IRAQ: CAN LOCAL GOVERNANCE

SAVE CENTRAL GOVERNMENT?

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

With much territory beyond the Interim Government's control, sectarian and ethnic forces threatening to pull the country apart, and national elections likely to be postponed or held in parts of the country only, the best -- perhaps only -- way to hold Iraq together is to concentrate on local governance.

Because seats in the National Assembly are to be allocated proportionately on a single national electoral district basis, it will be impossible to set some aside for areas where voting does not take place. Non-participation in Sunni Arab areas would have a devastating, long-lasting impact, not least because it would entail Sunni Arabs' effective exclusion from the process of drafting a permanent constitution, a task assigned to the new Assembly. Regardless of whether there can be elections for that National Assembly by 31 January 2005, elections for provincial councils in the eighteen governorates should proceed, if necessary on a rolling basis, with votes held in different areas as they become sufficiently secure: if national elections have to be postponed, they should be held only when legitimate provincial council elections are able to take place in the remaining governorates.

Local government is no substitute for central government, and there is a great need to recreate a sense of national identity. But in the context of rising violence, a growing sectarian and ethnic divide, and doubts on the feasibility and impact of national elections, the best way for now to protect the centre from centrifugal tendencies is, paradoxical as this may seem, to strengthen government at the various local levels. This means not only electing local governments but effectively empowering them, particularly on budgetary matters, and improving communication between national ministries and local councils. Without such steps, the isolated central state and the neglected local councils will both lose relevance and be unable to hold a fragile country together.

Establishing effective, representative local institutions should have been an early priority for the occupation forces and its Iraqi allies, but it wasn't. The U.S.-led occupation mostly viewed local governance as secondary, and Prime Minister Iyad Allawi's administration acts as if it is a threat. The occupation forces lacked a clear plan, did not consider local governance a main concern, and subordinated it to their shifting national agenda. Responsibility was given either to military commanders, who lacked experience or to the U.S. Agency for International Development, which had expertise but insufficient means and saw its strategy sidelined by short-term political considerations. The result was an inconsistent, ad hoc, stop-and-go process. Reconstruction funds were unevenly allocated. Military commanders appointed governors quickly without popular input and then sought to establish municipal and governorate councils with only minimum local participation.

Just when many Iraqis were nevertheless beginning to seize the opportunity to join the provincial, municipal and neighbourhood advisory councils established by the Coalition Provisional Authority (CPA), the process was hastily diverted by a new U.S. agenda. Concerned over worsening security and its loss of legitimacy, the CPA made transfer of sovereignty the priority. Provincial and municipal councils were to play a pivotal role in selecting a transitional National Assembly. When the transitional assembly in turn was abandoned, the CPA lost interest in the new local councils but Iraq was left with an imperfect, largely illegitimate process.

The CPA's unfocused approach deprived local councils of credibility required to become effective. They received no real powers and could never shake the taint of having been fashioned by foreigners in exercises that fell short of real democracy. The CPA's choice to pursue quasi-elections, not direct local elections under

UN supervision and not to devolve genuine powers, made the councils increasingly irrelevant. The Interim Government, eager to retain its meagre power, is more suspicious of than interested in local governance. As a result, neither central nor local authorities possess the legitimacy needed to hold Iraq together.

It is that reality which has to change, and giving priority to the early election of properly representative and empowered local governments can lead the way.

RECOMMENDATIONS

To the Interim Government of Iraq and any Successor Government:

1. Prioritise direct elections to provincial councils:

    (a) conduct them, with UN technical assistance, wherever possible no later than January 2005, and thereafter on a rolling basis as additional areas become secure, even if elections to a national assembly must be postponed; and

    (b) postpone elections to a national assembly if they cannot be held in January 2005 across the entire country and conduct them as soon as possible, along with remaining provincial elections.

2. Implement CPA Order 71 on Local Governmental Powers, and encourage provincial councils to take on budgetary responsibilities by the time they are fully elected.

3. Set up automatic revenue transfers to provincial, municipal and district governments based in part on population to enable them to deliver essential services but conditioned on written annual plans that reflect public input on priorities, and ensure through careful auditing that funds are spent according to these plans.

4. Set up formal, regular and transparent coordination mechanisms between national ministries and directorates-general, on the one hand, and provincial, municipal and district councils, on the other.

To Provincial Councils:

5. Appoint a governor, deputy governor and police chief, and proceed as soon as technically possible with elections to councils at the town, neighbourhood, district and sub-district level within each governorate.

6. Work with local directorates-general to produce an annual strategic plan for the area under each council's jurisdiction based on input from other governmental bodies, technical experts and the public, and publish this, along with regular updates on the council's work.

7. Facilitate public access to council sessions, council members and complaints mechanisms so that every citizen can receive information and petition representatives.

To the United Nations Assistance Mission for Iraq:

8. Provide personnel and resources to assist in the 2005 elections, and make a judgment on the feasibility of holding national elections by the end of January sufficiently in advance of that date to permit a timely adjustment of schedule.

9. Advise local councils and civic institutions on best practices of democratic governance, including transparency, accountability and inclusiveness, based on experience acquired in other transitional societies.

10. Expand capacity-training programs for local government and party officials.

11. Make public and discuss with council representatives the use of UN funds in Iraq.

To the Governments of the United States, United Kingdom and Other International Donors:

12. Establish a separate development fund, managed through the UN Assistance Mission, to finance priority investments in infrastructure by provincial, municipal and district councils.

    Baghdad/Amman/Brussels, 27 October 2004

IRAQ: CAN LOCAL GOVERNANCE SAVE CENTRAL GOVERNMENT?

I.   INTRODUCTION:

A.   THE DECENTRALISATION DEBATE

U.S. forces entering Iraq in March 2003 carried a blueprint for governance that had been prepared prior to the war by the Office for Reconstruction and Humanitarian Assistance (ORHA).[1] The plan was loosely based on a document called the "Final Report on the Transition to Democracy in Iraq" prepared by a group of Iraqi exiles and émigrés.[2] While describing a number of interim governing institutions that would need to be put in place at the national level, it prescribed local elections within twelve months, *ahead of national elections*, in order to "create genuinely representative local administrative authorities whose presence will complement the role of the Transitional Authority", and to "provide a trial run for the national elections which follow at the end of the transitional period."[3] Part of the rationale for prioritising local

elections was also the belief, born of the experience of other transitional societies such as Bosnia, that starting with national elections tends to retain or return elements of the *ancien regime* to power.[4]

To the authors, democratisation and decentralisation were closely intertwined, and decentralisation, in turn, was seen as tied to the presupposed federal structure of a future Iraq.[5] It was a goal shared by all opposition groups in exile, a reaction to the increasingly autocratic nature of Iraq's monarchy and succession of republican regimes. Federalism, by contrast, was a highly controversial concept on which the opposition groups in exile -- never able to reach consensus over its definition -- preferred to postpone a decision.

To the Kurdish leadership, whose people had been victims of mass killings, gas attacks and the destruction of their rural society during the Ba'ath regime's counter-insurgency campaigns in the 1970s and 1980s, a federal system of government was imperative. They publicly expressed willingness, despite overwhelming popular Kurdish sentiment favouring independence, to put aside their statehood

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[1] Established by President George W. Bush on 20 January 2003, ORHA was the Pentagon's post-war planning office for Iraq, headed by Lt. General (ret.) Jay Garner and combining three functional areas, each with a civilian coordinator: humanitarian relief, reconstruction and civil administration. It was absorbed and superseded by the Coalition Provisional Authority (CPA) following the appointment of Paul Bremer in May 2004.
[2] Available at http://www.iraqfoundation.org/studies/2002 dec/10_draft.html. The cover page states it is the "final version of the working document of the Conference of the Iraqi Opposition as amended by the members of the Democratic Principles Working Group", and is dated November 2002. The Democratic Principles Working Group was part of an initiative of the U.S. Department of State, the "Future of Iraq" project. Its coordinators-at-large were two Iraqi exiles: Ghassan Atiyyah and Kanan Makiya.
[3] The relevant paragraph (2.4.2 "Local Elections") reads in full: "The holding of local elections within a period of not more than twelve months from the fall of the regime has many advantages. It will create genuinely representative local administrative authorities whose presence will complement the role of the Transitional Authority. It will introduce politics at the grassroots level and provide a trial run for the national

elections which follow at the end of the transitional period. And it will help expand the nucleus of potential political leaders in Iraq to encompass senior civil servants, professionals, and technocrats who are not tainted by their past".
[4] "By contrast", the report says, "Kosovo and East Timor began with local elections, with a far better result of bringing forward new talents and capabilities, and giving people a sense of empowerment".
[5] According to the report (para. 8.1), "Federalism is…the thin end of the wedge of democracy in Iraq. It is the first step towards a state system resting on the principle that the rights of the part, or the minority, should never be sacrificed to the will of the majority". The report denounced ethnically-defined federalism (while acknowledging that the push for a federal state structure came from one of its core constituencies, the Kurdish parties) and, while leaving the precise shape of a federal state system to a future constituent assembly, prescribed "a federal arrangement on a territorial or administrative basis", possibly consisting of the existing eighteen governorates (at least during the interim period).

aspiration (realising that it enjoyed no regional support) and sought to maximise their autonomy within the republic. Their vision was to carve out their own Kurdish region, independent in all but name, within a federal Iraq, possibly joined by either one (the rest of Iraq) or two (Sunni Arab and Shiite Arab) federal regions.[6]

Most other opposition groups, however, especially those that were mainly Shiite-based, vehemently opposed such notions; to them, such a structure was a recipe for Iraq's break-up. After the war, when Kurds started pressing for their federal region, the Shiite majority, though intent on averting the establishment of an authoritarian regime, was increasingly sceptical of proposals for a highly devolved system of government, especially a version as radical as the federalism proposed by the Kurds. In their view, it would dilute the power they expected after decades of discrimination, disenfranchisement and oppression. Shiite parties, therefore, have been highly suspicious of decentralisation talk, seeing it as a cloak for Kurdish-style federalism and, possibly, secessionist aspirations.[7]

Elections are scheduled to be held in Iraq no later than January 2005, with three separate ballots: one to choose members of a transitional National Assembly, a second to elect provincial councils, and a third, limited to the three Kurdish governorates, to elect a new (unified) Kurdistan Regional Assembly.[8] In other words, local elections are not to precede national ones. This is the result of developments since the end of the war that saw the Coalition Provisional Authority (CPA) squander Iraqi goodwill and gradually lose control over much of the country, due to fundamental errors and misjudgements. As a consequence, the occupation authorities felt compelled to rush forward the transfer of sovereignty to a handpicked Iraqi leadership to the end of June 2004 and to schedule national elections a half year later.[9] As many experts have argued, this hurried electoral timetable is far from ideal if the goal is to produce genuinely representative and legitimate leaders and stabilise the country. At this point, however, expectations in Iraq have been raised so high, and the situation has deteriorated so fast, that postponing elections would equally be a source of instability.

What has been neglected in the process, however, are local elections, which could play a vital role in reinvigorating the experiment in decentralisation and local democracy that U.S. and British officials initiated at war's end. For a number of reasons outlined in this report, the local councils established over the past year and a half have largely lost what credibility they once had. Direct democratic election of council members -- not limited to provincial councils but at lower levels as well -- could re-legitimise them.

The experience of transitional societies, especially over the past decade, suggests that decentralisation is potentially a useful tool for remedying ills wrought by states run by unaccountable leaderships that oppress minorities (sometimes even majorities) and resort to deadly conflict to deflect opposition. Decentralisation, declares a handbook of the U.S. Agency for International Development (USAID), is "a process of transferring power to popularly elected local governments" that have political, financial and administrative dimensions.[10] Decentralised systems

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[6] See ICG Middle East Report N°26, *Iraq's Kurds: Toward an Historic Compromise?*, 8 April 2004.

[7] Larry Diamond, who served as governance adviser to the CPA in 2004, reported: "I know many Iraqis fear that federalism is just a stalking horse or vehicle for the eventual break-up of the country". But, he continued, "as a political scientist who has studied group conflict and institutions to manage conflict in democracies, I sincerely do not believe that will be the case. Federalism -- as negotiated and structured by Iraqis in their process of constitution making during the coming year -- will provide the means to hold Iraq together permanently, democratically, and peacefully". Larry Diamond, "Why Decentralize Power in A Democracy?", presented at a conference in Baghdad, 12 February 2004, available at http://www.stanford.edu/~ldiamond/iraq/ ecentralize_Power021204.htm.

[8] The Kurdistan Regional Government has been split since the outbreak of fighting in 1994 between the two principal Kurdish parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK). From that time, two parallel administrations and parliaments have operated in areas controlled by the KDP (Dohuk and Erbil) and PUK (Suleimaniyeh). In 2004, talks aimed at reunifying the two governments have yielded many public commitments but little concrete action. Much is likely to depend on whether elections

will be held in the Kurdish areas in January 2005 and their outcome.

[9] See ICG Middle East Briefing, *Baghdad: A Race Against the Clock*, 11 June 2003; ICG Middle East Report N°17, *Governing Iraq*, 25 August 2003; ICG Middle East Report N°19, *Iraq's Constitutional Challenge*, 13 November 2003; and ICG Middle East Report N°27, *Iraq's Transition: On a Knife Edge*, 27 April 2004.

[10] U.S. Agency for International Development (USAID), Centre for Democracy and Governance, "Democratisation and Democratic Local Governance Programming Handbook", Washington, DC, May 2000, pp. 6-7. Political decentralisation "involves the transfer of political authority to the local level through the establishment or reestablishment of elected local

of government can defuse dissatisfaction and thereby enhance stability by encouraging greater responsiveness and accountability on the part of those who govern.[11] They are particularly useful in countries with defined groups that otherwise would feel unrepresented, as they draw potential spoilers into governing structures. By giving such groups a sense of power and forcing their leaders to start delivering to their constituencies as council members or local government officials, decentralised systems can dampen communal tensions and prevent the country's break-up.[12]

On the other hand, decentralisation in a situation of a weak central state may encourage fragmentation; in today's Iraq, many argue that the priority is to re-establish a sense of national identity. A besieged interim government lacking popular legitimacy may find it difficult to devolve powers to local councils until it has asserted control over the country and its institutions. Therefore, the difficult question in pursuing a strategy of decentralisation is how much power (political, financial or administrative) to devolve to local institutions, and according to what timetable.

In Iraq, military commanders initially did see local government as a tool to facilitate local reconstruction and the best way to stabilise the country. But councils were never given real powers, and their subsequent development was further hobbled by the CPA's attempt in late 2003 to make the experiment in local governance subservient to its shifting national agenda. This subverted the councils' original purpose and undermined their legitimacy. Today, these councils operate under the dual constraint of violence and lack of legitimacy. Council members have been killed, threatened and intimidated. At the same time, because they have not been popularly elected, they are seen as the handpicked proxies of outside powers.

Moreover, the interim government of Prime Minister Iyad Allawi, suspicious of local democracy as a threat to its power, is attempting to reassert central control in the face of spiralling violence, political fragmentation and chaos. Paradoxically, however, the best way to prevent Iraq's fragmentation and to curb the influence of centrifugal forces would be to strengthen the institutions of local government and solidify their relationship with the central authorities. The challenge in the coming period is to strengthen the capacity both of central government and of local administrations and councils.

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government …, electoral reform, political party reform, authorisation of participatory processes, and other reforms". Financial, or fiscal, decentralisation "involves increasing or reducing conditions on the inter-governmental transfer of resources and giving jurisdictions greater authority to generate their own revenue". Administrative decentralisation "involves the full or partial transfer of an array of functional responsibilities to the local level, such as health care service, the operation of schools, the management of service personnel, the building and maintenance of roads, and garbage collection". Ibid., p. 7.

[11] See Diamond, "Why Decentralise Power in A Democracy?", op. cit.

[12] Diamond argues that a certain degree of local self-governance helps regional minorities feel more secure and therefore "more willing to accept the authority and legitimacy of the larger national state"; it increases citizens' confidence in and commitment to the political system, as well their sense that the system is fair and inclusive; and it enhances the "depth and legitimacy" of democracy. All these factors serve to hold the country together rather than allowing it to succumb to schisms and secessionist tendencies. Diamond, "Why Decentralise Power in A Democracy?", op. cit. Decentralisation also has its potential disadvantages. It can lead to the creation of "local fiefdoms, dominated by political bosses who do not play by democratic rules or respect citizens' rights", ibid, or it can "produce territorial inequality as wealthy localities take advantage of their new autonomy to push further ahead of low-income areas….[Moreover, it] can threaten territorial integrity if it gives rise to separatist demands", USAID, "Democratisation and Democratic Local Governance Programming Handbook", op. cit., p. 5.

II. BABY STEPS

A. LOCAL GOVERNANCE UNDER THE BA'ATH

Saddam Hussein's regime relied on a highly centralised system of government in which Baghdad ministries administered the country and a great many institutions, including a labyrinthine security network, keeping one another in check while reinforcing central control by an unaccountable leadership.[13] Membership in the Ba'ath Party was often required for senior official positions.[14] A dizzying array of Ba'ath Party and related organs fostered an army of middlemen and power brokers, who essentially functioned as members of a "shadow state", dispensing patronage and exercising control at all levels of society.[15] The formal structures of these party organs were largely hollow, and they were usually managed in a politically motivated and arbitrary manner that undermined the formal lines of administrative control that had existed since the British mandate period.[16]

Since 1968, Iraq has been divided into eighteen governorates, each headed by a governor appointed by decree. Under Saddam, he was the local potentate, responsible for tax collection and safeguarding public order. Invariably a senior Ba'ath Party member (at least until the 1990s), he was all-powerful due to his grip on local security forces and a pervasive network of informers.[17] He supervised an administrative system of district (*qadha*) and sub-district (*nahya*) offices responsible for rural areas, as well as municipal councils within urban centres.[18] Over time, the governor's power was overshadowed by that of the local Ba'ath Party representative, usually a member of the party's Regional Command whom the regime appointed to coordinate all activities in the governorate. The governor found himself one authority among many, subject to several hierarchies -- the Ba'ath Party, the presidential palace (*diwan al-ri'aseh*), the interior ministry, and a number of informal power structures.

Each governorate had a council consisting of persons who by law were supposed to be elected. In fact, the heads of the various directorates-general[19] (the local branches of central ministries such as health and education that were responsible for central planning and budgetary allocations) were appointed.[20] Again on paper, these councils were given significant latitude to raise income from a variety of sources -- taxes on income, inheritances, real estate and agriculture, gasoline duties, rent and gifts -- and were eligible for government grants deriving in large part from oil revenues.[21] In reality, the central ministries in Baghdad tightly controlled budgets and program priorities in the governorates via the directorates-

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[13] International sanctions on Iraq in the 1990s helped slim the bureaucracy as budgets were slashed, but at the same time they contributed to a tightening of central authority under the government-controlled import-export mechanism. See Phebe Marr, *The Modern History of Iraq*, rev. ed. (Boulder and Oxford, 2004), p. 294. See also, ICG Middle East Report N°6, *Iraq Backgrounder: What Lies Beneath*, 1 October 2002, pp. 9-10, and ICG Middle East Report N°11, *War in Iraq: Political Challenges After the Conflict*, 25 March 2003, pp. 3-17.

[14] Strong pressures were applied on schoolchildren to join Ba'ath Party youth organisations. Students had to join the party in order to study for a master's degree. ICG interviews with Ibrahim al-Shawi, Baghdad, 9 January 2004; Dr. Hunain al-Qaddo, Mosul, 21 January 2004; and Najah Hussein, Basra, 13 February 2004. At the same time, the regime made a point of publicising the candidacies of "independents" for parliamentary elections to show Iraq was not a dictatorship.

[15] See Charles Tripp, "After Saddam", *Survival*, vol. 44 (2002), pp. 23-37.

[16] For an insightful analysis of power in Ba'athist Iraq in the years leading up to the war in 2003, see David Baran, *Vivre la Tyrannie et lui Survivre* (Paris, 2004).

[17] ICG interviews with the leader of the formerly secret (opposition) Iraqi Students Union, Baghdad, 12 January 2004; and with Basra's first female lawyer, Basra, 16 February 2004.

[18] The capital of each of the eighteen governorates would typically accommodate simultaneously the governorate building, the municipality (headed by the mayor) and the headquarters of the central district (*qadha al-markazi*), which covered the villages immediately surrounding the capital (under the district head, or *qa'im maqam*). For a post-war U.S. understanding of these issues, see John V. Doane, "Structure of Government in Iraq: Discussion Paper", RTI, unpublished, January 2004. Doane concludes (p. 2): "In essence, there are no 'local governments' in [Ba'athist] Iraq. However, there do exist geographically defined administrative divisions and subdivisions that were established and used for the purpose of providing or delivering governmental public services and activities to sub-national geographical areas".

[19] ICG interviews with council members in Kirkuk and Najaf, January 2004. Voters confirmed that the local elections held by the CPA were the first in which they participated. ICG interviews with voters at the Haydariyeh sub-district elections, Najaf Governorate, 28 January 2004. For the legal injunction concerning council elections, see Iraqi Law 159 on Governorates (1969), Art. 62.

[20] ICG interview with a senior directorate-general official, Mosul, 19 January 2004.

[21] Section 9 of Law 159 on Governorates (1969).

general, leaving local administrators to implement decisions handed down from the capital.[22]

At the municipal level, councils were responsible for local administrative matters such as waste collection, road maintenance and parks. Below that, appointed elders (*mukhtars*) performed functions such as keeping neighbourhood birth and death statistics, while openly serving as regime informers. [23] In Baghdad and other localities, the Ba'ath Party would routinely organise meetings, primarily to discuss political matters, but during which issues of daily concern also were raised, showing the informal but real sway the party held at all levels of society.[24]

Even under the sanctions regime, which deprived the state of some of its traditional sources of income and barred the use of oil revenue for domestic cash disbursements, the regime was able to maintain its control at the local level. Through oil-financed imports, it supplied state-owned companies -- including military production facilities -- with subsidised goods, which in turn generated revenue for local government and family income.[25] In many ways, these funds replaced ordinary state disbursements to local governments. In a cash-starved environment, the use of illegal revenues outside the state budget allowed the regime to purchase tribal loyalty by distributing personal gifts and enabled powerful networks of traders and businessmen to bribe poorly paid local administration staff.[26]

Indeed, the combination of a highly centralised system of public administration and the regime's increasing dependence on illegal revenue disbursements left many Iraqi cities and municipalities with little role in day-to-day governance prior to 2003. Together with the Ba'athist regime's effective eradication of much of civil society, this significantly undermined the foundations necessary to establish local democratic governance.[27]

B.   A POST-WAR TABULA RASA

The lightning victory of U.S. and UK forces in April 2003 swept away not only the regime but all the structures and institutions that had underpinned it. To the extent any survived -- the Ba'ath Party and national army melted away before they could be destroyed -- they were soon officially disbanded and banned. The ensuing waves of unchecked looting gutted the physical infrastructure of

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[22] According to the USAID contractor Research Triangle Institute (RTI International), "under the previous regime [of Saddam Hussein], local priorities and budgets were determined centrally to meet national needs and policies. As a result, local government officials and civil servants never learned how to assess local needs, develop priorities, and translate them into realistic budgets". RTI sought to address this predicament when it arrived in Iraq immediately after the war. RTI International, "The Local Governance Project in Iraq", available at http://www.rti.org/.

[23] For example, the *mukhtar* routinely would accompany agents of the security apparatus (*Mudhiriyet al-Amn al-'Ameh*) during arrests in his neighbourhood.

[24] ICG interview, Baghdad, 2 September 2003.

[25] ICG interview with an official of the Al-Zubeir Fertiliser Company, Al-Zubeir, 14 February 2004. For an example in the agricultural sector, see Warren Vieth, "Sowing the seeds of discontent", Gulf News Online, 11 July 2003

[26] Sanctions-busting revenue accrued largely through oil smuggling by pipeline to Syria, by truck to Turkey and by small boats to Iran and the UAE, but also by purchasing imports at a premium and selling exports at a discount for a small "cash-back" percentage. For example, Iraq would buy

goods from country X at a price 20 per cent above the market rate and then receive a cash payment amounting to 15 per cent from the buyer in a profitable deal for both sides. Estimates of Iraq's cash revenue from illicit activities vary but are in the billions of dollars. See the "Comprehensive Report of the Special Adviser to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction" ("the Duelfer Report"), at www.cia.gov/cia/reports/ iraq_wmd_2004/; also, David Cortright and George A. Lopez, *Sanctions and the Search for Security: Challenges to UN Action* (Boulder and London, 2002), p. 33. A tribal leader said: "Saddam would go to so and so a sheikh and give him expensive gifts, perhaps a car or $1-3 million, and say: 'this is for your loyalty and for keeping order'". ICG interview with Sheikh Abu 'Ammar of the Khaza'el tribe, Baghdad, 18 February 2004. State-owned enterprise employees, police officers, teachers, and administration staff received approximately $3-10 per month, a sum impossible to live on. ICG interviews, Iraq, January-February 2004.

[27] As USAID put it, in April 2003 "a near total vacuum existed in the ability of Iraqi institutions to provide basic services such as water, sewer [sic], electricity, solid waste collection and disposal -- basically all local government services delivered directly to the population." "Democracy in Iraq: Building democracy from the ground up", available at http://www.usaid. gov /iraq/pdf/iraq_demgov_0504.pdf. An August 2003 UN draft report noted that the Ba'athist regime had "destroyed or absorbed all modern civil associations -- from trade unions, to industrial bodies, and professional associations. Civic organisations such as NGOs were forbidden". It warned that if the regime were dismantled without great care, "the result could well be the destruction of civil norms, and a return to primordial ties of the family, the clan and the tribe, and civil strife". U.N. Habitat, "Iraq Reconstruction Plan, Shelter and Urban Development", (Draft, August 2003), available at http://www.unhabitat.org/iraq/documents/IraqReconstruction Plan.doc.

public administration, especially in Baghdad, except for buildings occupied by the foreign forces as they entered the city, such as the Ministry of Oil. As a result, those who had taken it upon themselves to invade and then rebuild the country were left with a *tabula rasa*: Little of use remained of the old regime -- few offices, no senior managers and no security forces to protect the country's fledgling institutions.

There were advantages to starting from scratch given the totalitarian nature of the fallen regime. Reconstruction efforts also benefited -- particularly during the first few months -- from widespread popular goodwill toward U.S. and UK forces. But several factors wiped out most of these benefits. These included the occupation forces' lack of familiarity with the country, which created a profound disconnect with the population, and their inability to fix basic problems, such as shortages in electrical power and rampant lawlessness; domination by returned exiles and émigrés, whose superiority in knowledge, skills, wealth and access to occupation authorities caused resentment among the vast majority of Iraqis; a dominant Iraqi mindset, inculcated by the former regime, resistant to initiative, innovation and enterprise; and, of course, a growing resistance, fed by nationalist sentiment, against foreign rule, and insufficient troops to deal with it.

Into this political landscape stepped representatives of the new administration: the CPA,[28] the military's civil coordinators, U.S. government agencies such as USAID, and private companies and organisations operating under contract for the U.S. government. They set off on a two-track approach: at the national level they sought to install a temporary leadership in a process that saw frequent major course corrections, even u-turns; at the local level, they sought to rebuild, stabilise and democratise Iraq from the ground up.

C.   PACIFICATION THROUGH LOCAL GOVERNANCE

Once the formal war ended in April 2003, the military's primary objective was to stabilise the country. To this end, commanders began the knotty task of setting up local councils in an uncertain and, to them, unfamiliar political environment. In those early days, there were only two civilian coordinators in Iraq, one in Basra, the other in Hilla; everywhere

else, the military ran the show unencumbered by civilian oversight.[29] While they had the best of intentions, they were not necessarily trained or equipped for the task. They may have been "the unsung heroes and patrons of democracy in Iraq", in the words of an RTI official,[30] but in most cases they lacked the necessary experience and skills, and they had no overall plan beyond pacifying the population. The resulting approach was ad hoc, with significant variance between regions, most evident in the identification and appointment of local leaders and the allocation of emergency reconstruction funds.

In the absence of an overriding plan, individual commanders responsible for huge territory and population made individual decisions. Much depended on their previous experience in reconstruction, for example if they had served in post-conflict societies such as the former Yugoslavia or East Timor, as well as on the quality of the information they obtained from the local population via interpreters. These were either brought from the U.S. and Europe, in which case their knowledge of local customs and conditions often was wafer-thin, or they were recruited locally, in which case they could not be trusted for their skill, impartiality or loyalty. "It was hit and miss", said a former CPA official intimately involved in establishing local councils, "because our knowledge…was -- and still is -- fairly poor".[31]

As a result, commanders appointed to local leadership positions Iraqis who often turned out to have a problematic past (corrupt practices or troubling ties to the Ba'athist regime) and allocated reconstruction funds unevenly without a master plan or follow-up, favouring some while neglecting others. Both factors undermined the legitimacy of local councils whose credibility as an effective and accountable local leadership was pivotal to the occupying powers' success in appeasing the population and rebuilding the nation from the bottom up.

In most cases military commanders took a top-down approach to local governance, appointing governors

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[28] The CPA had been preceded by ORHA, the Office of Reconstruction and Humanitarian Assistance.

[29] "A lot happened", said a former CPA official, "that Baghdad didn't even know about". ICG interview, Washington, DC, 4 August 2004. In Erbil, too, there was a civilian coordinator but the areas of the two parallel Kurdistan Regional Governments were excluded from the war, and their relation with the occupying powers was, therefore, different from the beginning.
[30] ICG interview with official from Research Triangle Institute (RTI International), Baghdad, 12 January 2004.
[31] ICG interview, Washington, DC, 4 August 2004.

in the immediate post-war period without popular input and then seeking to establish municipal and governorate councils with only minimum local participation.[32] In the governorates of Basra, Najaf, Babel and Salahuddin, U.S. and British commanders installed some governors who turned out to be former Ba'athists and were rejected by an angry local population; as a result, they were replaced as suddenly as they had been appointed. For example, large protests forced out the governor of Basra, a known Ba'athist, whom British officers had presented as a "worthwhile and credible authority in the local area, particularly with the tribal chiefs",[33] and who had been installed immediately after the cessation of hostilities there in order to stabilise a volatile situation. In Naseriyeh, a small U.S. Army civil affairs team headed by a lieutenant-colonel installed a city council, placing at its head a local tribal chief who had assisted American forces during the battle for the city; he, too, proved highly controversial.[34] Even if these appointed officials were eventually replaced as a result of popular pressure (or, see below, in council "refreshment" after 15 November 2003),[35] popular resentment lingered, and the councils arguably never fully recovered.

One early success story was Mosul (Nineveh governorate), where an orderly internal selection process produced a fairly representative local government. U.S. Major General David Petraeus, the commander of the 101st Airborne Division, told ICG that when he arrived in Mosul in April 2003, he had no instructions. In early May, he called on local leaders to form a council in order to "fill the political vacuum at the local level and put an Iraqi face on the local administration as soon as possible".[36] Mosul city has a mixed population of Arabs, Kurds, Turkomans, Assyro-Chaldean Christians and Yezidis (non-Muslim Kurds observing Zoroastrian rites). Mosul is also known as the city that contributed over half the officers and men of Saddam Hussein's Republican Guards. Under Petraeus's guidance, city council representatives were chosen from caucuses of "natural leaders": tribal chiefs, military officers, political party representatives and technocrats, with some seats reserved for ethnic representation on a quota basis.[37] The relative quiet that reigned in Mosul for much of 2003 can be attributed in large part to the council's fair composition and the U.S. commander's pro-active approach toward reconstruction[38] in which the council played a significant role.

Elsewhere, military commanders faced situations in which Iraqis had spontaneously established local authorities of some sort, especially in areas where pre-existing political parties and movements had a head start. In the predominantly Shiite towns of Kut and Kufa, for example, as well as in the Shiite slums of Basra and Baghdad, followers of Ayatollah Kadhem al-Ha'eri, a senior Iraqi Shiite cleric living in Iran,[39] heeded his call to form local

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[32] ICG interviews in Basrah, Dhi Qar and Najaf governorates, and e-mail correspondence (concerning Anbar governorate), January-March 2004.

[33] Susan B. Glasser, "Sheik's Appointment by British Triggers Protests and Accusations", *The Washington Post*, 11 April 2003.

[34] The former coordinator for Dhi Qar governorate of the Iraqi Reconstruction and Development Council, a group of Iraqi exiles and émigrés established by the Pentagon and attached to the newly arrived U.S. administration of Iraq (see: http://middleeastreference.org.uk/irdc.html), claims that the local tribal chief, Sheikh Ali al-Manshed, rarely bothered with the council but pursued a "life of glamour", hosting U.S. commanders, tribal elders and others at lavish banquets at his "guesthouse" (*mudhif*), and at one point seeking to get his brother (a recent returnee from London) appointed as governor of Dhi Qar. E-mail communications from Aleem Minahi, August-September 2004.

[35] As late as December 2003, the CPA-appointed governor of Babel, who was known locally as the "Friend of Saddam", faced large demonstrations over his alleged past. These eventually forced his removal by the Interim Governing Council. ICG interview with Jasim al-Helfy, member of the Central Committee of the Iraqi Communist Party, Baghdad, 12 January 2004. See also, "Babil Governor Removed from Office", *RFE/RL Iraq Report*, vol. 6, no. 51, 11 December 2003.

[36] ICG interview, Mosul, 21 January 2004.

[37] In a presentation in Washington (National Endowment of Democracy, 28 July 2004), Mosul's assistant governor, Youssif Ibraheem, recounted that 206 community elders elected 24 council members in the presence of a judge and under supervision of American forces. These then chose a governor from four candidates, the other three becoming deputy governor and assistant governors. Also: ICG interview with the deputy governor of Nineveh governorate, Mosul, 21 January 2004.

[38] A former CPA official said that Gen. Petraeus had been "brilliant in using resources and solving problems. He put thousands of Iraqis on the payroll" with the use of discretionary funds. ICG interview, Washington, DC, 4 August 2004.

[39] Ayatollah Kadhem al-Ha'eri was born in Karbala but has lived in Qom for two decades. He began his political life as a jurisprudent (*faqih*) in al-Da'wa; Muhammad Sadeq al-Sadr (assassinated in 1999) named him his successor. He has propounded a vision of a theocratic state based on *wilayat al-faqih* that is close to the Iranian model. He appeared to be politically aligned with al-Sadr's surviving son, Muqtada al-Sadr, in the immediate post-war period but soon began to distance himself somewhat from the younger man's positions.

administrations. [40] In Ba'quba, al-'Amara and Karbala, indigenous groups also spontaneously established councils. In these instances, military commanders faced the difficult choice of either endorsing or disbanding and replacing local councils and their top officials and often were forced to adjudicate between rival demands.

In all cases, even where functioning councils emerged, U.S. and UK military officers were the conspicuous powers behind the throne, controlling formal appointments, running council meetings, disbursing reconstruction funds and providing security. [41] The councils were able to draw (indirectly) on the Development Fund for Iraq (DFI), an account created in May 2003 to hold Iraqi assets such as oil export proceeds and other income.[42] The fund exceeded $7.5 billion [43] when control was relinquished by the CPA to the Iraqi Interim Government as a consequence of the formal transfer of sovereignty on 28 June 2004. DFI moneys have been made available in a number of ways, including

through the Commanders Emergency Response Program (CERP). Individual brigade commanders have had discretionary powers to disburse up to $100,000 and division commanders up to $500,000 of CERP funds before having to consult the CPA (after 28 June, the U.S. Embassy) in Baghdad.[44]

Councils have not had direct access to this money; they could merely help local commanders and CPA officials identify priorities and ask that these be funded. Military commanders did not always heed appeals from council members or agree with council priorities, and in any case also identified priorities on their own, which were not necessarily in tune with those of Iraqis. Said one CPA advisor at the time: "We do not initiate projects. Soldiers go on patrol, and if the locals hail them for a chat, they will look at a problem, like water, sewage or a school, and then may decide to deal with it".[45] A senior U.S. official put it this way:

> The military's mandate was to pacify. The funds they allocated were part of the battle, virtual bullets to prevent real ones from the other side. They were not concerned with reconstruction for its own sake, or the necessary follow-up. As a result, they would fix up a school, say, to appease the local population, but there would be no teachers and no books.[46]

D.   THE BAGHDAD MODEL

On 26 March 2003, at the end of the first week of the war, USAID signed a $167 million contract with the U.S. non-profit Research Triangle Institute (RTI International) to implement a local governance program, whose primary purpose was to help "strengthen local administrations, civic institutions and processes". Its rationale was that local government's ability to "effectively and efficiently

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[40] George Melloan, "It's Time to Have Some Trust in the Shiites", *Wall Street Journal*, 29 April 2003. For Kufa, see Saul Hudson, "Iraqi Groups Grab Power in Key City, Factions Fight", Reuters, 30 April 2003. For Baghdad, ICG interviews with CPA officials, January 2004. Religious leaders associated with Muqtada al-Sadr took over the administration in Shu'la and parts of Sadr City, both vast slum-like neighbourhoods of Baghdad.

[41] ICG observations at council and local administration meetings in, among others, Kirkuk, June 2003 and January 2004, and Baghdad, September 2003.

[42] The DFI was established by the CPA and sanctioned by the UN Security Council, its resources to be used "in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraq's civilian administration, and for other purposes benefiting the people of Iraq". U.N. Security Council Resolution 1483 (21 May 2003), para. 14. See also, CPA Regulation N°2, "Development Fund for Iraq", 10 June 2003, available at http://www.cpa-iraq.org/regulations/20030615_CPAREG_2_ Development_Fund_for_Iraq.pdf. The allocation of DFI funds was decided by the CPA Program Review Board and supervised by the International Advisory and Monitoring Board. The DFI spending guidelines are available at http://www.cpa-Iraq.org/budget/CERP-main.html. Total DFI assets stood at $7,564,253,893.17 on 24 June 2004, by which date some $13 billion had already been disbursed to the following categories: "ministry budgets, payments to projects, transactional withdrawals -- Public Sector entities, and miscellaneous transactions". Available at http://www.iraqcoalition.org/budget/DFI_26jun2004.xls.

[43] All figures denoted in dollars ($) in this report refer to U.S. dollars unless otherwise stated.

[44] ICG interview with Captain James Matheson, CPA-South, Civil Affairs, Political Section, Basra, 14 January 2004. Further sources of funding are the Coalition Joint Task Force (CJTF-7) in U.S.-controlled governorates and Quick Impact Project (QIPS) in UK-controlled areas, as well as the Program Management Office (PMO) -- until 28 June 2004 the organ within the CPA charged with disbursing over $18 billion in U.S. funds to reconstruction projects. After 28 June, the PMO was replaced by the Project and Contracting Office (PCO). See ICG Middle East Report N°30, *Reconstructing Iraq*, 2 September 2004, p. 2.

[45] ICG interview, Najaf, 18 February 2004.

[46] ICG interview, Washington, DC, 26 July 2004.

deliver essential daily services and manage resources, services, and staff, while simultaneously increasing citizen participation in local governance processes", would help stabilise post-war Iraq.[47]

The CPA, and therefore RTI, initially focused on Baghdad. This was where the new U.S. administration was headquartered; it was also, as Iraq's traditional administrative core, where success would matter most and reverberate throughout the governorates.[48] During the Ba'ath regime, Baghdad Municipality had a special status, enjoying the unique privilege of its own budget and an appointed mayor with ministerial rank.[49] The CPA created a representational pyramid, building up from 88 Neighbourhood Advisory Councils (*majales al-hayy*), to nine District Advisory Councils (*majeles al-qat'a*), to a City Advisory Council (*majlis al-baladiyeh*) headed by three deputy mayors (and, eventually, a mayor).[50] Members were chosen by indirect elections in which people from a neighbourhood "self-selected" their neighbourhood council,[51] whose members then elected representatives from their ranks to the district council, who in turn elected members to the city council. These self-selections meant that council members were often chosen by clerics in mosques and Shiite religious centres (*Husseiniyat*), who favoured devout figures of local prominence, while in other places, "the Americans appointed members when there was an open seat they needed to fill".[52]

This process contained a significant weakness, which the new authorities promptly sought to address. An RTI official said:

> The big deficit with the internal elections was that women fell by the wayside. By contrast, in a general election women can vote, including for other women. To address this problem in Baghdad, [U.S. Administrator Paul] Bremer said there should be at least six women on the City Council. So we told the district councils to bring women on board or lose out on funding. We have had to force women onto the councils.[53]

To accommodate this need, the CPA revisited its original design and expanded the neighbourhood councils in Baghdad. In hindsight, the official said, "the quota system truly worked in this case. It gave women in Baghdad a great head start in joining the new political theatre".

In establishing local governance in the capital, the CPA and RTI worked closely with U.S. military officers of the Civil-Military Operations Centre (CMOC).[54] Where the CPA oversaw the selection process with an eye to keeping out former Ba'athists, RTI's brief was to provide councils with guidelines, rules and regulations. CMOC, responsible for neighbourhood security and, for stabilisation purposes, became intimately involved in the councils' day-to-day activities. In some cases,

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[47] See http://www.usaid.gov/Iraq/contracts/lg.html for details of the contract. RTI explained in its contract write-up: "Iraq's highly centralised administration has resulted in a disempowered citizenry and limited to nonexistent opportunities for local initiatives….There is much recent analysis suggesting that the lack of good governance, rather than the lack of resources, is the deepest root cause of the failure of governments to deliver basic services and of the failure to deliver development more broadly". The $167 million marked a sharp departure: "In the past", said a USAID official, "our maximum budget for governance was something like $45 million. This was huge". ICG interview, Washington, DC, 26 July 2004.

[48] The strategy, according to a U.S. official, was "to consolidate the cities first, and then move to the governorates". ICG interview, Washington, DC, 26 July 2004.

[49] ICG interview, Andy Morrison, the CPA's Baghdad Governorate Adviser, Baghdad, 30 January 2004.

[50] Written documentation received from CPA Baghdad, January 2004, and ICG presence at a key debate on forming a Baghdad governorate council, Baghdad, 13 January 2004. Significantly, the CPA referred to the councils as "interim advisory councils", a term that implied both their temporary status and the inherent limits on their authority. The District Advisory Councils oversee nine districts, reflecting the division of Baghdad into nine municipalities (*baladiyat*) during the Ba'athist period.

[51] An RTI official described the process as follows: "RTI members would stand on street corners and talk to passers-by about neighbourhood councils, inviting them to the next meeting. At that meeting, they would ask people to bring their friends, and so on, until there were a good number of people. Then they asked if they wanted to nominate themselves, and set a date so that others could come and vote for them. So, while there was no public announcement of

any event, a local grassroots effort was being implemented". E-mail communication, July 2004.

[52] ICG interview with Atwan al-Atwani, member of the District Advisory Council in Tis'a Nisan, Baghdad, 18 July 2004.

[53] ICG interview, Baghdad, 2 September 2003.

[54] CMOC/Iraq was established by the U.S. Marines on 15 April 2003 to work in four functional areas: electricity, law enforcement, water and sanitation, and medical care. It provides the primary interface for non-governmental organisations and Iraqi civilians with the U.S. military, building on experiences in previous crisis zones such as Haiti, Somalia, and Rwanda.

this meant that a local commander not only attended every meeting (this was the rule), but also controlled the agenda. "They used to run the meetings", recalled a city council member, referring to all three agencies. "They taught us how to speak, how to act and work and how to propose an idea or to approve a decision".[55]

During the first phase, completed in early July 2003, the city council began communicating directly with the established administrative structures: the Municipality of Baghdad (*Amanet* Baghdad) and the Directors General of the various service providers, such as the Baghdad Water Authority.[56] Subsequently, the focus was on "empowerment". Councils were encouraged, through small grants for operations, training and equipment, to start delivering services while procedures (such as rules of speaking, voting, dismissal, and the creation of sub-committees) were worked out. "We had a decent start", an RTI official told ICG at the time, "but a lot of training is required, as well as a lot of confidence-building. But people are adjusting. They are better organised and they are starting to take initiatives".[57] A CPA official concurred:

> The council elections in Baghdad were *selections* that were transparent with input from everyone. Because of this, these bodies are seen as more legitimate than the Interim Governing Council. But they *have* to start addressing their constituents' problems. We have created an environment of the expectation of responsiveness: the people of Baghdad should know that they can go somewhere with their problems and obtain recourse.[58]

By the end of July 2003, the CPA concluded that its successful efforts in Baghdad should be replicated throughout Iraq, and it set off to establish "provincial teams", one for each of the fifteen non-Kurdish governorates. These were composed of representatives of four agencies: the CPA itself (usually State Department or UK Foreign Office staff), RTI International, the Iraqi Reconstruction and Development Council (returning Iraqi exiles and émigrés), and the

Governorate Support Teams (the military).[59] The provincial teams were headed by a Governorate Coordinator, invariably from the CPA, and a deputy. In the early days, there was a good deal of interaction with the local population, and the coordinators, through their involvement in conflict resolution, came to be seen as quasi-governors in many cases, even as they worked alongside the Iraqi governor.

Replicating the Baghdad model was easier said than done. Outside the capital, the provincial teams ran up against local structures -- part indigenous, part U.S./UK military manufacture -- that had emerged since the end of the war. Because they could not replace them, they sought to work with existing councils to develop rules and procedures, and to establish new, lower-level councils in areas where they did not exist.

Two observations about the local councils that had already emerged stand out: One is that, as in Baghdad, they largely excluded women. When the CPA began operating in the governorates in mid 2003,[60] it sought to rectify this. Arriving in Mosul in September, for example, it promptly added three women to the all-male council. Unsurprisingly, this was controversial. The women were handpicked without even the semblance of democratic procedure. "Their selection is even more undemocratic than ours", commented a council member. Moreover, there were rumblings that the women were either senior

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[55] ICG interview with Sabieh Radi al-Ka'bi, Baghdad, 17 July 2004. Four days after the interview, Mr. Al-Ka'bi was shot and wounded while on his way to the al-Rashid district council.
[56] The City Advisory Council was based in the Amanet Baghdad, the equivalent of City Hall, which also housed the Directors General.
[57] ICG interview, Baghdad, 2 September 2003.
[58] ICG interview, Baghdad, 29 August 2003.

[59] The CPA was responsible for overall coordination. RTI focussed on mentoring, education, some economic work (mostly anti-corruption) and empowerment. The Governorate Support Teams provided technical expertise (especially engineering skills) and had direct access to emergency reconstruction funds; their make-up depended on the nationality of military forces in any particular location, for example Italians in Naseriyeh, Spanish in Diwaniyeh and Dutch in Samawa. Iraqi Reconstruction and Development Council (IRDC) members were routinely sent to their home governorates to assist the CPA with their local knowledge and command of Arabic. Their performance, according to former officials, varied: in some cases they were "brilliant, identifying who is who", while in others they were "clueless" (having been abroad too long to know the local situation), "or had agendas, for example wanting to become governor". ICG interview, Washington, DC, 4 August 2004.
[60] By October 2003, the CPA had finally established offices in all governorates, managed by governorate coordinators. Ned Parker, "Coalition Provisional Authority, driving force of Iraq reconstruction", Agence France-Presse, 22 October 2003.

Ba'athists or too young to satisfy the minimum-age requirement (30).[61]

Secondly, the councils tended to have a narrow representational base. In the absence of a uniform plan and timetable to reform and broaden the councils, attempts to rectify this were uneven. In November 2003, however, a dramatic course correction in the occupying powers' approach to the transition of sovereignty to Iraqis changed all this.

E.   REFRESHMENT

The decentralisation experiment was, to a large extent, a stop-and-go process marked by inconsistent procedures and the lack of an overall plan; still, by mid-2003 the effort at local democracy had registered some successes, and efforts were being undertaken to address problems. At that point, RTI's methodical bottom-up approach toward building local councils was abruptly disrupted by sweeping changes at the national level in which the impact on local developments appeared at best an afterthought. These changes reflected the worsening security situation and the CPA's rapid loss of legitimacy and control.

Following a visit to Washington in November 2003, Paul Bremer presented the Interim Governing Council with a new plan for transferring sovereignty by mid-2004. The "15 November Agreement" laid out both a timetable and the ground rules for the transitional period, as well as basic principles for an interim constitution (which was adopted by the Interim Governing Council on 8 March 2004). Under the agreement, an Organising Committee would be established in each of the eighteen governorates, consisting of five delegates chosen by the Interim Governing Council, five chosen by the eighteen provincial councils, and one selected by each of the local councils of the five largest towns in the governorate. The purpose of the Organising Committee would be to supervise the selection of candidates from that governorate to a transitional National Assembly.[62]

Within months, this scheme was discarded in its entirety due to opposition from Grand Ayatollah Ali al-Sistani, the most senior Shiite cleric in Iraq and arguably the country's most influential personality.[63] But in late 2003, the agreement and the scheduled establishment of a Transitional National Assembly provided the main impetus for what was referred to as the "refreshment" of local councils. The "refreshment" drive's key objectives were to enlarge and standardise existing governorate councils to make them more representative, weeding out members considered either Ba'athist or corrupt, and to create a new set of councils at lower levels: municipal, district and neighbourhood councils in the towns, and district and sub-district councils in rural areas.[64] Once the new generation of councils was in place, the plan was to devolve significant powers to them pursuant to a new CPA decree on local governance, which was circulating in draft form as refreshment kicked off.[65] To stimulate the make-over, the CPA set up a local governance fund on which newly created or refreshed councils would be allowed to draw.

Under pressure from the CPA, RTI scrambled to help establish new local councils in areas where they were missing and tailor existing ones to the new requirements.[66] Various methods had been used to select provincial councils and appoint governors before 15 November, but now procedures were streamlined by the adoption of what has been called the Muthanna model, a selection process pioneered in the Muthanna governorate in which twelve seats were allocated to tribal representatives, twelve to representatives of political parties and twelve to officers of civic organizations, in addition to two for

[61] ICG interview with a council member, Mosul, 21 January 2004.

[62] For more details on the 15 November Agreement, see ICG Report, *Iraq's Transition*, op. cit., pp. 2-4. For an analysis of the 15 November Agreement in relation to the Kurds, see ICG Middle East Report N°26, *Iraq's Kurds: Toward an Historic Compromise?*, 8 April 2004, pp. 1-5.

[63] On 28 November 2003 Sistani called for direct popular elections to a Transitional National Assembly and insisted that the interim constitution prescribed by the 15 November Agreement be "presented to representatives of the Iraqi people for approval". Available at http://www.sistani.org/messages/antoni.htm.

[64] Whereas councils in urban areas were needed to feed into the Organising Committees envisaged under the 15 November Agreement, the establishment of local councils at all levels emanated not directly from refreshment but was consistent with the mandate given to USAID/RTI by the CPA to develop a decentralised form of government in Iraq.

[65] It was issued as CPA Order 71 in April 2004. See below.

[66] In most governorate capitals, for example, only one council existed, known as the municipal or town council (*majlis al-baladiyeh*). That council was typically enlarged to become a governorate council, and a new town council was then appointed in order to meet the formal requirements of the 15 November Agreement. ICG interviews with CPA officials in Mosul, Najaf and Basra, January-March 2004.

women and two for religious dignitaries, for a total of 40.[67] Candidates were chosen through quasi-elections in some localities and self-selecting caucuses in others, depending on local circumstance and the inclination of the governorate coordinators and their teams. Unsurprisingly, none of the current provincial councils quite conform to the Muthanna model,[68] which CPA officials in some localities had never heard of. But in most cases, the newly established councils were up and running by early 2004 and had elected a new governor by mid-March. By the time sovereignty was transferred at the end of June 2004, the CPA had established and reconfigured sixteen governorate councils, 91 district councils, 194 town or sub-district councils and 445 neighbourhood councils.[69]

The "refreshment" experience was problematic at best. It was done in great haste and yielded councils that were viewed as neither legitimate nor representative. This stemmed from a virtual hijacking of the purpose of local governance by the CPA, which subverted the local councils' original objective of stabilising the country by maximising and optimising the delivery of services. The 15 November Agreement between the CPA and the Interim Governing Council reflected a shifting national agenda that reversed U.S. policy, discarding the expectation of a longer-term occupation that would bring profound reform through a methodical

rebuilding of governing institutions in favour of a hasty transition to sovereignty to appease increasingly restless Iraqi political actors. Regardless whether the original approach was sensible -- and there is a strong argument that the envisaged long occupation was not -- the abrupt mid-course transition knocked the process at the local level off-balance by giving councils a central role in the transition. Suddenly, fledgling structures that were still unstable but arguably held the promise of long-term democratisation were told that they constituted the key to early self-rule.

The CPA and USAID (through RTI) had duelling priorities. USAID/RTI wished to methodically replace the legitimacy-deficient military-appointed councils with more representative ones that could act more effectively as local service providers and prescribed a greater, though gradual, devolution of powers to them. In their vision, such councils would form the nuclei of local democracy and a hedge against any centralising tendencies that a transitional government -- to be appointed before the transfer of power by the end of June -- might exhibit.[70] RTI's international staff based themselves on USAID's handbook on decentralisation and their own past experience in transitional societies. They believed that decentralisation should be undertaken gradually, cautiously and methodically.

By contrast, in November 2003 the CPA's objective was to rapidly transform the councils to suit the new political requirements. While both sides could agree on the need to re-legitimise the councils through electoral exercises, they did not see eye to eye on how this was to be done: USAID/RTI complained that the rushed refreshment interrupted their steady building of local governance from the bottom up. Moreover, as shown below, the electoral exercises themselves proved insufficiently transparent and inclusive to appease local political actors and an increasingly restless population. One democracy expert questioned the haste with which the transition was launched: "Iraqis have not yet grasped the meaning of 'loyal opposition' or of 'minority rights'. We take a long-term approach, but some in the CPA have got their eyes fixed only on 1 July".[71]

What was worse, said a U.S. official, was that when, in early 2004, the 15 November Agreement was abandoned as suddenly as it had been adopted, the

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[67] ICG interview with a senior CPA governance adviser, Baghdad, 11 January 2004. Prescribing such a strict formulaic allocation was one thing, implementing it turned out to be quite another. As one Baghdad politician put it: "what should I do? I belong to the Shammar tribe, I am a member of a political party and I am also a representative of a civic institution, Baghdad University". ICG interview, Baghdad, 26 January 2004.
[68] Given political sensitivities in volatile multi-ethnic communities such as Kirkuk and Mosul, only cosmetic changes were made to their councils. Despite charges of corruption against specific council members, these councils were simply enlarged to include outlying districts and, in the case of Kirkuk, to recalibrate its sectarian representation. The U.S. military and CPA had intervened early on in Kirkuk to prevent an escalation of both inter-communal (Kurdish/Turkoman/Arab) animosity and intra-Kurdish rivalry. The Kirkuk council they established was not aimed primarily at fomenting local reconstruction but, by its composition that reflected the various communities present in the city and governorate, at stabilising a volatile situation. ICG interview with a Kirkuk council member, 17 January 2004, and conversation with a CPA official formerly posted in Kirkuk, Baghdad, 12 February 2004. See also, ICG Report, *Iraq's Kurds*, op. cit., p. 11 (in particular, footnotes 64 and 67).
[69] USAID, "Assistance for Iraq -- Accomplishments: Local Governance", available at http://www.usaid.gov/iraq/accomplishments/locgov.html.

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[70] ICG interview, Washington, DC, 26 July 2004.
[71] ICG interview, Baghdad, 30 January 2004.

baby was thrown out with the bath water. The newly constituted local councils lost their relevance to the CPA but Iraq was left with councils hastily and imperfectly set up and bearing the taint of electoral exercises that failed in many cases to encourage broad popular participation and thus fell short of popular expectations.[72] This left the political arena open to ambitions of other political actors, such as the increasingly assertive Shiite parties, who were not beholden to the occupying powers and their idea of decentralising power.

III. THE LEGITIMACY CONUNDRUM

A. THE GROWTH OF SHIITE POWER

The Ba'athist regime prevented the emergence of viable political opposition parties. Almost by default, the only viable opposition to arise originated in religious quarters, especially among the majority Shiite population. The Islamic al-Da'wa ("Call") Party, founded in 1957 and operating underground for 22 years, emerged into the open in 1979, energised by the Islamic Revolution in neighbouring Iran. It had organised mass demonstrations and religious processions from the mid-1970s on and now began to launch daring attacks against Ba'athist symbols and officials.[73] The response was brutal: The party was devastated in the following years, with the crackdown targeting not only its fighters and cadres but also large numbers of the Shiite professional class (regardless of their affiliation with al-Da'wa) and even Shiite stalwarts of the regime.[74] The great purges of 1979, the year Saddam Hussein became president, were a watershed.[75] For the next two decades, the Shiites' acute sense of oppression and repression nurtured opposition to the Ba'athist regime that was largely based in the mosques (though al-Da'wa also had underground cells).

Nothing manifested suppressed Shiite anger as vividly as the March 1991 uprising that followed the expulsion of Iraq's occupation army from Kuwait. In

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[72] ICG interview, Washington, DC, 26 July 2004.

[73] Abdul-Halim al-Ruhaimi, "The Da'wa Islamic Party: Origins, Actors and Ideology", in Faleh Abdul-Jabar, ed., *Ayatollahs, Sufis and Ideologues: State, Religion and Social Movements in Iraq* (London, 2002), pp. 155-57. The origins of al-Da'wa are controversial, including its founding date and original motivation. See, by contrast, Marion Farouk-Sluglett and Peter Sluglett, *Iraq Since 1958: From Revolution to Dictatorship* (London, 2001), pp. 196-97. One of its founding objectives almost certainly was to counter the growing influence of the Iraqi Communist Party among Iraqi Shiites.
[74] See also, ICG Middle East Briefing, *Iraq's Shiites Under Occupation*, 9 September 2003, pp. 11-12.
[75] See Charles Tripp, *A History of Iraq* (Cambridge, 2000), pp. 220-23; and Phebe Marr, *The Modern History of Iraq* (Boulder, 2nd Ed., 2004), pp. 178-81. Although these purges were not directed specifically against the Shiite political class, they reinforced the power of Saddam Hussein's own Sunni-based clan; several senior leaders who were Shiites were killed or removed (some others remained in positions of power), and many more Shiites were washed away in the fervour of that and following years, a distant echo of Stalin's campaigns of terror in the 1930s. (Stalin was an important model for the Iraqi dictator.)

a rampage throughout towns and cities in the south, Shiite men torched regime symbols such as local Ba'ath Party headquarters and government offices, defaced every one of the Iraqi leader's ubiquitous portraits and riddled members of the regime's repressive apparatus with bullets or hanged them unceremoniously from the nearest post.[76] Crushed ruthlessly by the Republican Guard, this revolt, and the refusal by the Kuwait war allies (who feared Shiite irredentism in the strategically vital Gulf region) to intervene on its behalf,[77] did as much to bolster the legitimacy of Shiite religion-based resistance in Iraq as it did to inform the Shiites' sceptical attitude toward the U.S.-UK invasion exactly twelve years later.

In the political void of the immediate post-war period, Shiite parties such as al-Da'wa (which had splintered into several factions based in Iran, Syria and the UK), the Supreme Council of the Islamic Revolution in Iraq (SCIRI, established and bred in Iranian exile), the Party of God and the Islamic Action Organisation (Hezbollah and Amal, not to be confused with their similarly-named Lebanese counterparts) had a distinct head start. Their leaders returning to Iraq received heroes' welcomes from their followers, even as they sought to shed the potentially discrediting baggage of Iranian tutelage in their attempt to gain wider support -- especially in the case of SCIRI, whose Badr brigades had fought for the Khomeini regime against Iraq in the two countries' eight-year war.[78]

Arriving home from exile, they joined with their comrades who had stayed underground in Iraq and, utilising their popularity as resistance fighters who had dared to defy Saddam's regime,[79] immediately set up party offices in localities throughout the south and in Shiite neighbourhoods in Baghdad. From these they began doling out aid and protection in an environment in which the occupying powers, with all their military might, financial resources and technical capabilities, failed to do the same. Islamic activists operating from local mosques kept clinics running, provided security in neighbourhoods wracked by looting and crime, and tended to petitioners' needs to the extent they could, all the while recruiting new members to their cause.[80]

The only two serious rivals they encountered were indigenous ones who, as it happened, stood at opposite poles of the political spectrum: Muqtada al-Sadr, the son of the revered Shiite religious leader Muhammad Sadeq al-Sadr (assassinated, likely by the regime, in 1999) and a political rabble-rouser with few religious credentials of his own who sought to represent the disenfranchised and impoverished underclass of the sprawling slums of Baghdad and other cities; and Grand Ayatollah Ali al-Sistani, a man of great religious learning (eclipsing, for example, Iran's supreme leader Ayatollah Ali Khamene'i) who represents a strain of Shiite Islam that disdains the entry of clerics into politics and who, while Iranian by birth, has revealed himself since the end of Ba'athist rule as an Iraqi nationalist.[81] These two men enjoyed a degree of legitimacy and a mass following that the parties returning from exile could not equal. In fact, the former exiles were either resented by many for their relative wealth and skills, suspected for their foreign sponsorship, or both.

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[76] Observations by an ICG Iraq analyst touring the country (in a different capacity) in March-April 1991.

[77] See Andrew Cockburn and Patrick Cockburn, *Out of the Ashes: The Resurrection of Saddam Hussein* (New York, 1999), chapters 1 and 2; and George Bush and Brent Scowcroft, *A World Transformed* (New York, 1998), chapter 19.

[78] Despite Iranian hopes that Iraq's Shiite population would prove to be a fifth column against Saddam Hussein in the 1980-88 war and refuse to fight Shiite compatriots, it by and large proved loyal throughout the bloody conflict in which it suffered the brunt of the casualties (being, routinely, the foot soldiers sent into close combat). See Phebe Marr, *The Modern History of Iraq*, op. cit., pp. 197-98; and Shahram Chubin and Charles Tripp, *Iran and Iraq at War* (Boulder, 1988), pp. 98-104.

[79] The legitimacy of these parties derived largely from their credentials of opposition against Saddam Hussein's regime and was often measured in the number of martyrs they could claim.

[80] In the security and services vacuum of post-war Baghdad, residents turned to mosques and Husseiniyat (Shiite religious centres) for help. Clerics directed activities aimed at securing clean water and cooking gas, armed protection for neighbourhoods and the return of goods looted during the first days of rampant lawlessness in the capital. ICG interview with Atwan al-Atwani, member of the District Advisory Council of the Tis'a Nisan neighbourhood, Baghdad, 18 July 2004.

[81] In the aftermath of the adoption of the Transitional Administrative Law (TAL) in March 2004, especially its controversial Art. 61 (C) giving Kurds a virtual veto over a permanent constitution, Sistani was accused, in particular by Kurds, of having shown his true colours by (belatedly) opposing the TAL over this provision. This showed, the argument went, that he was more concerned with protecting Shiite interests than Iraqi national interests. The counter-argument, of course, is that Sistani's opposition to this article demonstrated his concern about democratic process and his dismay over the ability of the country's minority to thwart the aspirations of the majority. The battle over this issue has yet to be fully fought.

These Shiite parties, movements and personalities were far ahead of secular counterparts in mobilising the population -- against the occupying powers, in favour of general elections and, in some cases, on behalf of a greater role for religion in politics and society. In response, aware of their strength and fearing Shiite dominance, the CPA set out to limit the parties' role in local government. It did this in two ways: by prohibiting council members from formally representing political parties in council meetings,[82] and by rejecting calls for early local elections that might have brought them to power.[83] The tensions inherent in this approach have created the peculiar dynamic of local politics and governance the country has witnessed over the past year.

While parties were not excluded a priori from the councils, they found that they could not be formally represented in them or in the state's administrative structures (the local directorates-general). They employed a number of means, including subterfuge, to have their voices heard on the councils,. This was true for Shiite parties as much as for others. In some localities, such as Kirkuk, parties courted sitting council members to act as their representatives.[84] In others, such as Basra, political parties formed an ad hoc alliance -- the "political council" -- in mid- 2003 to press for greater party representation on the governorate council. The forum was "open to all", according to participants, had a revolving presidency and sought to "coordinate political work".[85] In Anbar governorate, the Iraqi Islamic Party -- a Sunni Muslim group deriving from the Muslim Brotherhood -- was able to get around the restriction on party representation (only three of the governorate council's 41 seats were designated for parties) by having 23 of its members selected as representatives of tribes,

religious groups and professional associations.[86] The latter ruse was particularly effective because the CPA encouraged civic organisations to participate in local councils. Not surprisingly, the parties exploited this even as they eyed the councils with suspicion.

To many Islamists, formal representation was less important than their effective grip on local governance. They saw it as merely an add-on and a hedge against the future. While having several representatives on local and governorate councils, SCIRI has labelled them illegitimate. After all, a SCIRI official argued, "the councils have been appointed by the Americans, and even in places where they organised partial elections, such as in Samawa and Naseriyeh, they made sure that these returned candidates friendly to their interests".[87] Thus the Islamists have it both ways: formal representation and, at the same time, the necessary distance, at least rhetorically, from what are undeniably the councils' American (or British) sponsors.[88]

Ayatollah Ali al-Sistani, who has continuously pressed for elections as the preferred way to stabilise Iraq, has neither blessed local councils nor opposed them. "At first", said a Baghdad neighbourhood councillor, "the councils didn't receive any clear support from the *Marj'a* [Sistani]. But later, when our role had become clearer, we started to feel that the *Marj'a* is supporting us. But he never issued a public opinion. Nor was there a *fatwa* prohibiting or condemning the councils".[89]

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[82] As one RTI International official put it: "during our meetings with council members and candidates, we stressed to them that they could belong to any party they wanted (excluding the Ba'ath, of course) but they were not permitted to speak on their party's behalf during council meetings. E-mail communication, July 2004.

[83] For a discussion of the elections question, see below.

[84] ICG interviews with a Kirkuk council member and a member of the Free Officers Movement, Kirkuk, 18 January 2004.

[85] In December 2003, the alliance's secular parties broke with their Islamist compatriots and established an alternative "national council" after the latter tried to give religious authorities arbitration powers in cases in which the political council failed to reach agreement ICG interviews with Ali Mahdi of the Iraqi Communist Party and Dr. Jamal of the Iraqi Islamic Party, Basra, 14 February 2004.

[86] ICG e-mail and telephone interview with a CPA official in Anbar governorate, 17 March 2004. The three seats for political parties were occupied by representatives of the Iraqi Communist Party, the Anbar National Congress and the Nasserite Socialist Party. The Iraqi Islamic Party's leader, Muhsin Abd-al-Hamid, was a member of the Interim Governing Council.

[87] ICG interview with Abu Dhulfaqar, Baghdad, 12 January 2004.

[88] As a council member put it: "the clerics never took a clear stance. They seem to support us to the extent that we provide public services to people. At the same time they oppose us because the local councils were established by the coalition forces." ICG interview with 'Imad Khaled Saleh, chairman of the District Advisory Council in al-Mansour, Baghdad, 21 July 2004.

[89] ICG interview with Atwan al-Atwani, member of the District Advisory Council in Tis'a Nisan, Baghdad, 18 July 2004.

B.   THE ELECTIONS QUESTION

In mid-2003, with persistent lawlessness, continued absence of basic services and a deteriorating security situation, extra-institutional politics grew at the expense of the new councils. It did not take long before the CPA was faced with localised but increasingly forceful protests in Baghdad and throughout the southern governorates over both the legitimacy and performance of local councils, which were seen as not delivering electricity, sewage, and jobs, as well as salary and pension payments for civil servants and soldiers of the disbanded army.[90] In Dhi Qar, for example, the governor, Hamad Badr al-Ramid, resigned under pressure in late January 2004, following large demonstrations by supporters of Muqtada al-Sadr and others in Naseriyeh. Demonstrators called for the governor, his deputies and the members of the provincial council to be elected by the citizenry, not appointed by the CPA.[91]

From the outset, the CPA faced a difficult dilemma: it could hold local elections to legitimise the new governing structures but risk their take-over by Islamists and others perceived as inimical to U.S. interests. Alternatively, it could appoint council members who would try to make up for their legitimacy deficit through effective governance and an active role in reconstruction. In some cases, the debate took the form of a dispute between the CPA in Baghdad, which was particularly concerned about

the rise of Islamist politics in post-Ba'athist Iraq, and local CPA officials, who were aware of the need for local legitimacy and often saw no serious risk in holding local polls. As early as June 2003, local U.S. officials in Najaf, Basra[92] and other areas had started laying the groundwork for elections to municipal councils when Bremer suddenly pulled the plug. "Elections that are held too early", he warned, "can be destructive….In a post-war situation like this…, the people who are rejectionists tend to win". Bremer singled out former Ba'athists and "to some extent the Islamists" as potential winners -- and spoilers -- on the (accurate) claim that they were the best organised.[93] Local CPA officials made a different calculation: by providing local stability, elected Islamist-dominated councils would serve U.S. interests better than appointed councils from which Islamists were excluded.

Other reasons have been suggested as to why local elections, planned in some localities by local CPA officials, were postponed by executive order in June 2003. These included the concern that if they were seen to succeed, the CPA's rationale (based on a combination of security, political and logistics arguments) against holding national elections would falter,[94] and the fear that expatriates favoured by the

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[90] See, for example, Pamela Constable, "Clashes Rise in Southern Iraq. Jobless Protesters Confront Ukrainian Troops and Local Police", *The Washington Post*, 14 January 2004; and ICG interviews in southern Iraq, February 2004. Sometimes it was a matter of jealousy for having been excluded in the original selection, according to a local council member in Baghdad. After the councils were set up, "many people wanted to join the councils, but there was no place. Then they started to complain: 'Why was this guy chosen? Why not me? That man was imposed on us', and so forth. They became envious, saying we didn't deserve this job, and then they started calling us collaborators for working with the Americans". ICG interview, July 2004.
[91] *Al-Zaman*, 29 January 2004; and e-mail communication from Aleem Minahi, who was IRDC governorate coordinator in Dhi Qar at the time, 20 September 2004. According to Minahi, followers of Muqtada Sadr and Muhammad al-Ya'qubi (and his Virtue Party, *Hezb al-Fadhileh*) put sufficient pressure on the governor that he offered to resign, but he promptly reversed himself when members of his al-Rumeyedh tribe threatened to disown him and supplied him with a security detail ("300 gunmen"); this was subsequently replaced by a team from the Italian contingent headquartered in Naseriyeh, and al-Ramid stayed in the governor's office.

[92] In June 2003 CPA-South announced plans to form thirteen district councils from Basra's 131 neighbourhood councils but then abruptly cancelled on instructions from the CPA in Baghdad. Local leaders went ahead anyway, holding their own "elections", which unsurprisingly religious leaders won, but the CPA did not recognise the results.
[93] Quoted in William Booth and Rajiv Chandrasekaran, "Occupation Forces Halt Elections Throughout Iraq", *The Washington Post*, 28 June 2003. Jay Garner, who preceded Bremer as administrator of Iraq for a month immediately after the end of the war, claimed in a BBC interview in March 2004 that his abrupt dismissal was precipitated by his support of free elections -- "my preference was to put the Iraqis in charge as soon as we can [sic], and do it with some form of elections" -- and opposition to a program of privatisation that the Pentagon and White House sought to impose prior to elections. Quoted in David Leigh, "General sacked by Bush says he wanted early elections", *The Guardian*, 18 March 2004.
[94] Larry Diamond, a former adviser to the CPA, claimed this in a presentation, "Transition to What in Iraq?", at the Stanford Institute for International Studies (11 May 2004), available at http://www.stanford.edu/~ldiamond/iraq/ Transition_ to_What _in_Iraq.htm. One Islamist leader, SCIRI's Muhammad Baqr al-Hakim, reportedly declared in June 2003: "We believe that general elections can be held in Iraq. The Iraqi people are prepared for them, and nothing prevents holding elections. Elections were held in some parts of Iraq without any problems. The Security Council resolution [no. 1483 of 22 May 2003] stresses the need to expedite the formation of an elected

Pentagon, most prominently Ahmad Chalabi, would be unlikely to prevail in an early vote.[95] At least one CPA official argued that the polls were cancelled because of the realisation that there was insufficient time to put proper procedures in place.[96] In any event, the CPA's sudden reversal was seen by many Iraqis as contradicting its professed desire to move toward democracy,[97] and it may have pushed some Islamists, who otherwise might have played a role in reconstruction, into extra-institutional politics and, eventually, armed insurgency.[98]

When refreshment came, the overall objective (under the 15 November Agreement) was to create councils

through tightly controlled electoral exercises ensuring that the future Transitional National Assembly would not be dominated by Islamists and other perceived rejectionists of the new order.[99] While participation was reported to be strong throughout Iraq, there was also widespread criticism of the fact that none of the polls was truly popular and free, although some (for example in Muthanna) approached this. The CPA certainly saw the electoral exercises as broadly representative. As one U.S. official put it, there may not have been "true" elections (with voter rolls and secret ballots), "but the elections that were held were in fact fairly free and open" in most places.[100]

The chosen mechanism, in most cases, was a caucus process in which members of pre-defined, usually profession-based groups (such as teachers or engineers), but also tribes and, in a limited way, political parties chose from their midst one or more members to occupy local council seats pre-assigned by category. While "caucus" is a notion for which there is no direct counterpart in Iraq (nor a direct translation into Arabic), participating Iraqis proved adaptable, though success usually depended on the amount of local buy-in. "What many of us found locally", said a former CPA official, "was that if Iraqis were given a framework for caucuses which they agreed to, they would accept them as legitimate. But it had to be a system with their full involvement and participation, where outsiders provided only the framework, not the actual end-state".[101] This is how the electoral exercises played themselves out in selected localities:

government". Interview on Al-Manar TV, 11 June 2003, cited by Juan Cole, "Informed Comment", 20 June 2003, available at http://www.juancole.com. The UN resolution in fact made no reference to an elected government but expressed its support for the formation of an interim Iraqi administration "until an internationally recognised, representative government is established by the people of Iraq", and encouraged Iraqi efforts to establish one. Text of the resolution available at http://www.un.org/Docs/journal/asp/ws.asp?m=s/res/1483(2003). Al-Hakim was killed in a car bomb attack in Karbala in August 2003.

[95] According to an observer, the Pentagon's ambition to place former exiles such as Ahmad Chalabi at the head of a new Iraqi government "would have been undermined by serious competition from the home-grown political factions that local elections would have cultivated". Roger B. Meyerson, "America's Failure to Build Democracy in Iraq", available at http://home.uchicago.edu/~rmyerson/iraq.pdf. Myerson is a professor of economics at the University of Chicago. A former U.S. government official claimed that the CPA considered popular elections to be a "crap shoot" whose outcome was unlikely to produce the "compliant Iraqi government" that Washington craved in order to advance its strategic objectives in Iraq. Quoted by Juan Cole, "Informed Comment", 13 June 2004, available at http://www.juancole.com.

[96] ICG interview, Washington, DC, 27 July 2004. It is likely that if elections had been held at this stage without the privacy of a voting booth and without a guarantee to protect all voters, many women would not have voted.

[97] Instead, the CPA appointed former security officers and other persons with ties to the ousted regime in many localities, selections that raised the ire of the local population in Najaf, Samarra and elsewhere. Protesters denounced the American moves with slogans such as: "Cancelled elections are evidence of bad intentions", and "O America, where are promises of freedom, elections and democracy?" Quoted in William Booth and Rajiv Chandrasekaran, "Occupation Forces Halt Elections Throughout Iraq", *The Washington Post*, 28 June 2003.

[98] This is a point made by Roger Myerson, op. cit., who also sensibly observes that, "even if the Sadrists had won elections in 2003, their movement would have developed very differently over the past year if they could have built their political base by spending public funds for local reconstruction, rather than by recruiting soldiers for armed resistance".

[99] E-mail communication from a person involved in one of the local polls, 7 March 2004. "Part of the RTI felt that the selection process could have been more open and participatory", he reported, "but the CPA coordinator [disagreed], for reasons of the process being taken over by the religious sheikhs and ayatollahs".

[100] ICG interview, Washington, DC, 26 July 2004. It was "impossible to come up with ideologically neutral councils" through elections at this point, he said. But "relatively clean" elections were held at the district level and perhaps in some places also at the governorate level. "Legitimate elections could have been held by May 2004", he added, but the situation was overtaken by the uprisings in Falluja, Najaf and elsewhere in April. Another official said: "What took place [in my area] was what you can call an enlightened selection process". E-mail communication from a person involved in one of the local polls, 7 March 2004.

[101] Keith W. Mines, "Iraq: The Next Stage", Foreign Policy Research Institute, available at http://www.fpri.org. Mines was referring specifically to the caucus-based elections to the Anbar governorate council in which, he said, 5,000 Iraqis participated. *The New York Times* also described a local

In Karbala, the CPA governorate coordinator solicited nominations from all sectors of society, ending up with a list of 160. He reduced this first to 80, then to 60 in two subsequent rounds, and finally picked the 40 council members from those 60. "He struck a good balance between the rural and urban parts of Karbala", said an observer, "and women were well represented with eleven of the 40 members".[102] The tightly controlled process sparked vigorous protests, including from Sistani's representative, who said that "the religious authority realises that the decision of the U.S. official amounts to confiscating the will of the masses. It also undermines the powers of the religious authority".[103]

In Najaf, the CPA announced elections to the municipal council "as late as possible" before the poll took place, in the words of one CPA official, to prevent violence, the rigging of candidacies or bloc votes. [104] In the event, there were only minor disturbances, such as pro-Sadr activists daubing slogans on polling stations that were quickly erased. Candidates had the opportunity to register only in the five days prior to the election. This was enough time for the CPA to vet them for Ba'ath Party membership and crimes committed under the previous regime but insufficient for the candidates to campaign, which prompted bitter complaints.[105]

In Dhi Qar governorate, the CPA gathered political parties, tribes and local professionals to agree on a list of candidates, who were carefully vetted. The subsequent exercise, billed as an election, granted voting rights to two members of every household who were over the age of eighteen (based on food ration cards), a system that tended to disenfranchise female heads of household in families with adult sons. In response, a group of intellectuals expressed outrage over the list produced by the CPA and the perceived preponderance of tribal elements.[106]

As mentioned above, the CPA pioneered a selection process in Muthanna governorate that divided the 40-seat council equally between tribes, political parties and civic organizations (twelve seats each), with an additional two seats each for women and religious dignitaries. It then organised a caucus process from the village level up that "resembled the electoral system applied in Libya", coming as close to an expression of popular will as possible without actually having a direct election.[107]

Even in Mosul (Nineveh governorate), Major General Petraeus said, creating sub-district and district councils was a "protracted affair with heavy military involvement" in the selection process.[108]

In Baghdad, a 24-year-old junior U.S. military officer cancelled elections for a neighbourhood council in December 2003 and handpicked three people for seats after men first tried to prevent women from voting and then mobbed the ballot box. "Whatever leadership they have here in Iraq", the officer commented afterwards, "I think it'll have to be an Iraqi version of it. Westernised democracy just won't work".[109]

The opaque and restricted nature of many of the quasi-elections did little to re-legitimise the councils. A strong case could be made that direct elections

caucus-based poll in Falluja in February 2004: "there was a lot of fuss about this; some Iraqi leaders told me there was no word for 'caucus' in Arabic; no one, they said, would know what to do". Yet once the reporter arrived at the event, he found hundreds of Iraqis: "Perhaps 'caucus' was not a word in Arabic, but everyone understood what this was: an election. They wanted to vote". Dexter Filkins, "Mayhem, day by day: a reporter's notebook", *International Herald Tribune*, 28 June 2004.
[102] ICG interview, March 2004.
[103] Quoted by Voice of the Mujahidin (in Arabic), 22 February 2004; see also *Al-Zaman*, 23 February 2004.
[104] ICG interview, Najaf, 18 February 2004.
[105] Few of the candidates appeared to be aware that the council to which they were seeking election played a strictly advisory role, and none interviewed by ICG indicated they knew in what relation the municipal council stood to the governorate council. One candidate described the difference to a *mukhtar* (neighbourhood elder) by saying simply, "a council member has more influence". Asked what they hoped to achieve or what they saw as the benefits of this election, none of the candidates answered "improved services" but instead spoke of "supervision of and interaction with citizens". Voters knew more or less for whom they were voting but not what institution they were voting for or what benefits they might derive from casting their ballot. ICG spoke to candidates and

voters at three of the 23 polling stations, Najaf, 17 February 2004.
[106] ICG interviews in Naseriyeh and Baghdad with the editor of the *Al-Naseriyeh* weekly newspaper and with representatives of the Cultural and Social Association of Naseriyans Living in Baghdad, 15 and 18 February 2004.
[107] ICG interview with a former adviser to the CPA, Washington, DC, 6 August 2004.
[108] ICG interview with Major General David Petraeus, Mosul, 21 January 2004.
[109] First Lieutenant Erik Iliff, quoted by Edward Wong, "For GIs, the mission is turning murkier", *International Herald Tribune*, 17 May 2004.

held within a clear framework and a set of rules, and if possible with U.N. involvement to minimize the perception of elections held under occupation, would have been far preferable. Perhaps there was no time to organise elections on that basis. But the political fall-out from the semi-elections in early 2004 arguably was worse than if no electoral exercise had been conducted at all.

C. THE DEVOLUTION QUESTION

Local councils derive their potential legitimacy not only from popular support expressed at the polls but also from popular acceptance earned by successful delivery of goods and services. To provide services effectively, however, the councils would need to be given real powers, including budget oversight. Here the CPA faced another knotty dilemma: it could devolve significant powers to the councils early, before they had acquired either electoral legitimacy or experience in governance, but this entailed the risk that they would prove both incompetent and illegitimate. Or it could delay devolution to allow the councils to build up their capacity, which threatened to render them irrelevant. The CPA chose the latter option. As one official put it, the councils "had no real powers, but we couldn't give them real powers as long as they lacked legitimacy. It would have made it very difficult to change them. But because they lacked real powers, members started threatening to resign and actually resigning".[110]

During the first year of the occupation, the CPA-created councils operated in an ambiguous environment, their status and powers left largely undefined.[111] What replaced the Ba'ath regime in April 2003 was not a new sovereign Iraqi government able to cast out its undesirable legal relics, but occupying powers required to observe international conventions.[112] International

law provides that an occupant may change existing law only under exceptional circumstances and in keeping with its obligation to maintain order and preserve the population's welfare.[113] This was one of the principal reasons why the CPA was reluctant to formalise the powers of the local councils,[114] insisting, in the words of a British government official, that their constitutional status remain "a grey area" of the law.[115]

The CPA recognised that, technically, Iraqi law would remain in effect until the installation of a sovereign government, marking the military occupation's formal end.[116] With respect to local councils, this was Law 159 on Governorates of 1969. There was much that was beneficial to retain, at least for a transitional period, because Iraqi law had considerable merit on paper; the problem lay in its non-implementation. Law 159 describes the composition, status and powers of local councils, which theoretically enjoyed significant discretion on matters of education, health, labour and social affairs, housing, agriculture and irrigation, infrastructure, trade, cultural affairs and food rationing.

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[110] ICG interview, Washington, DC, 4 August 2004.

[111] As a former adviser to the CPA noted, "decentralisation was mandated at the outset but the new councils' powers were not defined until April 2004 [with the adoption of the CPA Order on Local Government]. This created a real vacuum for the councils to operate in". ICG interview, Washington, DC, 6 August 2004.

[112] In the Preamble to Resolution 1483 (22 May 2003) the UN Security Council recognises "the specific authorities, responsibilities, and obligations under applicable international law of [the United States and United Kingdom] as occupying powers under unified command". Applicable international law is, first and foremost the Fourth Geneva Convention of 1949,

relevant to occupied territory, as well as the 1907 Hague Regulations.

[113] Emma Playfair, "Playing on Principle? Israel's Justification for its Administrative Acts in the Occupied West Bank", in Emma Playfair, ed., *International Law and the Administration of Occupied Territories: Two Decades of Israeli Occupation of the West Bank and Gaza Strip* (Oxford, 1992), pp. 205-38. The principle is based on Article 43 of the 1907 Hague Regulations Respecting the Laws and Customs of War on Land, which provides: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country". Cited in Adam Roberts and Richard Guelff, *Documents on the Laws of War* (Oxford, 2000), pp. 80-81. The term "public order and safety" is an inaccurate translation from the original, and authoritative French text. For this, and a broader analysis of Article 43 and the obligations of an occupying power, see Christopher Greenwood, "The Administration of Occupied Territory in International Law", in Playfair, ed., op. cit., pp. 241-66 (especially p. 246).

[114] ICG interview with a CPA official, Erbil, 16 January 2004.

[115] ICG interview, London, 11 December 2003.

[116] In its first formal order, the CPA declared all Iraqi law to be in force "unless suspended or replaced by the CPA" and "insofar as the laws do not prevent the CPA from exercising its rights and fulfilling its obligations, or conflict with the present or any other Regulation or Order issued by the CPA". Coalition Provisional Authority, Regulation 1, Section 2 (16 May 2003), available at http://www.cpa-iraq.org/regulations/20030516_CPAREG_1_The_Coalition_Provisional_Authority_.pdf.

When the CPA set off to promote local governance, it selectively revived some provisions of Law 159.[117] By design or accident, many features of the new local councils closely resembled the prescriptions of Law 159 and, on occasion, the CPA issued new rulings unaware that these precisely replicated existing law.[118] That said, the councils enjoyed fewer powers during their first year than those theoretically provided by law, a reflection of the CPA's hesitation to devolve powers prematurely to inexperienced and unelected councils. For example, under the Ba'ath regime the local councils in principle were empowered to collect taxes and play a role in policy coordination; in post-war Iraq this was not the case, at least by law, until April 2004. Nevertheless, by December 2003 some local governments had managed to draw up their own transparent budgets. In the words of a U.S. official overseeing the process, these were "still sloppy but a first in Iraq".[119]

The March 2004 interim constitution (known as the Transitional Administrative Law, TAL) offers a glimpse of the future direction of local governance, embedding it in the specific notion of federalism it envisions for the country (leaving aside, for a moment, the disposition of the Kurdish areas[120]). Article 52 reads:

> The design of the federal system in Iraq shall be established in such a way as to prevent the concentration of power in the federal government that allowed the continuation of decades of tyranny and oppression under the previous regime. The system shall encourage the exercise of local authority by local officials in every region and governorate, thereby creating a unified Iraq in which every citizen actively participates in governmental affairs, secure in his rights and free of domination.

The TAL remains vague on the status and powers of local councils. It grants governorates the right but not the obligation to appoint a governor and form local councils.[121] It envisions elections to governorate councils simultaneous with national parliamentary elections "no later than 31 January 2005" (Art. 57(B)), but is silent regarding district/municipal and neighbourhood councils, in particular whether they are to be elected or appointed and, in the latter case, by whom.

It broadly protects (Art. 55(A)) the governor and council members from dismissal by either the federal or a regional government, when one exists, but fails to spell out the relationship between the federal government and local institutions. Instead, the TAL grants governorate councils the undefined authority to "assist" the federal government in the "coordination of federal ministry operations within the governorate, including the review of annual ministry plans and budgets with regard to activities in the governorate" (Art. 56(A)). This falls well short of the councils' powers under Law 159, which included both budget preparation and overseeing service implementation by the local directorates-general.[122]

At the same time, there is potential in ambiguity. Much may depend on the extent to which councils and authorities such as individual governors assert themselves in the face of directives from the central government. Since local councils are permitted to raise their own revenue in addition to being entitled to federal funding (Art. 56(A)), they theoretically could create a relatively significant margin of manoeuvre, depending on local resources, tax collection efficiency and accountability mechanisms to limit corruption. Whereas the TAL merely states that lower-level councils "shall assist in the performance of federal responsibilities", apparently giving them no more than a watchdog role,[123] the councils could

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[117] The CPA has suggested it preferred quiet recourse to elements of Iraqi law as local requirements dictated, rather than its quick and full revival. ICG interview with a senior CPA official, Baghdad, 29 January 2004.

[118] For example, in early 2004 a Baghdad district council debated a new CPA decree -- banning a council member's direct relatives from serving on the same council -- that mirrored Law 159 and was, therefore, redundant. Article 57(8), Law 159 on Governorates (1969).

[119] ICG interview, Washington, DC, 26 July 2004.

[120] This is outlined in Articles 53, 54 and 58 of the TAL and discussed in ICG Report, *Iraq's Kurds*, op. cit., pp. 18-20.

[121] "Each governorate shall have the right to form a Governorate Council, name a Governor, and form municipal and local councils". Art. 55(A) of the Law for the Administration of Iraq in the Transitional Period (8 March 2004), available at http://www.cpa-iraq.org/government/ TAL.html.

[122] Law 159 on Governorates (1969), Chapter 4, Sections 6, 11.

[123] Article 56(B) of the TAL reads: "The *Qadha'* [district] and *Nahiya* [sub-district] councils and other relevant councils shall assist in the performance of federal responsibilities and the delivery of public services by reviewing local ministry plans in the afore-mentioned places; ensuring that they respond properly to local needs and interests; identifying local budgetary requirements through the national budgeting procedures; and collecting and

capitalise on potential local support, access to locally-generated revenue and sense of the local pulse -- grievances, needs, preferred remedies -- to set forth a local agenda. This could allow them to pre-empt or dilute intervention by federal bureaucrats far removed from local realities.

On 6 April 2004, one month after the TAL's passage, the CPA issued a new decree, Order No. 71, on Local Governmental Powers, which reinforced the interim constitution's provisions relating to local officials.[124] A draft had circulated as early as December 2003 but was delayed, CPA officials claim, to allow the refreshment process to run its course and have the interim constitution in place.[125] Significantly, Order 71 replaces pre-existing Iraqi law, including Law 159, to the extent the two are inconsistent.[126]

In stark contrast to the Ba'athist era, the central government lost the right to appoint governors. Immediately after the war, military commanders assumed this prerogative with varying degrees of success. But with refreshment, the power was effectively transferred to the governorate councils, and Order 71 enshrined this in (temporary) law. The Order empowers governorate councils to appoint local officials, including the governor, deputy governors, directors general and the police chief, and veto -- under certain circumstances and within a specified time limit -- senior appointments made by federal ministries in their governorate (Section 2(3 and 5)). It allows them to set priorities for their areas and to "amend, by two-thirds vote, a specific local project described in an annual ministry budget plan".[127] Governorate councils may form local councils, selecting their members by procedures to be agreed by majority vote (Section 4(1 and 2)). Local councils, in turn, are empowered to elect mayors and deputy mayors and to carry out a number of vaguely defined responsibilities that consign them, at least on paper, to an advisory position (Section 4(1)).

A key factor in establishing the powers of local government is the flow of funds. Roles become meaningful when money, which can derive from either central government or local taxation, arrives in local coffers. In most decentralised systems, revenue derives from a mix of the two, and a local government's relative decision-making autonomy is determined by how much fiscal independence it enjoys.[128] In Iraq, which has no experience with local governments imposing and collecting taxes, it is reasonable to expect that at least initially they will remain wholly dependent on central government funding.[129] In that case, however, automatic revenue

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retaining local revenues, taxes, and fees; organising the operations of the local administration; initiating and implementing local projects alone or in conjunction with international, and non-governmental organisations; and conducting other activities consistent with applicable law".

[124] Section I ("Purpose") reads in part: "This Order describes the authorities and responsibilities of the governorate, municipal and local levels of government. It implements the principle of decentralisation of governing power embodied in the TAL". Available at http://www.cpa-iraq.org/regulations/20040406_CPAORD_71_Local_Governmental_Powers_.pdf.

[125] A former CPA official gave two reasons for the postponement of Order 71 until after the adoption of the TAL and after the refreshment and creation of new councils: sensitivity about its prescriptive nature given that the powers of an occupant are circumscribed, and not wanting to empower councils lacking legitimacy. ICG interview, Washington, DC, 4 August 2004.

[126] Section 8(1) ("Effect on Other laws") reads in part: "Any provision of Iraqi law, including but not limited to Law N°159 of 1969, that is inconsistent with this Order is hereby suspended to the extent of such inconsistency …" The legality of this provision under the laws of armed conflict is questionable, given the failure of Paul Bremer, who signed the order as CPA Administrator, to show that the CPA had satisfied the legal requirement that any replacement of existing law be justified either by overriding security reasons or by presenting a clear benefit to the local population. Many CPA orders fall into this category, and all are, therefore, subject to repeal by the sovereign government of Iyad Allawi, which, however, may choose not to apply this power. For an insightful critique, see Nathan Brown, "Iraq: The Fate of CPA Orders after June 30", *Arab Reform Bulletin*, vol. 2, issue 6 (June 2004), available at http://www.ceip.org.

[127] Section 2(2) ("Governorate Councils") reads in part: "The Governorate Councils may set priorities for the provinces; amend, by two-thirds vote, a specific local project described in an annual ministry budget plan, provided that no such amendment shall increase the spending limits set forth in the ministry plans, or interfere with the efficient and uniform execution of national objectives as implemented by specific programs …"

[128] The two "ideal types" are the "fiscal choice" model in which a local government taxes the local population to meet its needs, and the "principal agent" model in which local governments are agents of the state with a division of labour in decision making. ICG interview with Tim Campbell, Adviser in Urban Development, Finance and Private Sector Development at the World Bank Institute, Washington, DC, 11 August 2004.

[129] For the moment, the possibility of local revenue generation remains theoretical. Central government resources are almost entirely derived from oil revenues, income tax and customs fees; state enterprises, under central supervision, also bring in some money. At the local level, there is very little room to squeeze citizens and businesses for licensing fees, user fees and other fees envisioned by U.S. decentralisation experts, and

transfer formulas independent of budgetary requirements, as well as a clear delineation of powers, are cardinal requirements for the effective functioning of a decentralised system.[130]

Order 71 provides for neither. In fact, it makes no mention of financing, and the word "powers" (or "functions") occurs nowhere in the text except the title. [131] Instead, Order 71 merely purports to

encourage the "exercise of local authority by local officials in every region and governorate" (Section 1). Moreover, while it provides for some oversight by local councils over local government, including on budgetary matters, it falls short of granting the councils law-making powers; and, unlike the TAL (which, however, supersedes it), Order 71 does not mention the right of local government to impose taxes.[132]

Iraqis thus face a paradoxical situation. Law 159 wove local councils tightly into the process of local administration, but their powers existed mostly on paper. In the year after the Ba'athist regime's ouster, that law temporarily remained in force, was applied piecemeal and, as in the past, mostly in name only. It has now been replaced by a new law and an interim constitution, whose legitimacy has been widely challenged, both of which are less specific in the powers they grant local authorities. Yet, they may lead to far greater devolution of central power than in the past if the twin experiments in federalism/decentralisation and local governance promotion are given the requisite time and space to succeed. In other words, Iraqis may get more with less, *if* they take the initiative and *if* they are given the powers and resources to make a difference. A measure donor governments should consider is creation of a separate development fund, managed through the UN Assistance Mission, to finance priority infrastructure investments desired by councils on the provincial, municipal and district levels.

D. A CLASH OF CULTURES

An important hurdle to devolution is lack of precision in the delineation of powers between local councils and local administration. This results from a near-total institutional disconnect between the national leadership (the CPA, as well as the Interim Governing Council until 1 June 2004 and the Interim

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there is no experience of local taxation. In practical terms this means there are no local sources of revenue, hence little manoeuvrability and little effective governance. As a compromise, at least for the medium term, there has been some discussion of a fair, but discretionary, sharing of national revenues based on population and poverty levels in individual governorates. This opens up an entirely new debate, however, given Kurdish sensitivities about Kirkuk and its oil fields. This matter is to be discussed at a later date, as part of the constitutional process, and should be treated separately from the nationwide question of decentralisation, local governance and revenue generation. A USAID "Lesson Learned" briefing based on worldwide experiences warns that, "problems with raising local revenue can undermine the sustainability and effectiveness of local programs. Without a degree of autonomy from the central government, local governments may be circumscribed in their ability to track and account for local government funds and make wise decisions how to spend the funds". U.S. Agency for International Development, Centre for Democracy and Governance, "USAID's Experience in Decentralisation and Democratic Local Governance", Washington, DC, September 2000, p. 3.

[130] Former adviser to the CPA Larry Diamond warns about moving too fast in devolving powers to local government: "there is…the problem of capacity for self-governance at the local and provincial level. This can be a particular problem in terms of the ability to raise, budget, and expend resources. In a country like Iraq, where the central government receives large streams of revenue from petroleum exports, a system can be developed to allocate some portion of this revenue automatically to the lower units of government, by a formula, perhaps largely based on shares of population, that is mutually negotiated and generally accepted as fair. But still, lower governments must develop the capacity to administer the revenue and provide the necessary services. Often, this requires a period of training and a phase-in of responsibilities devolved down from the centre. One of the most important lessons from other country experiences is that local governments should not be burdened with obligations to perform functions and provide services for which they do not have adequate revenue or training". Diamond, "Why Decentralise Power in A Democracy?", op. cit.

[131] An observation made by Tim Campbell of the World Bank. In an analytical note made available to ICG in October 2004, Campbell argues that Order 71 "has more to do with basic structure of the state apparatus than powers and the process of delivering local services. It does not speak about functional responsibilities -- for which services each level is to be responsible -- plus the means of setting priorities, and mechanisms to coordinate services and investments".

Campbell concludes: "the heart of government is left out of this Order. The Order ignores many aspects of the governance process which bring it to life".

[132] Pioneering their newly-won powers, some councils began exercising budgetary oversight in early 2004. Such was the case, for example, in Baghdad, which has seen the furthest development of local government and where the Baghdad Municipality started providing the City Advisory Council with its budget and expenditures for approval. ICG interview with Sabieh Radi al-Ka'bi, member of the City Advisory Council for al-Rashid district, Baghdad, 17 July 2004, who said that, "this is our biggest achievement to date".

Government afterwards) and local councils, as well as between the central government's administrative apparatus and local councils.[133] Moreover, in light of the weakness of central ministries that were gutted in the post-war days and continuing lawlessness affecting road traffic in particular, links between the central administration in Baghdad and administrative nodal points in the governorates remain inconsistent and weak; the CPA's emphasis on first restoring a semblance of order in the capital accentuated the disconnect.

Since the end of the war, local councils and local directorates-general (which had embodied executive power under the former regime) have performed a delicate *pas de deux*. In the immediate post-war period, the directorate-generals suffered a haemorrhaging of senior management due to overzealous de-Ba'athification, leaving them in disarray (not to mention the fact that most administrative offices were stripped bare during the initial looting spree).[134] In this power vacuum, the military and CPA established local councils which de facto were given the role that the Ba'ath Party formerly had occupied -- except that the party was all-powerful even though it did not take the form of a legislature, while the councils have the trappings of a legislature without, so far, powers to govern. "We are changing the distribution of power between the centre and the regions", one CPA official told ICG in August 2003. "We are gradually handing over powers to local councils in the governorates; no one wants a centralised state any longer".[135]

But tensions between councils and directorates-general endured. They reflected both political and cultural differences. While the councils embody post-war political realities, they are seen by some as rife with opportunists who earned their position through good relations with the occupation forces.[136] Conversely, council members claim that loyalists of the former regime are firmly entrenched in the administration, despite de-Ba'athification.[137]

Supposedly empowered councils have been mostly ineffective, while the directorates-general -- with expertise and experience -- have proved more resilient than expected and made some effort to deliver essential services. Overall, the combination of advisory and underdeveloped councils and of relatively disfavored and neglected local directorates-general meant that reconstruction lagged and ordinary Iraqis suffered. Many infrastructure-rebuilding decisions, for example, have been taken by military commanders over the heads of -- and without input from -- local administrators or council members. Whereas the CPA provided significant support for central ministries in Baghdad and the local councils there,[138] it disregarded equally critical work in the governorates, largely ignoring the directorates-general and paying relatively little attention to local councils (except for a brief period after 15 November 2003).[139] "Whenever there was a

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[137] ICG interview with Dr. 'Ammar Zaini, a spokesman for Islamic Da'wa, Najaf, 27 January 2004. These claims were repeated by other Iraqis interviewed in Mosul and Basra. Lustrations under de-Ba'athification affected only the upper layers of management.

[138] For years, the delivery of basic services in Iraq was carried out by meticulous, under-worked and often corrupt bureaucrats in overstaffed ministries. At the local level, these bureaucrats depended on central ministries in Baghdad for planning, decision-making and implementation procedures. After top managers were removed as part of de-Ba'athification and many senior bureaucrats left their positions more or less voluntarily, the central ministries -- empty of all furniture and files -- stopped functioning and the system of centralised governance broke down because there was no one with authority to take, communicate or enforce decisions. The USAID Office of Transition Initiatives (OTI) explained the process of rebuilding central governance capacity: "it wasn't possible to get some basic services -- electricity, water, just to name a few -- up and running unless you could get Iraqi civil servants back to work. And it wasn't possible to get them back to work unless you could do something about their former headquarters….We launched a program, OTI did, to go in and rehabilitate. We started with the national ministries -- justice, finance, the banks -- and worked our way through the ministries….We made a decision fairly early on that we weren't going to try to put everybody back to work but a core staff of 100 in each ministry. So that's what we did". Presentation by Fritz Wheaton, former head of OTI in Iraq, "Local Governance Consultation, Iraq Sectoral Conferences -- Third Series", 30 September 2003, available at http://www.usaid.gov/iraq/vid_live093003_t.html.

[139] This problem was noted as early as June 2003, when Colonel Mayville, then the virtual governor of Kirkuk, entered a council meeting to express his discontent at the CPA's focus

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[133] The Deputy Governor of Kirkuk, for example, complained that, "it simply takes too long to reach a ministry in Baghdad to get a reply for a query. We had to organise a trip to Baghdad to introduce ourselves. Using the American military to communicate with Baghdad is still the quickest way". ICG interview, Kirkuk, 17 January 2004.

[134] ICG interviews with staff members at several RTI governorate offices in Iraq, January-February 2004.

[135] ICG interview, Baghdad, 29 August 2003.

[136] ICG interviews in al-'Amara, Najaf, Mosul and Karkh (Baghdad) among others, January-February 2004.

conflict between centre and region", one former official noted, "the centre invariably would win".[140]

After the 15 November Agreement, the CPA temporarily shifted its attention to the local councils, but the focus was exclusively on electoral exercises while local governance as such continued to suffer from relative neglect.[141] As time passed, though, aspirations began to be expressed, and tentative efforts made (for example, through the appointment of a Minister of Provincial Affairs), to clarify the relationships between councils and administrative organs of the state and to re-connect the two branches of government, as well as the centre with the periphery. In the words of a senior CPA official: "The ministers in Baghdad at least need to know who to talk to and vice versa, even if levels of responsiveness may vary".[142] Another official declared: "We are encouraging the councils to interact with the central ministries, to hold meetings on the budget, and so forth. Some town councils are already summoning the directors general of the ministries for consultation" -- a procedure unheard of in Ba'athist Iraq.[143]

Thus, in Basra, the governorate council and the directorates-general established a Technical Coordination Council.[144] This may have been possible because in Basra the directorates-general, as well as some public companies, conducted their own internal elections for senior management positions after the

old managers had either been subjected to lustration or simply vanished.[145] In Mosul, by contrast, hostility has repeatedly surfaced between the governorate council and the local administration because the latter was still staffed with Ba'athists. In Karbala, a local official complained, central ministries continued to control local affairs "through the power of the purse".[146] In Baghdad, relations between the City Advisory Council and the ministries have been strong and fruitful. The council has a representative, with an office, in each ministry. One level below, Baghdad's nine district advisory councils have direct links to the Municipality (*Amanet* Baghdad, the head of which has cabinet status) and its directorates-general, also via a representative within the bureaucracy. Concerns are passed up from the 88 neighbourhood advisory councils to the district councils and the city council and then relayed to the relevant ministry if lower administrative levels cannot tackle the problem.[147]

While progress has occurred in some areas, Iraq's new rulers have devoted only little attention to local councils. During its ten-month reign (13 July 2003 to 31 May 2004), the Interim Governing Council had almost no perceptible profile or impact at the local level. This was because its members often had only tenuous roots in local politics and were preoccupied with extending their hold on central power, for example by staffing Baghdad ministries with political supporters. An outreach campaign designed to explain the 15 November Agreement, decentralisation, federalism and local government to a broader audience of Iraqis never got off the ground, except for some individual Interim Governing Council members attending town hall meetings organised by the CPA and RTI.[148] The Interim Governing Council did not

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on Baghdad and urged council members to tell a visiting representative of Paul Bremer's office that they would turn down any invitation to come to Baghdad, insisting instead that CPA officials come to Kirkuk. Referring to the impending visit by one such official, he declared: "tomorrow is a victory, because I got them to come here". ICG presence at Kirkuk council meeting, 9 June 2003.

[140] "The CPA was advocating one thing -- decentralisation -- while doing the opposite". ICG interview with a former adviser to the CPA, Washington, DC, 6 August 2004.

[141] This was not the approach taken by RTI, according to a representative: "we believe we're working in what is considered to be the essence of democratic development, working both in terms of trying to equip the local councils and the technical heads of the departments with the tools they need to become modern managers of the new democratic Iraq". ICG interview, Najaf, 28 January 2004. See also, Aaron Williams, RTI International vice-president for international business, "Local Governance Consultation, Iraq Sectoral Conferences -- Third Series", 30 September 2003, available at http://www.usaid.gov/iraq/vid_live093003_t.html.

[142] ICG interview with a senior CPA-North official, Erbil, 16 January 2004.

[143] ICG interview, Baghdad, 6 September 2003.

[144] ICG interviews, RTI Basrah, CPA Basrah and Deputy Governor of Basrah, 9 and 14 February 2004.

[145] ICG interviews with political parties and a public sector employee, Basrah, 9-15 February 2004.

[146] ICG interview, March 2004. Likewise, a CPA-South briefing complained that in May 2004, "The lack of a single model covering the operating relationship between the centre and the periphery, lack of transparency and accountability within ministries, made worse by invisible bureaucratic procedures, all continue to cause delays in payments, operational confusion, and failures in the delivery of services to citizens". Coalition Provisional Authority South, "CPA South: Achievements and Progress", 31 May 2004. As one NGO worker in Mosul put it, many Iraqis were feeling as if they were "at the bottom of the food chain". ICG interview, Mosul, 16 January 2004.

[147] ICG interviews with council members, Baghdad, 17-21 July 2004.

[148] The first town hall meeting was held in Basra on 29 December 2003 and was followed by similar meetings in Mosul, Baghdad, Ba'quba, Naseriyeh, Tikrit, Najaf, Hilla and

even maintain regular, formal contact with the governors, and the input it received from the governorates was limited to individual contacts or impressions.[149] Basra's governor was the only one to serve on the Interim Governing Council, but citizens complained that this turned out to be of dubious merit. A politician noted that in any given month the governor, Wa'el Abd-al-Latif, spent "21 days in Baghdad and only nine in Basra" and was unable to focus on local issues.[150]

More seriously, many members of the Interim Governing Council seemed allergic to decentralisation, or at least certain aspects such as the right to appoint governors and police chiefs which they wished to retain.[151] They took this position,

according to a close observer of their meetings and interactions, because they "realised that local Iraqis would appoint none of their acolytes".[152] Their ideal model of decentralisation, he said, was the Kurdistan Regional Government, "essentially a centralised fiefdom within a decentralised state". Moreover, the Interim Governing Council took the position that it should also be allowed to appoint the governorate councils, at least as long as there were no direct elections (which, under the TAL, are to include elections to the governorate councils no later than January 2005). This was disturbing to the CPA, and although the CPA-led refreshment drive in early 2004 had a different motive, it served momentarily to keep to a minimum the Interim Governing Council's role in local governance.[153]

The CPA's ad hoc and at times lukewarm approach to local councils deprived them of the legitimacy they required to become effective institutions of local governance.[154] No real powers were invested in them,

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other towns. Typically they involved 150-200 participants, with topics ranging from federalism to women's rights. Attendance was by CPA invitation only and closely restricted to leading local figures. ICG presence at Baghdad town hall meeting, 28 January 2004, and ICG interview with Interim Governing Council member Wa'el Abd-al-Latif regarding the Basra town hall meeting, Baghdad, 29 January 2004. For Mosul, see Neela Banerjee, "Iraqis Get a Taste of Democracy at a Lively Town Hall Meeting", *The New York Times*, 13 January 2004. A spokesman for Muqtada Sadr's office was sharply critical of the Interim Governing Council's outreach campaign, calling it "a joke". ICG interview with Sheikh Abbas, Baghdad, 11 January 2004.

[149] ICG interviews with Interim Governing Council and governorate council members, January-February 2004.

[150] ICG interview with Abu Salam of the Jami'at al-Fudhala', Basra, 10 February 2004. Wa'el Abd-al-Latif was subsequently appointed minister of state for governorate affairs in the Interim Government.

[151] One governance expert in Basra suggested as early as February that "the Baghdad ministries are playing for the long shot. They think that if they ride out [the transition on] 1 July, they can hang on to centralised power, the power to appoint people". ICG interview, Basra, 14 February 2004. The Iraqi interim governing authorities are not an exception in this regard. A USAID "Lessons Learned" briefing based on experiences worldwide warns that "political will is critical for reform efforts. Despite pronouncements to the contrary, central governments often do not want to devolve power to the local level. National political leaders and civil servants may resist decentralisation for any number of reasons, from the narrow interest of retaining power to the broader concern of maintaining national standards". U.S. Agency for International Development, Centre for Democracy and Governance, "USAID's Experience in Decentralisation and Democratic Local Governance", Washington, DC, September 2000, p. 3. A USAID handbook on decentralisation reads: "Decentralisation requires the existence of elected local governments because local officials do not have meaningful autonomy unless they answer to their constituents. Appointed local officials must ultimately act according to the interests of those in the national capital who gave them their jobs; they are

effectively agents of the national government. A local system in which government officials are appointed, then, is a centralised system that has not begun to decentralise." U.S. Agency for International Development, Centre for Democracy and Governance, "Democratisation and Democratic Local Governance Programming Handbook", Washington, DC, May 2000, p. 6.

[152] This was true even for groups such as SCIRI and al-Da'wa, he said. ICG interview with a former adviser to the CPA, Washington, DC, 6 August 20004. A preponderance of Interim Governing Council members were former exiles or émigrés, and many of their close supporters locally also had returned from abroad, not always to a warm reception. A CPA official remarked as early as September 2003 that, "there may be a desire on the part of the central government to retain the right to appoint governors, but the situation is changing, and they may have to be elected from now on. Much will be learned in practice. For example, governors will need to learn to compete for funds from the federal pot". ICG interview, Baghdad, 6 September 2003. By August 2004, however, the tide had begun to turn against decentralisation, leading some officials to warn that the Interim Government or any successor government might seek to re-arrogate the power to appoint local officials, most importantly the governors.

[153] ICG interview, Washington, DC, 4 August 2004.

[154] In a telling sign of the CPA's belief in the need for a stronger centralised government, it issued, in one of its final acts, a new order, Order 100 (28 June 2004), that amended many earlier ones, including CPA Order 71 on Local Governmental Powers. The new order strengthened the powers of the central government vis-à-vis the provincial councils and governors by making it difficult for these local authorities to fire designated senior officials, including directors general or chiefs of police. Available at http://www.cpa-iraq.org/regulations/20040628_ CPAORD_100_Transition_of_Laws__Regulations__Orders_ _and_Directives.pdf. The CPA also cut RTI's budget for its

and they never were able to shake the taint of having been created, and "refreshed", by foreign hands in exercises that fell short of eliciting the popular will.[155] Nor has there been adequate time to devolve power, a process that, most experts agree, must be gradual and incremental and faces major bureaucratic obstacles. "Decentralisation is a good idea in Iraq", remarked a former advisor to the CPA. "But it requires time. In most countries it takes years, if not decades. In Iraq, time is what we don't have".[156]

second year from $167 million to $68 million. In part this reflects the reality that most equipment has already been purchased and fewer expatriate staff were set to be deployed in Iraq (certainly after the onset of hostage taking). But, said a U.S. official, "the CPA requested less USAID funding for governance also because it didn't like the decentralisation component". ICG interview, Washington, DC, 26 July 2004. Still, total USAID funding for RTI's work on local governance was $236,911,000 spread over two years, the largest non-infrastructure-related grant to any funding recipient working in Iraq. See "USAID Iraq Reconstruction Financial Summary", in USAID, "Iraq Reconstruction and Humanitarian Relief", Weekly Update no. 41, 21 July 2004, pp. 16-18.

[155] Larry Diamond, a former CPA official, ascribes the U.S. occupation's "legitimacy deficit" to a number of factors, including the cavalier way in which the CPA dealt with the local councils: "[i]f we had given some real authority and funding to the local and provincial councils we were establishing around the country, Iraqis might have seen more progress and found emerging new forms of Iraqi authority with which they could identify. We might have also made more progress by organising actual elections, however imperfect, at the local level where the people were ready for it and the ration-card system provided a crude system for identifying voters. In the few places where this mechanism was employed, it worked acceptably well -- before the CPA ordered that no more direct elections be held….Even so, the local governance teams did a pretty good job in many cases of finding ways to choose, and then later 'refresh', the provincial and local councils. Sadly, the [Commanders Emergency Response Program, CERP] funding was terminated prematurely, and the Local Government Order, defining the powers of provincial and local governments, sat around at CPA for months in various states of development and imminent release, while the local councils dawdled and dithered without much of anything to do, and ominously in some cases, without getting paid for months at a time. Within the CPA itself, I think historians will find that there was an obsession with centralised control, at the cost of the flexibility and devolution that might have gotten things done more quickly and built up more legitimacy". Larry Diamond, "Transition to What in Iraq?", op. cit.

[156] ICG interview, Washington, DC, 6 August 2004.

IV. CONCLUSION: THE URGENT NEED FOR LOCAL ELECTIONS

The outbreak of violence in April 2004 and then again in August and September once more put into question prospects for a stable transition to constitutional democracy. Anyone associated with the foreign powers, be they local councillors or government ministers, or even interpreters and cooks working for the CPA, has become a potential target in a shadow and merciless war. The formal end to the occupation through the establishment of the Interim Government at the end of June did little to diminish the violence or appease the population, nor did the creation of a National Council two months later. [157] Renewed fighting triggered a circle-the-wagons reflex in a government enjoying diminishing popular legitimacy. As a result, the fragile experiment in local governance is further threatened by a central state that is seeking to compensate for its lack of authority by reclaiming any powers devolved to local councils.[158] The result is a situation in which both the isolated central state and the neglected local councils are losing relevance and neither may be in a position to hold the country together.

Although far from a panacea, elections are the key to putting the political transition back on track, so long as they have broad participation and are seen as both free and fair by most of the population. Most

[157] In mid-August 2004, 1,300 Iraqi delegates met in a National Conference to elect 100 members to a transitional National Council, whose powers were set out in the TAL. For a description of the conference, see Kathleen Ridolfo, "Assessing Iraq's National Conference", *Arab Reform Bulletin*, vol. 2, no. 8 (September 2004), available at http://www.ceip.org/files/Publications/2004-09-09.asp?p=1 & from=pubdate#toc.

[158] One local councillor remarked that the Baghdad council's relationship with the Allawi government was weak, because "they feel as if we were forced upon them". ICG interview with Sabieh Radi al-Ka'bi, a member of the City Advisory Council from the al-Rashid district, Baghdad, 17 July 2004. Another councillor said of the government: "It seems that they don't like us. We are seen as monitoring them". ICG interview with 'Imad Khaled Saleh, a member of the al-Mansour District Advisory Council, Baghdad, 21 July 2004. A former adviser to the CPA observed: "Allawi does not favour decentralisation. He sees things through a security prism, and this requires tight centralised control. No political player in Baghdad is committed to decentralisation except the Kurds, and if they were in power in Baghdad, they would also favour centralised power, just as they do in their own regions". ICG interview, Washington, DC, 6 August 2004.

importantly for the short term, they need to put in place a leadership enjoying popular support, untainted by the occupation and, therefore, more able to crack down on insurgents, dissuade the population from offering them tacit support and lure disaffected Sunni Arabs back into the political game.

Three sets of elections are envisaged under the TAL and are in various stages of preparation:

❑ national, to a transitional National Assembly (that will appoint a new government and also double as a constituent assembly charged with drafting a permanent constitution);

❑ local, to governorate councils (that can then appoint new governors); and

❑ in the governorates of Erbil, Dohuk and Suleimaniyeh, to the (reunified) Kurdistan Regional Assembly.

The experts with whom ICG has spoken agree that these elections are at threat from spiralling violence that is undermining an already highly compressed timetable. Despite repeated assurances from Iraqi and U.S. officials that they will take place on schedule, security and logistical hurdles are so far from being overcome that it is increasingly likely they will be postponed at least until March 2005.[159] The alternative -- that they be held in those parts of the country that are secure -- raises the prospect that the Sunni Arab minority will not participate, further alienating the very segment of the population that is at the heart of the insurrection. Because national elections are based on a single electoral district, with seats to the National Assembly allocated through proportional representation,[160] it will be impossible to set aside seats for areas in which voting does not take place.

Under either scenario, in other words, national elections are unlikely to represent a breakthrough in the short term. If they are delayed, Shiites could rebel, particularly if the postponement is viewed as open-ended. This would leave new room for political wild cards such as Muqtada Sadr to edge out moderates such as Ayatollah al-Sistani and set off a conflict that could, because of its sectarian basis, veer toward civil war. If they are held on time or with slight delay, they risk excluding certain key sectors of the population, in particular Sunni Arabs, which would have a long-lasting and devastating impact. Their absence from a transitional national assembly that is to double as a constituent assembly -- their effective exclusion, in other words, from both immediate political life and the longer-term constitutional process -- would further and more decisively alienate them from the rest of the country.

There is further reason to be concerned about the outlook for national elections. Already, the same parties that provided the basis of the Interim Governing Council, then of the Interim Government and the National Council, are rumoured to be preparing a single slate for January 2005.[161] They would agree on their candidates' rankings through opaque backroom bargaining, and the absence from the political scene of any coalition of parties that approximates the level of organisation characterising these formerly exiled parties (including the principal Kurdish parties) would virtually ensure the latter's overall victory. Their leaders would justify the power grab by the need for continuity in trying times but, although popularly elected, the new assembly would be unlikely to enjoy popular legitimacy because of the manipulation, evident to all, that preceded it. Such an election would do little to bring stability to the country.

Everything must be done, in the little time that remains, to put the political process back on track. This means organising national elections no later than January 2005 if in the UN's estimation there are no significant technical or security obstacles to broad

[159] ICG interview with a person involved in preparations for the elections, Amman, 26 September 2004; ICG interview with former CPA official, Washington, October 2004. Logistical hurdles include the registration of voters (including Iraqis living abroad), public education and assistance to political parties to enable them to attain ballot status (by encouraging coalitions) -- all under conditions of extreme hazard to candidates, voters and those organising the polls. ICG interview, Washington, DC, 11 August 2004.

[160] CPA Order 96 on the Electoral Law, 7 June 2004, available at http://www.cpa-iraq.org/regulations/20040615_CPAORD_ 96_The_Electoral_Law.pdf. For a supportive view of the chosen electoral system, see Jeff Fischer, "Iraq's Electoral System: A Strategy for Inclusiveness", and for a contrary view, see Michael Rubin, "Iraq's Electoral System: A Misguided Strategy", both in *Arab Reform Bulletin*, vol. 2, no. 8,

September 2004, available at http://www.ceip.org/files/ Publications/2004-09-09.asp?p=1&from=pubdate#toc.
[161] See Dexter Filkins, "Sistani fears a delay in elections, aides say", *International Herald Tribune*, 24 September 2004, as well as Mariam Karouny, referring to SCIRI leader Abd-al-Aziz al-Hakim, "Shiite leader wants single election list in Iraq", Reuters, in *Daily Star*, 13 October 2004.

popular participation in all parts of the country.[162] Should this not be possible, however, the Interim Government should organise elections to provincial councils first. These ought to proceed wherever possible and on a rolling basis, allowing laggard governorates to catch up as soon as they are ready.[163] For the most part, this would mean that elections would be held first in the predominantly Shiite governorates, whose populations would come away feeling truly represented in governing institutions for the first time. The same would hold for the three governorates that make up the Kurdish region, which had parliamentary elections in 1992 but whose voters have not expressed themselves since; in addition to three provincial councils, Kurdish voters should also elect, as scheduled, a new Kurdistan Regional Assembly.[164] Local elections in the governorates of Nineveh (Mosul) and Ta'mim (Kirkuk) would be more problematic because of their unique mix of populations and sectarian tensions arising from the reversal of the former regime's Arabisation policy, but

these would be less sensitive than elections to a national/constituent assembly.

Predominantly Sunni Arab governorates such as al-Anbar might not be able to organise elections for some time, but nothing would be lost by the delay except, of course, their own internal stabilisation. Moreover, successful elections elsewhere might act as an incentive to proceed there as well. Under this scenario, national elections would be held only once elections yielding legitimate provincial councils could take place in the remaining governorates. Ideally this would be somewhat later in 2005; regardless, it would push back the constitutional process that -- under the TAL -- is scheduled to be completed by 31 October 2005. In the interim period, the current government and national council would continue to govern with limited powers, while matters of local import should increasingly be taken on by the provincial councils working in tandem with the appointed governors, chiefs of police and directorates-general. Elected provincial councils should also move to organise, as soon as technically possible, elections to lower-level councils at the town, neighbourhood, district and sub-district level within each governorate.

While the precise extent to which power ought to be devolved to local councils should not be envisioned until the drafting of a new constitution[165] -- and even then the constitution should provide only the rough outlines of a decentralised state, leaving the details to be filled in as the state reasserts its grip on the nation -- steps should be taken now to strengthen the powers of local councils, enhance their budgetary authority, and improve coordination between them and national ministries and directorates-general in terms of setting priorities and delivering services. Local councils already have accumulated experience in government; once elected, they will be in a better

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[162] Existing Iraqi law is unclear as to who has the authority to postpone elections, The TAL merely states that elections are to be held no later than 31 January 2005; CPA Order 92 of 31 May 2004 establishes the Independent Electoral Council of Iraq and empowers it "to organise, oversee, conduct, and implement all elections set forth in the TAL"; and CPA Order 96 of 7 June 2005 prescribes the type of national election. It would appear that the sovereign Interim Government has the ultimate power to postpone elections, even in contravention of the TAL. Ultimately, for purposes of legitimacy and given controversy surrounding elections, the government ought to follow the recommendation of the UN experts.

[163] There is no technical obstacle to separating legislative elections from elections to provincial councils. ICG interview with an elections expert, Amman, 12 October 2004.

[164] The three Kurdish governorates, which have been autonomous since late 1991, remain the best prepared for elections, and the region is ready for an overhaul of its governance structures. From a technical perspective, organising elections should not present major problems, as the region has at least the experience of elections, and the ration-card system is in better shape there than in the rest of Iraq. Politically, much will depend on any deal reached between the KDP and PUK concerning the re-unification of their separate regional administrations. In terms of security, Kurds' misgivings over the use and threat of violence and intimidation concern known entities: the principal Kurdish parties. Independent monitoring could overcome any attempt by these parties at undermining a free and fair vote. This is a distinctly manageable problem compared to the security conditions that prevail in other parts of Iraq. The real challenge for Kurdish voters is that they will be casting ballots for a body, the Kurdistan Regional Assembly, whose powers and geographic reach are to be determined only some time later. See also, ICG Report, *Iraq's Kurds*, op. cit.

[165] If opinion polls in today's Iraq can be trusted, there appears to be moderate support for devolution to local councils. In response to the question whether Iraq's new constitution should "give significant powers" to the governorates, 44 per cent of sampled Iraqis declared they "strongly agree" (as compared with 82.1 per cent who expressed strong support for the constitution guaranteeing the basic rights of all Iraqis), while 10.3 percent said they "strongly disagree". The remainder fell somewhere in between. International Republican Institute and the Independent Institute for Administrative and Civil Society Studies, "Political Attitudes Survey of the Iraqi Electorate", 24 July -- 2 August, available at http://www.iri.org/pdfs/IRI% 20July%20PUBLIC%20Poll%20Presentation.ppt.

position to assess local needs, deliver services and help stabilise their areas.[166]

In the longer term, the future Iraqi constitution should broadly delineate the powers of local government. Lessons from the past suggest that these should include the powers to:

❑ appoint local officials, including the governor;

❑ create local law;

❑ impose local taxes and raise other revenues; and

❑ approve budgets.

Moreover, building on a practice that ought to be instituted as soon as feasible, the constitution should include language granting local governments access to automatic revenue transfers from the central government that are fair (calculated on the basis of population) and independent of local budgetary requirements, with local governments bearing the responsibility of covering shortfalls through local revenue generation.

Baghdad/Amman/Brussels, 27 October 2004

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[166] "Elections are imperative", said a Baghdad city council member. "We need to re-elect all the councils according to new criteria that bring forward qualified people". ICG interview with Dr. Riyadh Nassar al-A'thath, a member of the City Advisory Council, Baghdad, 25 July 2004. Another councillor agreed: "I absolutely support new elections. Too many councillors are illiterate or joined for their own personal benefit. There should be new criteria and only qualified persons should be allowed to apply". ICG interview with 'Imad Khaled Saleh, a member of the al-Mansour District Advisory Council, Baghdad, 21 July 2004.

APPENDIX A

MAP OF IRAQ

IRAQ

TURKEY

SYRIAN ARAB REPUBLIC

ISLAMIC REPUBLIC OF IRAN

JORDAN

SAUDI ARABIA

KUWAIT

Hakkâri · Orūmīyeh (Umia) · Daryācheh-ye Orūmīyeh (Lake Urmia) · Mīāneh · Qïzïl Owzan · Zanjān · Mīāndowab

Zākhū · DAHŪK · Dahūk · 'Aqrah · Rāyāt · ARBĪL · Arbīl · Kūysanjaq · AS SULAYMĀNĪYAH

Al Qāmishlī · Sinjār · Tall 'Afar · Al Mawşil (Mosul) · NĪNAWĀ · Al Qayyarah · Makhmūr · As Sulaymānīyah · Sanandaj · Hālabjah

Ar Raqqah · Al Ḩaḑr · AT TA'MĪM · Kirkūk · Ţāwūq · ISLAMIC REPUBLIC OF IRAN · Hamadān

Dayr az Zawr · Bayjī · Great Zab · Little Zab · Nahr al 'Uzaym · Qaşr-e Shīrīn · Kermānshāh

Abū Kamāl · 'Anah · ŞALĀḨ AD DĪN · Khānaqīn · Borūjerd · Khorramābād

Al Ḩadīthah · Tharthā Lake · Sāmarrā' · DIYĀLĀ · Ba'qūbah · Īlām

Akāshāt · Al Qā'im · Al Ḩabbānīyah · Hīt · Ar Ramādī · Al Fallūjah · Baghdad · BAGHDAD · Mehrān

Al Walid · Wādī Ḩawrān · Ḩabbānīyah Lake · Razzaza Lake · Dehlorān · Dezfūl

Ar Ruṭbah · Trebil · AL ĀNBAR · Wādī al Ghaḑawī · Karbalā' · BĀBIL · Al Ḩillah · WĀSIT · Al Kūt · Shaykh Sa'd · Alī al Gharbī

Nukhayb · Wādī al Ubayyiḑ · KARBALĀ' · An Najaf · Ad Dīwānīyah · Al Hayy · MAYSĀN · Al 'Amārah · Ahvāz

Judayyidat 'Ar'ar · Abū Şukhayr · AL QĀDISĪYAH · Qal'at Sukkar · Qal'at Şāliḩ

Ar'ar · Qaryat al Gharab · DHĪ QĀR · Al Qurnah · Khorramshahr · Abādān

AN NAJAF · As Samāwah · An Nāsirīyah · Euphrates · Hawr al Ḩammār · Al Başrah · Umm Qasr

As Salmān · Jalībah · AL BAŞRAH · Al Fāw

AL MUTHANNĀ · Makhfar al Buşayyah · KUWAIT · Al Jahrah · Persian Gulf · Kuwait · Al Ahmadī

Rafḩā · Ḩafar al Bāṭin

Legend

- National capital
- Governorate capital
- Town, village
- Airport
- International boundary
- Governorate boundary
- Expressway
- Main road
- Secondary road
- Railroad

IRAQ

| 0 | 50 | 100 | 150 | 200 | 150 | 300 km |

| 0 | 50 | 100 | 150 | 200 mi |

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Map No. 3835 Rev. 4   UNITED NATIONS
January 2004

Department of Peacekeeping Operations
Cartographic Section

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 100 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers. ICG also publishes *CrisisWatch*, a 12-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.icg.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York, London and Moscow. The organisation currently operates nineteen field offices (in Amman, Belgrade, Bogotá, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Osh, Port-au-Prince, Pretoria, Pristina, Quito, Sarajevo, Seoul, Skopje and Tbilisi) with analysts working in over 40 crisis-affected countries and territories across four continents. In Africa, those countries include Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda,

Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Kashmir, Kazakhstan, Kyrgyzstan, Indonesia, Myanmar/Burma, Nepal, Pakistan, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia and the Andean region.

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October 2004

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[*] The Algeria project was transferred from the Africa Program to the Middle East & North Africa Program in January 2002.

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