

⁶⁴ According to various reports, the CPA advised the group of seven parties that, because they did not fully represent all Iraqis, new elements (women, tribal chiefs, Christians and so forth) would be added to the interim administration. See, e.g., *Al-Zaman* (daily), Baghdad, 10 June 2003.

⁶⁵ *The Washington Post*, 18 June 2003.

⁶⁶ ICG interviews, Dr. Adnan Pachachi, Chairman of Independent Democrats, and Dr. Mahdi al-Hafiz, vice-chairman of the Independent Democrats, London, 7 and 8 June 2003; Adil Abdul Mahdi, member of SCIRI, Baghdad, June 2003.

⁶⁷ ICG interview, Washington, June 2003.

⁶⁸ *Sumer Weekly*, Baghdad, 19 June 2003.

⁶⁹ *Al-Zaman*, 19 June 2003.

⁷⁰ *Boston Globe*, 11 June 2003..

⁷¹ *The New York Times*, 21 May 2003.

⁷² Based on minutes of the meeting provided to ICG.

Paul Bremer wanted to control everything but the UN, with the help of the Iraqis and as a result of the anti-American attacks, was able to convince him to grant real powers to the Council. We had to extract its prerogatives one by one.⁷³

A number of Iraqi leaders saw this as a potentially significant step toward the restoration of national sovereignty.⁷⁴

B. HOW THE INTERIM GOVERNING COUNCIL WAS FORMED

The Interim Governing Council was born of prolonged and arduous negotiations. In a welcome break with some past decisions by the CPA, this one was not taken by the U.S. alone. Instead, it consulted broadly not only with Iraqi political and social forces, but also with the UK and the once-suspect UN. The Secretary General's Envoy Sergio Vieira de Mello, who was tragically killed in the 19 August attack on the UN building, is said to have played an important role, enjoying good relations both with the U.S. and with Iraqi political actors. Also active was his political adviser, former Lebanese minister Ghassan Salamé.⁷⁵ According to participants in the consultative process, a guiding principle was to form the Interim Governing Council as quickly as possible while ensuring the broadest possible representation of ethnic and religious social categories.⁷⁶ Another principle was that both the CPA and major Iraqi political groups would enjoy veto power over final membership.⁷⁷ To protect its reputation, the fact of and membership in the Interim Governing Council were announced by Council members and not the CPA and the composition was said to have been accomplished through a process of "self-selection" that remained unexplained.⁷⁸

⁷³ *Le Monde*, 27-28 July 2003.

⁷⁴ ICG interviews with various Iraqi political leaders, Baghdad, July 2003.

⁷⁵ ICG interview with U.S. and UN officials, Washington and Baghdad, July 2003.

⁷⁶ ICG interview with a senior UK diplomat, Baghdad, 3 July 2003.

⁷⁷ The SCIRI is said to have played a major role, helping ensure the absence of any representative from the more radical Moqtada Sadr group, *Harakat al-Sadr al-Thani*.

⁷⁸ ICG interviews with officials at the UN and diplomatic missions to the UN, New York, July 2003.

Interviews with ICG and the Council's membership suggest that the selection process involved a delicate task - an effort to extract a largely representative body from a society both virtually unknown and profoundly transformed by decades of Baathist rule. The result is a broadly diverse body, including various strands of Iraqi society - Islamist and secular, modern and traditional, old notable families and tribes. But because the Interim Governing Council did not result from elections, whether at a local or national level, its composition reflects its creators' image of Iraqi society rather than the Iraqi people's own. The assortment that resulted speaks volumes about the lens through which the CPA and those Iraqis it dealt with see contemporary Iraq, which affiliations it privileges and which not. The Interim Governing Council is not a technocratic cabinet selected on the basis of skill, nor does it seek to reflect a particular ideology or consistent worldview. Rather, what emerges is a picture in which ethnic and sectarian rather than political affiliation appear to have been given pride of place and in which Iraqi exiled political groups were given a disproportionate weight.⁷⁹

C. HOW THE INTERIM GOVERNING COUNCIL IS TO WORK

Two CPA documents purport to set forth the Interim Governing Council's powers. The first, a CPA regulation, "recognises the formation of the Governing Council as the principal body of the Iraqi interim administration, pending the establishment of an internationally recognised, representative government by the people of Iraq." It further states that "the Governing Council and the CPA shall consult and coordinate on all matters involving the temporary governance of Iraq, including the authorities of the Governing Council."⁸⁰ According to a text issued by the CPA on 14 July, the Interim Governing Council will enjoy broad powers, including the ability to:

1. name an interim minister for each ministry"; the Interim Governing Council has the authority to dismiss ministers;

⁷⁹ For a list of Interim Governing Council members, see Appendix B.

⁸⁰ Coalition Provisional Authority Regulation Number 6, 13 July 2003.

2. in cooperation with the CPA, set broad national policy on issues such as “financial and economic reform, education, electoral law, health.” On security, the Interim Governing Council will “prepare policies on matters concerning Iraq’s national security, including the rebuilding and reform of Iraq’s armed forces, police and justice sector;”
3. participate in drawing up the national budget and approve it;
4. select diplomatic representatives and representatives to international organisations; and
5. appoint a Preparatory Constitution Commission tasked with recommending “a process by which a new constitution for Iraq will be prepared and approved.”⁸¹

Yet the precise scope of the Interim Governing Council’s authority remains unclear. Still unanswered are questions related to its relationship with the CPA and with the interim ministers it is empowered to name. And thus far, the Interim Governing Council has no real bureaucracy of its own and no access to the existing Iraqi administration, which is entirely run by the CPA. Meetings generally are attended by some 75 people: the Council’s 25 members plus two aides each. Decisions are then handed over to the CPA.

IV. PROBLEMS AND CHALLENGES FACING THE INTERIM GOVERNING COUNCIL

The CPA and others engaged in the formation of the Interim Governing Council faced a daunting challenge. They had to operate without the benefit of elections, a genuine civil society, sustained political activism or even traditions of representative government. They also appeared to lack in-depth knowledge of a society that has been largely isolated for years, deprived of the potential for alternative leadership through imprisonment, exile or execution, and growing increasingly fragmented along the way.⁸² The CPA was charged with putting together a body that would be viewed as legitimate and representative in a country whose governments typically were neither, and that had been held together through force and the more subtle power of corruption and patronage. The predominantly critical reaction of the Iraqi political class is indicative of trouble spots ahead that can be categorised under three headings: problems of representativeness; problems of executive authority; and problems of executive capacity.

A QUESTIONS OF REPRESENTATIVENESS

Most of the discontent came from political and social forces that felt they had been unfairly left out; while this is a natural phenomenon in any government selection process, it is all the more so - and has all the more popular resonance - when the selection occurs under conditions of foreign occupation and without a prior election to measure the political weight of various actors.

Most critics demanded a broadening in the Interim Governing Council’s membership, denouncing the lack of transparency and consultation that led to its establishment. These included members of Sharif Ali’s Constitutional Monarchist Movement, the Arab Nationalist groups, the pro-Iranian Da’wa Party-Iraq Organisation⁸³ and Muhammad Taqi al-

⁸¹ Official Text Issued by the Coalition Provisional Authority, 14 July 2003. A third document that sets out the agreement between the CPA and the Interim Governing Council basically captures these same points. See http://www.dfid.gov.uk/News/PressReleases/files/iraq_13july03.htm.

⁸² See ICG Middle East Report No. 6, *Iraq Backgrounder: What Lies Beneath*, 1 October 2002.

⁸³ There are three branches of al-Da’wa. Al-Da’wa Tanzim al-Iraq (Da’wa – Iraq Organisation), referenced in the text, was based in Iran. Two branches of the party are represented in the Interim Governing Council: the branch that is led by Ibrahim al-Jafaari (the current president of the

Mudarissi's Islamic Action Party as well as an assortment of other Baghdad-based political groups of recent vintage. All believed their rightful place in the Interim Governing Council had been unfairly denied through an obscure and arbitrary selection process.⁸⁴ Tribal groups, chiefly those organised in political parties, also voiced their discontent at having been excluded. In general, Iraqis have had little time to gather, debate ideas and congeal into pressure groups, including political parties; it is therefore likely that the sense of having been excluded will find more voice in the coming period.

- Developed largely through consultation with the group of seven Iraqi parties, the Interim Governing Council is viewed as disproportionately tilted toward the diaspora and does not include individuals from various regions or from local, grass roots organisations, such as business associations, or human rights and women's organisations. In its earlier report on post-war Iraq, ICG had recommended a full-fledged bottom up process of local, municipal and functional elections as one means of selecting a representative national leadership.⁸⁵ This was not the route chosen by the CPA; while some local councils have been set up and elections for a number of unions and associations have taken place, these have often had more the appearance of controlled selections than of genuinely open elections. The CPA claims, with some justification, that an electoral process is underway for unions and municipal councils.⁸⁶ But Iraqis interviewed by ICG assert that the process has been neither transparent nor fair: not all people concerned were aware that elections were occurring and therefore many were unable to participate; the CPA did not engage in a public information

Interim Governing Council) and was based in Europe and Damascus, and the branch that was established in the 1980s in Basra.

⁸⁴ ICG interviews with representatives of the Da'wa-Iraq organisation, the Munazama, Arab nationalists, and pro-Sadr activists, Baghdad, July 2003.

⁸⁵ ICG Middle East Report No. 11, *War in Iraq: Political Challenges After the Conflict*, 25 March 2003, p.32; see further Section V.C below.

⁸⁶ A White House paper issued on 8 August 2003 and entitled "100 Days Toward Security and Freedom" claims that "There are municipal councils in all major cities and 85 per cent of towns, enabling Iraqis to take responsibility for management of local matters like health care, water, and electricity".

campaign to explain the process; and the CPA tightly controlled the selection of candidates.

Bremer's understandable rationale - that Iraq is not ready for free, democratic elections and, were they to take place, they almost certainly would benefit political forces hostile to the U.S.⁸⁷ - came at a cost. By privileging negotiations with representatives of the pre-war opposition (the so-called G7),⁸⁸ most of whom lived in exile and many of whom (with the notable exception of the Kurdish parties) have little following among Iraqis,⁸⁹ the CPA gave birth to a body that enjoys questionable legitimacy.⁹⁰ (The perception of bias in favour of the exiles is likely to be reinforced by the fact that eight of the Interim Governing Council's nine-member rotating presidency are either exiles or Kurds).

Isam al-Khafaji, a respected Iraqi exile who had been working with the U.S. administration on plans for political transition, wrote in his resignation letter from the Iraqi Reconstruction and Development Council: "Sitting together to consider the future of Iraq are 25 representatives, hand-picked by the U.S.-led coalition. The composition is not a bad one, but few of the members have substantial domestic constituencies."⁹¹

⁸⁷ After ordering a halt to local elections in provincial towns and cities across Iraq in June, Bremer explained: "I'm not opposed [to self-rule], but I want to do it in a way that takes care of our concerns. Elections that are held too early can be destructive. It's got to be done very carefully. In a post-war situation like this, if you start holding elections, the people who are rejectionists tend to win. It's often the best-organised who win, and the best-organised right now are the former Baathists and to some extent the Islamists". *The Washington Post*, 28 June 2003.

⁸⁸ Iraqi National Congress (INC), Iraqi National Accord (INA), Kurdistan Democratic Party (KDP), Patriotic Union of Kurdistan (PUK), Supreme Council for the Islamic Revolution in Iraq (SCIRI), al-Da'wa, and the National Democratic Party (NDP).

⁸⁹ Indeed, political parties as a whole are viewed as non-representative. According to the ICRSS survey, only 15.1 per cent of Iraqis polled in Baghdad felt that the political parties represented their interests.

⁹⁰ According to observers, some among the "Group of Seven" "worked hard to block figures who had remained in Iraq throughout Saddam Hussein's rule from getting seats on the council". Raad Alkadiri and Chris Toensing, "The Iraqi Governing Council's Sectarian Hue", *MERIP*, 20 August 2003.

⁹¹ *The Guardian*, 28 July 2003. See also Laith Kubba,

The end result may well be heightened hostility toward the exiles on the part of Iraqis who feel disenfranchised by a group viewed as wealthier, better connected to the U.S. and more Westernised in its attitudes. Resentment of the diaspora is intense among Iraqi Arabs, who see the exiles as out of touch and intent on profiting from their return.⁹² While much of the stereotyping is unfounded, years of exile undoubtedly cut off members of the diaspora from Iraqi realities, in particular the disintegration of secular, urban values and their replacement by an increasingly religious and tribal outlook. Nor is the hostility one-way: ICG interviews with members of the formerly exiled community reveal their share of antipathy toward those who stayed behind.⁹³ The problematic composition of the Interim Governing Council argues in favour of expanding its membership to include unrepresented or under-represented social and political forces; though there is no clear mechanism for doing so, there does not appear to be any prohibition either.⁹⁴

- Of the constituencies that are left out of the Interim Governing Council, probably the most significant is the populist, Shiite group led by

“Iraq’s Sunnis must be given more of a say”, *Financial Times*, 24 July 2003: “The process [of naming the Interim Governing Council] was driven by a desire to reflect Iraq’s ethnic and religious mix – which gave little scope for accommodating representation from Iraq’s eighteen provinces. The result is that the Sunni triangle . . . enjoys no representation”. Kubba suggests setting up a “second council, comprising an equal number of representatives from each of Iraq’s eighteen provinces” and charged with “oversee[ing] the constitutional process”. Isam al-Khafaji supported “establishing a kind of Senate with real powers, in which governorates are represented on an equal basis”, ICG interview, Uithoorn, The Netherlands, 17 August 2003.

⁹² ICG interviews, June-July 2003. Some Islamic political leaders went so far as to speak of ‘those who don’t even hold an Iraqi passport’. *Az-Zaman*, 19 July 2003.

⁹³ The formerly exiled political leaders often characterised their “native” counterparts as “naïve” and “lacking in sophistication or knowledge of the real world”. ICG interview with an Iraqi who regularly attends Interim Governing Council meetings as an adviser, Baghdad, July 2003.

⁹⁴ Asked whether the Council’s membership might be expanded, Masoud Barzani (the head of the Kurdistan Democratic Party) replied that the possibility exists, though he added that “at present, I do not see a better formula” than the one currently in place. RFE/RL Report, 15 August 2003.

Moqtada al-Sadr, which supports the creation of an Islamic Shiite state in Iraq. According to several reports, other Shiite groups, the SCIRI in particular, vetoed al-Sadr’s participation.⁹⁵ Such participation would have been problematic in any event, as he has made no secret of his antipathy toward the occupation and his unwillingness to work with the Americans. al-Sadr denounced the Interim Governing Council as an illegitimate, foreign-imposed body, announced that an “alternative Governing Council will be established” and called for the creation of a militia force, “the Army of Imam Mahdi to defend the hawza.”⁹⁶ He is likely to mobilise his large number of followers, particularly among poorer Shiite communities in Baghdad and in southern urban areas, in an effort to further discredit the Council and, should he feel politically threatened, may with time seek to organise violent resistance against the occupation.

- The decision to endorse a sectarian and ethnic-based apportionment in establishing the Interim Governing Council has fundamentally altered the process of national government formation in Iraq in potentially dangerous ways. This is a different, if related issue, having less to do with whether the Council is representative than with the type of representation the CPA chose to favour. As has been remarked, “Unwittingly, Bremer and the CPA may have already started Iraq down on the road to Lebanonisation by composing the [Interim Governing Council] according to sectarian and ethnic calculus.”⁹⁷ The balance that was consciously struck suggests a meticulous, quasi-mathematical dosage of Sunnis versus Shiites and Arabs versus Kurds. Slightly more than half of the Interim Governing Council’s members are Shiites (who comprise roughly 60 per cent of Iraqis) and about 40 per cent are Sunnis (who comprise 35 per cent of the country); 70 per cent are Arabs (compared with 75-80 per cent overall) and 20 per cent Kurds (compared with 15-20 per cent overall). In so doing, the CPA

⁹⁵ ICG interviews, Baghdad, July 2003. However, al-Sadr himself told ICG that he was approached but declined to join. ICG interview with Moqtada Sadr, Najaf, 26 July 2003.

⁹⁶ ICG attendance of the Kufa mosque Friday sermon, Kufa, 18 July 2003.

⁹⁷ Alkadiri and Toensing, op. cit.

has made explicit societal divisions that for the most part had been implicit, turning them into organising principles of government and, in the process, taking the risk of solidifying and exacerbating them.⁹⁸ This is a risk against which ICG had warned in the past. Iraqi society traditionally has not defined itself in terms of religious or ethnic affiliation; in fact, conflicts between Sunnis and Shiites and even between Arabs and Kurds have not been dominant features of the country's landscape.⁹⁹

The sectarian breakdown of the Interim Governing Council drew angry reactions among some Iraqis. Even some members of the Council expressed dissatisfaction with what they described as "the communal spirit of dividing shares".¹⁰⁰ A number of Iraqis felt that, through the arbitrary selection of their leaders, an alien image of their society as rigidly divided along ethnic and confessional lines had been forced upon them, ignoring the process of national integration that has been taking place since the country's independence and setting in motion a dangerous process; once more, they had not been entrusted with the power to choose their own representatives.¹⁰¹

⁹⁸ While it might be argued that "a national election may have thrown up a similar result in terms of numbers", there is a "subtle distinction between the outcome of a popular vote and formal, external sectarian engineering". Ibid.

⁹⁹ As ICG wrote in an earlier report, "[B]olstering a separate Shiite identity would inevitably fuel Sunni fears and could trigger the kind of confessional antagonism that Iraq, so far, has been spared". ICG Report, *Iraq Backgrounder*, op. cit., p.17; "The politicisation of religious and ethnic splits coupled with the assumption that each group represents a cohesive and distinct unit is at odds with their actual plurality of views and interests. Iraqi Shiites, Sunnis and Kurds do not form homogenous political or sociological categories. In fact, accepting such oversimplified notions risks exacerbating and politicising their differences, thereby complicating the task of preserving Iraq's territorial and political integrity, threatening its secular character and increasing the risk of hardening communal identities that, to date, have been more a reflection of state policy than indigenous feeling". ICG Middle East Report No. 11, *War in Iraq: Political Challenges After the Conflict*, 25 March 2003, pp. 26-27. In interviews, middle class Iraqis expressed nostalgia for a time when individuals interacted without regard to the divisions – especially of a religious nature – that seemingly have become so important.

¹⁰⁰ ICG interview with a member of the Interim Governing Council, Baghdad, July 2003.

¹⁰¹ "Although Iraqi politicians have repeatedly denounced divisions along ethnic lines, the current process may serve

"Using sectarianism is devastating and could set a dangerous precedent as people will get accustomed to it; it will be hard to reverse."¹⁰²

The balancing of Interim Governing Council's membership on the basis of religious/ethnic factors and the resulting marginalisation of the once dominant Sunni Arabs could set the stage for future sectarian-based conflict. In particular, the Sunni Arabs' inferior status in what was seen as an explicitly sectarian-based process of selection was experienced as "a free fall into the abyss for a group that once possessed all the keys of power."¹⁰³ Negative reactions are all the more likely given the occupying forces' at times indiscriminate approach toward the population in the so-called Sunni triangle.¹⁰⁴ Many Sunnis feel that they are being equated with Baathists and Baathists with Saddamists¹⁰⁵ - political shortcuts that do justice neither to Sunnis nor to Baath party members. As a result, they risk viewing the war, ensuing occupation and government-formation as sectarian in character and purpose, designed to help Shiites and Kurds at their expense.¹⁰⁶ In the words of an Arab Sunni company chief from Falluja:

There was indeed discrimination against our Shiite brothers under the fallen regime. Today, Sunnis are being forced to pay the price of that discrimination even though there has never been any problem between us. The regime discriminated, not individuals, or cities, or neighborhoods. The spirit of revenge among some Shiites is very dangerous for the country's future.¹⁰⁷

Ultimately, this trend could further deepen the Sunni Arab feeling of political dispossession. Indeed, the fear of Sunni marginalisation already is strongest among radical Islamists who are most powerful in Baghdad, Mosul and

to institutionalise them", Kubba, "Iraq's Sunnis", op. cit.

¹⁰² ICG interview with Isam al-Khafaji, Uithoorn, The Netherlands, 17 August 2003.

¹⁰³ ICG interview with an Interim Governing Council member, Baghdad, July 2003.

¹⁰⁴ ICG interviews with professionals and tribal leaders in towns north of Baghdad and tribal leaders from Dilaya province, Baghdad, July 2003.

¹⁰⁵ Alkadirir and Toensing, op. cit.

¹⁰⁶ ICG interviews with Sunni politicians, Baghdad, July 2003 and with members of the Sunni Ulama Union, Baghdad, July 2003.

¹⁰⁷ ICG interview with the head of a state-owned factory, Falluja, June 2003.

Ramadi.¹⁰⁸ Their appeal among Sunnis is likely to grow as they regroup in a self-preservation reflex.¹⁰⁹

The selection of the Interim Governing Council represented a difficult balancing act and, at this point, its composition is highly unlikely to be altered in a fundamental way. That said, steps can be taken to strengthen its representativeness and lessen the sectarian dangers its current make-up portends.

- While ICG agrees that elections held at the national level before proper social and cultural conditions exist can set back the process of democratisation, an accelerated effort to organise elections at the local, municipal and professional levels can serve an important purpose: they would help identify a representative leadership, incorporate a much broader number of parties and organisations into the political process, dilute the role of the groups of former exiles and ultimately be a catalyst for grass-roots politics that will provide a far sounder basis for Iraq's future stability. In order to enjoy real legitimacy, the process ought to be more transparent and open than has been the case so far.
- The Interim Governing Council should be broadened to include some of these elected leaders, as well as representatives from unrepresented regions (such as the Sunni triangle) and grass-roots forces, above all business and professional associations, as well as other civil society representatives such as human rights and women's movements.
- In naming the interim cabinet (a step that is scheduled for the end of August), the Interim Governing Council should ensure that members are selected on the basis of technical expertise, as opposed to sectarian or ethnic affiliation alone. This would be consistent with the standards announced by the Interim

Governing Council and the CPA: "The Governing Council shall name an Interim Minister for each ministry. Ministers shall be selected on the basis of their skills, experience, and vision for each ministry."¹¹⁰

B QUESTIONS OF EXECUTIVE AUTHORITY

The Interim Governing Council's authority is ill-defined, as is its relationship with the CPA. To date, neither the CPA nor the Council has successfully allayed fears expressed by numerous social and political actors regarding who would hold ultimate authority. Faced with a barrage of negative media reports from the Arab and Iranian press - of which much is available in Iraq - the Iraqi public appears sceptical that the Interim Governing Council will be anything but an extension of the CPA. Many Iraqis, both because they were kept in the dark and because they doubt the U.S.'s willingness to delegate power, assume that Bremer will possess the last word on all sensitive issues, a "veto power" or overriding authority should a disagreement erupt.¹¹¹ Political leaders interviewed by ICG made clear their hesitancy to defend the Council, fearing they would be jeopardising their nationalist credentials.¹¹² This plays into the already widespread perception that the U.S. has not delegated enough authority to Iraqis, whether civil servants, technocrats or experts.¹¹³

¹⁰⁸ Reactions from Salafi preachers reflected their anger. See *Az-Zaman*, 19 July 2003. Among other things, the 18 July Friday sermon by Dr. Harith Al-Dhari, Imam of the Umm al-Qura Mosque in Baghdad, focused on this grievance.

¹⁰⁹ Dissatisfaction was not confined to Islamist circles. Milder-toned, secular-minded Sunni liberals expressed their own disquiet. ICG interviews with Interim Governing Council members, Baghdad, July 2003.

¹¹⁰ See http://www.dfid.gov.uk/News/PressReleases/files/iraq_13july03.htm. For Isam al-Khafaji, "people want fairness, authority and effectiveness in the transition", not sectarian representation. ICG interview with Isam al-Khafaji, Uithoorn, The Netherlands, 17 August 2003. Initial indications are mixed. According to the *Financial Times*, an Iraqi who participated in a mid-August meeting of the Interim Governing Council said that it had agreed to divide posts "by religious and ethnic quotas". According to the paper, "he said thirteen would be held by Shia Muslims, five by Sunni Muslims, five by Kurds, one by a Christian and one by a Turkoman". *Financial Times*, 18 August 2003. In contrast, a member of the Interim Council, Hoshiyar Zebari, was quoted as saying that "experts or technocrats" will fill ministerial posts as "the situation needs actions and not words". See Agence France-Presse, 6 August 2003.

¹¹¹ See, for example, *Al-Nahdha* (bi-weekly), 16 and 20 July 2003, *Az-Zaman* (daily), 14-19 July 2003, *al-Ittihad* (weekly) 16 July 2003.

¹¹² ICG interviews with Iraqi politicians, Monarchist, pan-Arabist and Kurds, Baghdad, July 2003.

¹¹³ In his resignation letter, al-Khafaji noted: "There was so

In the wake of the 19 August bombing, reports surfaced of tensions growing between Bremer and the Interim Governing Council. According to *The New York Times*, Bremer “demanded that the...Council exert more authority, condemn the bombing strongly and communicate better with the Iraqi people.” The reaction of Council members reflects the contradictions inherent in the current construct under which the Interim Governing Council is expected to help improve the situation but does not possess clear authority to act. As Adnan Pachachi said, “You can’t blame us for anything. We don’t have any responsibility.”¹¹⁴

The real test of the Interim Governing Council’s functioning will come once it appoints the interim ministers whose work it is supposed to oversee. Will the Interim Governing Council have line authority over the ministers? Will they also be reporting to the CPA – which, incidentally, will have a senior representative within each ministry? Which decisions will fall under the Council’s purview and which under the ministers’?

C. QUESTIONS OF EXECUTIVE CAPACITY

Two questions are raised in this respect: the first concerns the Interim Governing Council’s ability to reach decisions; the second, its ability to implement them. Selected principally with an eye to sectarian, ethnic and exiled/internal balancing, members of the Interim Governing Council do not share a common political or ideological outlook. Views vary widely between proponents of secular democracy and advocates of an Islamic state. Council members also have expressed very different views regarding the relationship with the CPA. SCIRI’s representative al-Hakim has called for a quick end to the occupation; Pachachi has focused on the need for a “quick return to normalcy”; the Iraqi Communist Party’s Hamid Majid Musa has called for “a broader UN role and

all-inclusive opposition conference to elect a government”; while INC leader Chalabi applauded the U.S. action and liberation of Iraq. The first indication of potential problems came with the issue of the Council presidency. The Council took two weeks to achieve a consensus.¹¹⁵ After being unable to agree on a single president, the attempt to settle on a three-person presidency (a Shiite Arab, a Sunni Arab and a Kurd) also was rejected, purportedly by Shiites who felt their weight was not being properly reflected. Ultimately, members opted for what is almost bound to be a weak nine-member rotating presidency formed primarily of former exiles and Kurds and that is unlikely to be able to take decisions on sensitive issues.¹¹⁶

The Interim Governing Council has been able to reach other decisions, such as setting up various sub-committees or appointing a national constitutional commission charged with deciding on the process for adopting a constitution. But as it has yet to take any significant political decision, there is no indication yet of its capacity to determine key policy issues, and there are other indications of potential weaknesses of a body that does not appear to have been set up with a proper executive support base. Problems of authority and capacity appear related: unsure of its actual power, the Interim Governing Council has adopted a generally passive stance rather than taking the initiative and making policy decisions. Moreover, and like the CPA, it suffers from a deficit in communications and public relations strategy. So far, it has not sought to reach out to the broader public; and links have been established neither with the lower, municipal level, authorities (who also were not involved in the process of forming the Council) nor with the Iraqi bureaucracy.

Finally, some of its early decisions were focused on symbolic issues and betrayed insensitivity to broader public perceptions. For example, it chose to

much euphoria when Baghdad first fell, but the Americans came in and acted with arrogance. While many Iraqis are relieved to see Saddam out of power, and accept the fact that the U.S. is the only power than can secure some semblance of order, they now see the U.S. acting as an occupier”. ICG interview with Isam al-Khafaji, Uithoorn, The Netherlands, 17 August 2003.

¹¹⁴ *The New York Times*, 21 August 2003. A senior adviser to Abdul Aziz al-Hakim, another Council member, asserted: “We should have a real government and then we could begin to solve Iraq’s problems”. Ibid.

¹¹⁵ In Bremer’s euphemistic phrase, “they need a more organised decision-making process”. *The Washington Post*, 18 August 2003.

¹¹⁶ *The Washington Post*, 18 August 2003. The rotating presidency includes Adnan Pachachi, Ahmad Chalabi, Iyad Alawi, Muhammad Bahr al-Uloom, Masoud Barzani, Jalal Talibani, Aziz al-Hakim, Ibrahim al-Ja’fari (al-Ushayqir) and Muhsin Abdul Hamid. The group’s first choice for president – made on the basis of the alphabetical order of the members’ first names in Arabic – was Ibrahim al-Ja’fari, the spokesperson of the Islamic Da’wa party, who will serve for two months.

abolish all previous official holidays, announcing that henceforth 9 April - the day of the fall of Baghdad - would become Iraq's National Day. Many Iraqis, even those opposed to the Baath regime, were incensed by the decision; indeed, the city's fall is perceived by not insignificant segments of Iraqi society as a day of national surrender.¹¹⁷ Sunni preachers, such as Harith al-Dhari, labelled the decision a "national humiliation."¹¹⁸ The Interim Governing Council's decision "fell flat" and it "was quickly forced to explain that 9 April would be just one of Iraq's national holidays."¹¹⁹

It is only the beginning, and the Interim Governing Council can still prove itself. But first impressions count - especially when public scepticism about the real role, power and authenticity of the Interim Governing Council abound. The question left unanswered by the structure established by the CPA is whether it intends the Council to be a real executive authority or, rather, the symbolic embodiment of Iraq's national sovereignty, with real power being exercised elsewhere. To date, the Council has looked to many Iraqis as detached from everyday realities, still caught up in the game of political jockeying rather than the task of addressing Iraq's urgent concerns. As an assistant to one Interim Governing Council member put it, "The Council delegates do not realize the change in their status; no longer are they party leaders quarrelling over quotas or photo opportunities, but representatives of the sovereignty of a nation."¹²⁰

What is needed is for the Interim Governing Council to be granted genuine executive authority and capacity to make policy decisions and, by

exercising line authority over the interim cabinet, oversee their implementation.

¹¹⁷ ICG interviews with Interim Governing Council members, Iraqi writers and media workers, Baghdad, July 2003.

¹¹⁸ ICG monitoring of Um al-Qura mosque, Baghdad, 18 July 2003.

¹¹⁹ Alkadiri and Toensing, op. cit.

¹²⁰ ICG interview, Baghdad, July 2003. As one Iraqi put it, "Whether the Council is effective or not depends on whether its members are able to reach any consensus. I fear they will be played against one another. To succeed, they must take a unified position on issues and tell Mr Bremer to go to Washington and say 'this is what Iraqis want, now please give your support for that'. Ultimately, the Council must be prepared to say: 'give us full authority and we will ask for your advice when we need it'. ICG interview with Isam al-Khafaji, Uithoorn, The Netherlands, 17 August 2003.

V. THE UN'S ROLE IN GOVERNING IRAQ

A UN RESOLUTIONS

The United Nations' present role in Iraq is governed by two Security Council Resolutions. Resolution 1483, adopted on 22 May 2003, sets up a series of responsibilities for the organisation, but is deliberately ambiguous when it comes to its political role. In it, the Security Council requests the Secretary General to appoint a Special Representative whose role includes "working intensively with the [Coalition Provisional] Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq." The Resolution further "supports the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority."

On 14 August 2003, Council Resolution 1500, which merely "welcome[s] the establishment of the broadly representative Governing Council of Iraq on 13 July 2003, as an important step towards the formation by the people of Iraq of an internationally recognized, representative government that will exercise the sovereignty of Iraq, and "decides to establish the United Nations Assistance Mission for Iraq to support the Secretary-General in the fulfillment of his mandate under Resolution 1483 . . . for an initial period of twelve months."

By all accounts, de Mello and Salamé used their political authority to good effect, serving in many cases as intermediaries between an isolated CPA and suspicious Iraqis. But, efforts by other countries to expand the UN's role in Iraq, in particular by giving it more authority over political matters and peacekeeping, ultimately were rebuffed by the U.S. Some in the Bush administration argued that such a step would make it easier for nations such as India and Pakistan to send military forces to Iraq. But they ultimately lost out to those

who feared a dilution in U.S. control would result and that nations such as France and Russia would use the opportunity to seek an even greater UN role.¹²¹

B. THE IMPACT OF THE BOMBING

The bombing of the UN headquarters in Baghdad on 19 August has reopened the debate about the international organisation's proper role. Although the UN presence in Iraq will of necessity be curtailed in the immediate aftermath of the attack, ICG interviews with officials at the Secretariat General left little doubt regarding its determination to seek an enhanced UN role in peacekeeping and political reconstruction.¹²² For them, the attack highlights the need to both increase international contributions in terms of police and military force and to begin moving from U.S. occupation to international management. Mary Robinson, de Mello's predecessor as High Commissioner for Human Rights, called the bombing a "wake up call for the United Nations": "it is not healthy for the UN to be playing a secondary role to an occupation power as it is perceived."¹²³ Other countries, in particular members of the Security Council such as France and Russia, who have long argued for such an enhanced role, clearly will be open to this.¹²⁴ There also are reports that the UK would be open to a giving the UN a broader political role.¹²⁵

The key question is whether events will modify the U.S. stance. On the day following the bombing, a U.S. official told ICG that the administration would seek to "memorialise" the tragic events in a Security Council resolution that would both pay homage to the victims of the attack and call for greater international military and economic contributions.¹²⁶ However, at the time of writing, and despite increasing pressure from members of the U.S. Congress eager to see other countries share in the burden¹²⁷ – particularly in light of the

¹²¹ *The Washington Post*, 21 August 2003.

¹²² ICG telephone interviews, New York, 20 August 2003.

¹²³ BBC interview, 20 August 2003.

¹²⁴ ICG telephone interviews, New York, 20 August 2003.

¹²⁵ UK Foreign Secretary Jack Straw said he was "open minded" on the issue. BBC, 20 August 2003.

¹²⁶ ICG interview, Washington, 20 August 2003.

¹²⁷ In a letter to President Bush, prominent U.S. senators – Chuck Hagel, a Republican, and Joseph Biden, a Democrat – urged him to grant the UN a broader role. *The Washington Post*, 21 August 2003.

growing number of U.S. casualties - Washington still had not signalled a decision to accept a greater UN role.

Instead, according to sources at the UN, the U.S.-proposed resolution, first discussed on 21 August 2003, was designed to put the Security Council's stamp of approval on participation in the U.S. military force, thereby providing an important political cover for countries like India, Pakistan and Turkey facing domestic resistance. In the words of one Permanent Representative, it was basically a call "on all parties to render support to the occupying power and send troops."¹²⁸ Initial indications are that the effort backfired. Reactions ranged from the sceptical to the angry, with some diplomats feeling that the U.S. wrongly assumed it could use the UN tragedy to get what it could not get a week earlier.¹²⁹ At the time of writing, the U.S. was considering how to modify the resolution to garner sufficient support.¹³⁰ While the bombing has energised the willingness of many to help stabilise Iraq, it has not necessarily dampened their unwillingness to do so under unilateral U.S. authority.¹³¹

In ICG's view, there is an urgent need for Security Council resolutions that would redefine the situation in Iraq in several crucial ways.

- A Security Council resolution should endorse the creation of a U.S.-led Multinational Force (MNF) under U.S. command as well as an international police force.¹³² First, this would help overcome the reluctance of many countries to participate in security operations in Iraq. As the description of the security situation demonstrated, there is an urgent requirement for an expanded presence. While much of the

focus has been on the need for a far greater number of troops than are actually in Iraq, there is an equally important need for a police force – an area in which the U.S. traditionally has lacked resources and has had to rely on its allies. Many of the security problems in Iraq today are of a policing nature and they must be addressed through policing solutions.¹³³ Secondly, establishing such multinational forces can help mitigate the image of a U.S. occupation that is at the source of some of the resentment and resistance. This would be particularly true if some Arab countries were prepared to participate in either force.

While it is not inappropriate that at this stage of the transition process the Coalition retain primary responsibility for security, as it will no doubt wish to do, the CPA should transfer authority for civil policing to the new international police force as soon as it is sufficiently established. And both the U.S.-led MNF and the international policing authorities should work with the Interim Governing Council on the reconstitution of Iraqi defence and police forces with a view not only to preparing for the ultimate transfer of authority to them, but also to maximum devolution of security functions to them in the meantime.

- The chances of success in Iraq will be greatly enhanced by giving the UN genuine authority over the political transition process. U.S. domination over this process inevitably provokes anger among many Iraqis, Arabs and Muslims and helps fuel both armed resistance and terrorist activity.¹³⁴ Likewise, it is not realistic to imagine that Iraqis will view the present Interim Governing Council as a credible, legitimate and empowered institution; national elections, which will be necessary to establish a fully legitimate government, cannot, as discussed below, be contemplated anytime

¹²⁸ ICG telephone interview, 21 August 2003.

¹²⁹ ICG telephone interviews, New York, 21 August 2003.

¹³⁰ On 21 August 2003, Secretary Powell said: "Perhaps additional language and a new resolution might encourage others [to participate in the military presence in Iraq]. Other issues with respect to the role that the UN has to play, all of this can be discussed in the course of our negotiations on a resolution".

¹³¹ ICG interviews, Washington, 20 August 2003; *The Washington Post*, 21 August 2003.

¹³² Speaking to reporters on 21 August 2003 after a meeting with Secretary Powell, Secretary General Annan said "we have no intention of recommending UN Blue Helmets". He evoked the possibility of a "multinational force that oversees the security arrangements".

¹³³ Such a UN-authorized international police force could benefit from the expertise of the Organization for Security and Cooperation in Europe (OSCE), which, with its experience in Macedonia and Kosovo, is about to undertake an assessment mission in Iraq.

¹³⁴ "Antagonisms are directed at Americans because they have authority and are perceived to be carrying out a U.S. agenda rather than a mission with a global consensus". *The International Herald Tribune*, 20 August 2003. See also Jessica Stern, "How America Created a Terrorist Haven", *The New York Times*, 20 August 2003.

very soon. The more realistic solution is to internationalise management of Iraq by granting the UN political authority.

- Iraqis should as much as possible be allowed to govern themselves. As ICG pointed out in an earlier report,¹³⁵ Iraq possesses a capable bureaucracy and impressive expertise. It is not a failed nation but a nation in transition. By empowering Iraqis, through the Interim Governing Council, other institutions and the existing Iraqi bureaucracy, it will be possible to mitigate the perception of a hostile occupation and accelerate Iraq's transition to self-rule.

While these steps will by no means eliminate resistance, they are likely to dampen it. Objections have been raised. First, the U.S. is likely to resist any effort to reduce its control on either the security or political side. But, given its overwhelming military presence in particular, there is little doubt that Washington will play a predominant role, as has been the case in other post-conflict situations where the UN was granted political authority.¹³⁶ Secondly, Iraqis have mixed feelings regarding the UN and may not warmly welcome its expanded powers. Some Iraqis indeed view it as having imposed the sanctions; others of not having stood up to the Baathist regime. But ICG interviews suggest that it retains a positive image among a large segment of many Iraqis, both as a provider of humanitarian assistance and as a counterweight to the U.S.¹³⁷

What is needed now is a clear, three-way division of real governing responsibility between the CPA, the Interim Governing Council and the United Nations, embodied in a new UN Security Council resolution.

- The UN, as the institutional embodiment of international legitimacy, should be given, in addition to responsibility for the coordination of humanitarian relief, explicit authority over all aspects of the political transition process, including oversight of the Interim Governing Council and other transitional institutions; supervision of the constitutional process; the organisation of local, regional, and national

elections; and a clearly defined role in supporting the development of civil society, rule of law institutions and a free media. It should be part of the UN's new mission in Iraq to identify, in close coordination with the CPA and the Interim Governing Council, a clear timetable and benchmarks for the establishment of a fully sovereign Iraqi government and the end of the occupation.

- The CPA, in its capacity as the institutional representative of the occupying powers and in accordance with its responsibilities under the Geneva Convention, would have primary responsibility in all matters relating to security, law and order and ensuring, through the restoration of infrastructure, satisfaction of the Iraqi people's basic needs, including for electricity and water.

A strengthened Interim Governing Council, working through an interim cabinet reporting to it and with full access to the Iraqi bureaucracy, would be responsible for all other matters of day to day governance, including social services, economic reconstruction, education, trade and investment, and relations with other countries and international institutions. It would also have a clearly defined role in reconstituting, in close working consultation with the CPA, Iraq's military and police forces.

C. HOW SOON CAN NATIONAL ELECTIONS BE HELD?

The problem of who is to govern Iraq, and how, will persist until national, democratic elections are held and power is fully transferred to a sovereign government. But the conditions for such elections will not exist for some time, possibly as long as two years: the security situation has to stabilise, a democratic constitution has to be adopted, voters have to be registered, and – arguably – at least the beginnings of a pluralistic political culture has to visibly emerge. Present indications are that voter registration and the formal organisational aspects of elections will not be a major problem: here as elsewhere, Iraq's prewar status as a functioning rather than failed state makes much quickly achievable. But it is difficult to be sure in the present uncertain environment, even with close UN involvement from now on, how long the constitution-making process will take. And the uncertainty of the security situation speaks for itself.

¹³⁵ See ICG Report, *War in Iraq, Political Challenges after the Conflict*. op. cit., pp. 31-32.

¹³⁶ See Philip Gordon, "Swap Control for Support", *The International Herald Tribune*, 20 August 2003.

¹³⁷ ICG interviews, Baghdad, August 2003.

What of the issue of a pluralistic political culture? Post-conflict experience elsewhere¹³⁸ suggests that, before embarking on national elections, there need to be at least some grounds for confidence that these will yield stable and representative political leadership. While the absence of such confidence cannot be a basis for postponing indefinitely the departure of the occupiers and the transfer of sovereignty, it would at least justify some caution when it comes to timing.

It was suggested in an earlier ICG report¹³⁹ that the key to bridging the gap between transitional governance arrangements and national elections was to hold local and functional elections. This report has already argued the utility of such elections as a possible basis for making the Interim Governing Council more representative. In the present context, the argument would be that such elections - if transparently and independently managed and producing broadly accepted results - would not only be a useful organisational trial run for the main game, but a useful way of testing the extent to which the beginnings of a democratic or pluralistic culture had indeed emerged. Iraq already has a wide range of professional and trade associations that can serve as building blocs for more open and transparent consultations and provide a counterweight to more traditional, ethnic-religious groups. Elections at the municipal and provincial levels, for business and professional associations and in trade unions could, on the face of it, proceed quite rapidly, within a matter of a few months.

It is premature, nonetheless, to try and identify at this stage a firm timetable for all the necessary steps leading up to, and the conducting of, national elections. There are simply too many uncertainties. All that can usefully be said is that it is in everyone's interests for the whole process to be successfully accomplished as soon as possible - and that it is difficult to imagine any kind of stability being maintained if it takes longer than two years. As part of the new distribution of responsibilities argued for in this report, the Security Council should explicitly request the newly constituted UN Mission in Iraq to identify as soon as possible, after consultation with the CPA

and the Interim Governing Council, a realistic indicative timetable for the adoption of a constitution, the holding of local and functional elections, the holding of national elections - and the withdrawal of foreign forces subject to a request to that effect by a newly elected sovereign government of Iraq.

D. SHOULD THE INTERIM GOVERNING COUNCIL BE GIVEN IRAQ'S UN SEAT?

A key to the Interim Governing Council's success - and to its legitimacy in the eyes of the Iraqi people - will be the extent to which it is seen as a representative and legitimate body by the international community and treated as such. That, in turn, would appear to depend on two factors: the degree to which the international community itself feels that it has been given a reasonable role in overseeing Iraqi affairs, and the degree to which the Interim Governing Council truly exercises autonomous powers - in other words, the degree to which the U.S. is prepared to cede responsibility over Iraq's future.

To date, international organisations have not agreed to confer legitimacy and recognition upon the Interim Governing Council. Sergio Vieira de Mello told the Security Council:

We now have an institution that, while not democratically elected, can be viewed as broadly representative of the various constituencies in Iraq. It means that we now have a formal body of senior and distinguished Iraqi counterparts, with credibility and authority, with whom we can chart the way forward.

The Security Council subsequently "welcomed" its establishment in UNSC 1500 adopted on 14 August 2003, but members resisted the stronger endorsement urged by the U.S." World Bank President James Wolfensohn explained: "We need to determine a recognised government to whom we can lend. Clearly what would put it beyond doubt would be a constitution and an elected government."¹⁴⁰ Despite U.S. pressure, the Arab League also so far has refused to recognise the Interim Governing Council as the country's

¹³⁸ See Krishna Kumar, "Postconflict Elections, Democratization, and International Assistance," (Boulder: Rienner Publishers, 1998).

¹³⁹ ICG Middle East Report No 11, *War in Iraq: Political Challenges After the Conflict*, 25 March 2003, p.32.

¹⁴⁰ *The New York Times*, 14 July 2003.

representative to the bloc.¹⁴¹ Although some members reportedly would agree to have a delegate from the Interim Governing Council represent Iraq, the Organization of the Petroleum Exporting Countries (OPEC) has so far declined to invite the Council to attend its recent discussions on energy quotas.¹⁴²

Granting recognition to the Interim Governing Council – a body established by an occupying power without any legitimising mechanism – would be a very difficult, arguably unprecedented step which, so far, appears to enjoy scant international support. U.S. officials appear to acknowledge this reality, preferring for now to contemplate intermediary measures such as establishing an informal Interim Governing Council presence in New York. However, given the stakes involved and the importance of accelerating the process of turning power over to the Iraqi people, ICG believes that it ought not be necessary to await the holding of national elections and the establishment of a fully sovereign Iraqi government before recognising the Council as Iraq's temporary representative.¹⁴³

ICG believes that, in the context of the redistribution of authority between the CPA, Interim Governing Council and UN proposed above – and on the basis of the Security Council satisfying itself that the Interim Governing Council, either as currently constituted or expanded as recommended in this report, is broadly representative of the Iraqi people to the extent reasonably possible in circumstances of post-war transition – the Security Council should be prepared to recommend to the General Assembly

that it take Iraq's UN seat.¹⁴⁴

The seat could be filled at the *chargé* level as a means of emphasising its temporary nature. Such a resolution would not affect the obligations of the coalition forces in Iraq under the Geneva Conventions regarding occupation pending the establishment of a full-fledged Iraqi government and end of the occupation. A lesser step, such as granting the Interim Governing Council a Special Observer status for Iraq (more than that of observer but less than that of a full-fledged representative) risks being insufficient to endow it with the legitimacy required to bolster the Iraqis' sense of self-government.¹⁴⁵

¹⁴¹ The League's spokesman said it would deal with the Interim Governing Council "just as we deal with any political force in Iraq". But, he added, "how can we recognise a country under occupation?" *The Washington Post*, 6 August 2003. Amr Moussa, the Arab League's Secretary General, explained: "The Council is a start, but it should pave the way for a legitimate government that can be recognised". Associated Press, 5 August 2003.

¹⁴² *The Wall Street Journal*, 31 July 2003.

¹⁴³ According to al-Khafaji, "despite any misgivings [about the Interim Governing Council] we must empower an Iraqi body". For that reason, he supports granting it a seat at the UN so as to "raise the morale of its members and allow them to force things on the Americans". ICG interview, with Isam al-Khafaji, Uithoorn, The Netherlands, 17 August 2003.

¹⁴⁴ Although an occupied country, Iraq remains a state in international law, and a member of the United Nations. As such, it is entitled to assume the seat it already has. The first formal step in seating the Interim Governing Council would be to obtain the backing of the Credentials Committee, established by Rule 28 of the General Assembly's Rules of Procedure. Typically, the Credentials Committee will consider the credentials of all delegations and send its Report to the General Assembly, which may accept it in full or refuse certain delegations. The General Assembly, for instance, refused to unseat the Khmer Rouge "government" of Democratic Kampuchea from 1979 to 1989, despite its ouster by the 1978 Vietnamese invasion. This was despite the fact that the Khmer Rouge failed to demonstrate almost any attribute normally associated with government, including control over the national territory. A Supreme National Council (SNC) was then established to represent and embody Cambodian sovereignty during the course of the peace process but, in 1990-91, in the face of continuing international disagreement about who was the country's most appropriate representative, the Cambodian seat was left unattended by agreement of the four Cambodian factions represented on the SNC.

¹⁴⁵ This is roughly the status granted to the Palestine Liberation Organisation in 1989 – although, contrary to Iraq, there is no Palestinian state member of the UN.

VI. CONCLUSION

Not all of the violent attacks that have occurred in Iraq are due to the CPA's missteps or mistakes; far from it. A number of Iraqis and militants from other countries are determined to defeat what they perceive as an intolerable foreign invasion or, alternatively, as a sacrilegious occupation of Muslim territory. But by the same token, some of the violent attacks are attributable to decisions and a general approach that can and should be reversed.

Providing security and basic services to the Iraqi people should be made the first priority. With a few exceptions (principally members of the political elite), few Iraqis interviewed by ICG expressed anything but passing interest for questions of political transition. For the vast majority, what matters is restoring law and order, creating employment, and providing basic amenities and services like electricity, clean water and the like. Also, to minimise hostility toward the coalition forces, the United States should focus on its military rules of engagement, taking into account the legitimate rights and local sensitivities in planning its operations as well as impartially, thoroughly and publicly investigating any claim of abuse.

But there is little doubt that the growing perception that the U.S. wants to preserve authority over Iraqi affairs for itself through an open-ended occupation is further adding to the tensions, undercutting efforts to stabilise Iraq and legitimise the Interim Governing Council. Internationalising authority over Iraq to the extent at least of providing the UN with a genuine, clearly-defined role over Iraq's political transition, and agreeing to a Security Council resolution creating a U.S.-led multinational force and an international police force, would be a crucial step forward. It would lead several countries to reverse their stance and agree to share in the military and security burden. And it would dilute the image of a U.S. occupation that is feeding increased resentment in Iraq and the region as a whole. In the words of one Iraqi, "an expanded UN role will give Iraqis the sense of being supported by the world rather than squeezed by the U.S."¹⁴⁶ By all accounts, Sergio de Mello was performing a remarkable job within existing constraints,

maintaining the trust of all sides; UN officials have far greater access to Iraqis than do their U.S. counterparts.¹⁴⁷ De Mello will be hard to replace, yet he demonstrated that the UN can play a constructive and important role. The tragic events of 19 August ought to be seized upon as an opportunity to bolster the UN's role in Iraq and prove that Iraq's future is a matter that concerns the international community as a whole.

Equally important is to give the Iraqi people a sense of where they are going and when.¹⁴⁸ In consultation with the CPA and the Interim Governing Council, the newly constituted UN mission in Iraq should develop a clear timetable for the adoption of a constitution, the holding of elections and the withdrawal of foreign forces subject to a request by a newly elected and fully sovereign government of Iraq.

Finally, it remains important to show the Iraqi people that power is reverting to their hands. The creation of the Interim Governing Council is a first small step in a longer-term process. Its limitations are self-evident. The principal problems facing Iraqis today have to do with their day-to-day lives; no Iraqi authority, however legitimate, is going to resolve that. It is up to the CPA to respond more effectively to the population's needs, and it is the CPA that must engage the Iraqi people more directly. Iraqis will blame the CPA for what goes wrong and praise it for what goes right; the Interim Governing Council, for the time being at least, will at best remain an afterthought. But as the popularity of the CPA declines further, so will the Interim Governing Council's fortunes also sink.

¹⁴⁷ For example, Ayatollah Sistani agreed to meet De Mello, not representatives of the CPA.

¹⁴⁸ U.S. officials have offered various suggestions as to timing. According to Bremer, once the body charged with drafting a constitution is set up (a process that could involve the election of a constituent assembly), it will take six to eight months to complete its work. (The president of the Interim Governing Council echoed this assessment.) *The Daily Star*, 19 August 2003. Bremer also has suggested that national elections could take place in 2004. "Bremer says he hopes for national election within a year", Agence France-Presse, 31 July 2003. Vieira de Mello also indicated that the UN was exploring the possibility of holding elections next year. "UN working to help stage Iraq elections in 2004: Vieira de Mello", Agence France-Presse, 9 August 2003.

¹⁴⁶ ICG interview, Baghdad, August 2003.

Still, the process of turning power over to the Iraqi people is an important one on several counts: together with an enhanced UN role, it can mitigate the image of an alien occupation, diminish the appeal of violent resistance and increase the chances that other countries will share in the burden of providing security. It can also help avoid repeating some of the inopportune decisions that were taken by the CPA.

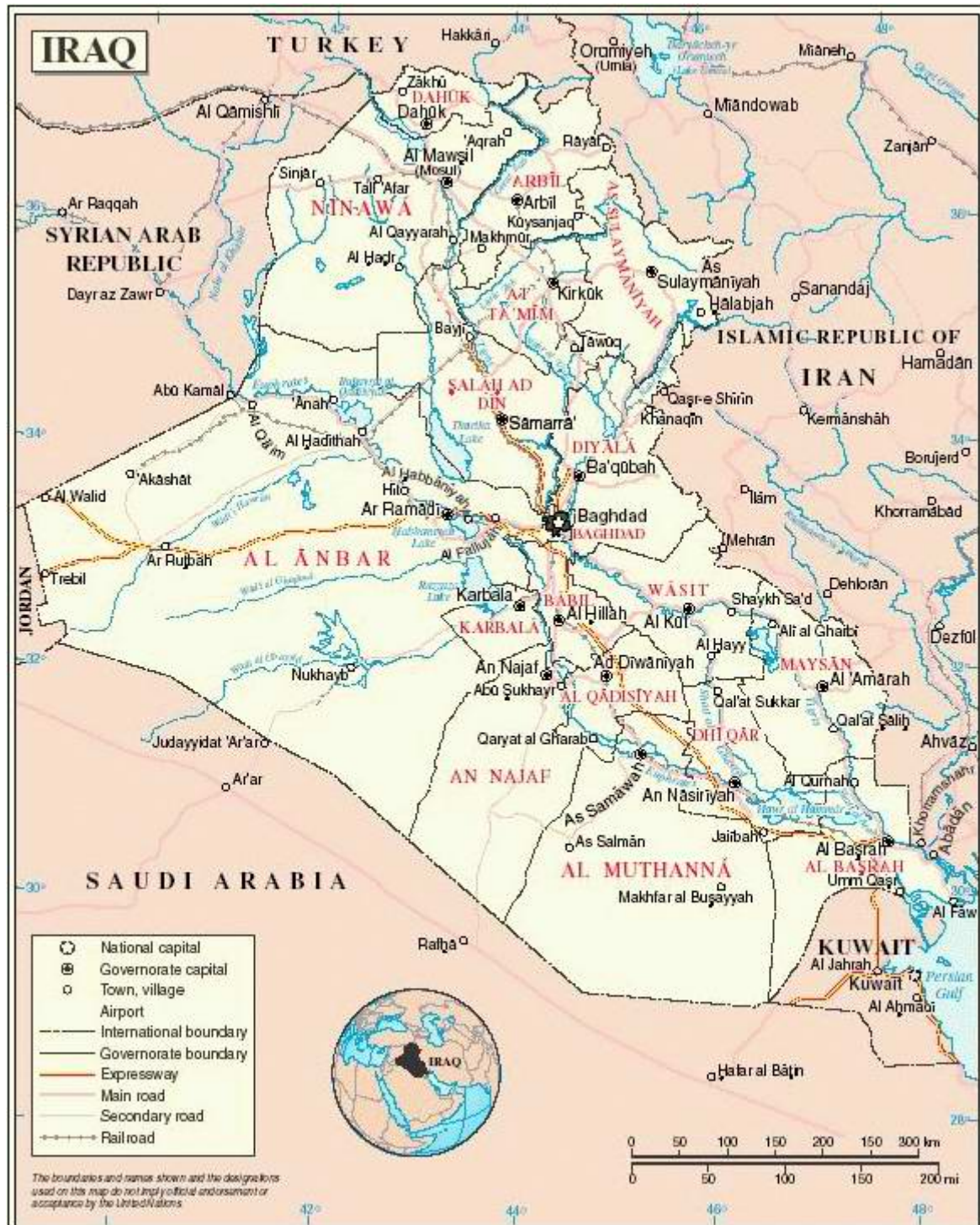
Finding the right way to govern Iraq in current circumstances is no easy task. A fundamental dilemma is how to ensure representative rule without resorting to – and entrenching – identity politics; how to satisfy Iraq's myriad constituencies without at the same time setting up an unmanageable, unruly and ultimately ineffective government; how to accelerate the process of self-government and electoral politics without unduly precipitating it. Only through genuine national elections can proper weight be attributed to Iraq's

various political groups, but only after genuine steps are taken to strengthen civil society can proper elections be held. In the meantime, dissatisfaction with the selection process will be unavoidable and the legitimacy of the Interim Governing Council will, equally unavoidably, be frail.

In addition to the challenges of democratisation in a country whose civil society has been devastated, Iraq faces the challenges of occupation, which is bound to produce resentment, conflict and even armed resistance and which is bound to taint the legitimacy of any Iraqi government until its people can elect their own representatives free of outside interference. To diminish such resentment and reduce such resistance, the U.S. should modify its approach both on the ground and in its relation to the outside world.

Baghdad/Washington/Brussels, 25 August 2003

APPENDIX A MAP OF IRAQ



APPENDIX B

COMPOSITION OF THE IRAQI GOVERNING COUNCIL

<i>Name</i>	<i>Profession</i>	<i>City</i>	<i>Political Party</i>	<i>Sect</i>	<i>Exile</i>
Muhsen Abdul-Hamid *	Academic	Baghdad/ Kirkuk	Iraqi Islamic Party (Muslim Brotherhood)	Arab Sunni	
Wael Abdul-Latif	Governor/ Judge	Basra		Arab Shiite	
Iyad Alawi *	Medical Doctor	Baghdad	Iraqi National Accord	Arab Shiite	Yes
Salaheddine Bahaeddine		Sulaymaniah	Kurdistan Islamic Union	Kurd Sunni	
Ahmad al-Barak	Jurist	Babel	Human Rights Association	Arab Shiite	
Massoud Barzani *	Politician	Irbil	Kurdistan Democratic Party	Kurd Sunni	
Nasser Chadirchi	Businessman	Baghdad	National Democratic Party	Arab Sunni	
Ahmad Chalabi *	Businessman	Baghdad	Iraqi National Congress	Arab Shiite	Yes
Abdul Aziz al-Hakim *	Cleric	Najaf	Supreme Council for the Islamic Revolution in Iraq	Arab Shiite	Yes
Aqila al-Hashimi	Diplomat	Baghdad		Arab Shiite	
Ibrahim al-Jaafari *	Medical Doctor	Karbala	Dawa Party	Arab Shiite	Yes
Son-Gol Jabok	Engineer	Kirkuk	Iraqi Women's Organisation	Turkmen Sunni	
Yonadem Kanna	Engineer	Irbil	Democratic Assyrian Movement	Assyrian Christian	
Raja Habib Khuzai	Medical Doctor	Diwaniah		Arab Shiite	
Samir Mahmud	Businessman	Ramadi		Arab Sunni	Yes
Hamid Majeed Mousa	Economist	Baghdad	Iraqi Communist Party	Arab Shiite	
Abdul Zahra Othman		Basra	Dawa Party	Arab Shiite	

Muhammad					
Abdul Karim al-Muhammadawi	Politician/ Guerrilla Leader	Omara	Hizbullah	Arab Shiite	
Dahra Nurreidin	Judge	Kirkuk		Kurd Sunni	
Mahmud Othman	Medical Doctor	Sulaymaniah		Kurd Sunni	Yes
Adnan Pachachi *	Diplomat	Baghdad	Independent Iraqis for Democracy	Arab Sunni	Yes
Mowaffak al-Rubaie	Medical Doctor	Baghdad		Arab Shiite	Yes
Jalal Talabani *	Lawyer- Politician	Sulaymaniah	Patriotic Union of Kurdistan	Kurd Sunni	
Muhammad Bahr al-Uloum *	Cleric	Najaf	Ahl al-Bayt charitable centre-London	Arab Shiite	Yes
Ghazi al-Yawir	Engineer	Mosul		Arab Sunni	Yes