FAILING OVERSIGHT: IRAQ'S UNCHECKED GOVERNMENT

Middle East Report N°113 – 26 September 2011

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

After years of uncertainty, conflict and instability, the Iraqi state appears to be consolidating by reducing violence sufficiently to allow for a semblance of normalcy. Yet in the meantime, it has allowed corruption to become entrenched and spread throughout its institutions. This, in turn, has contributed to a severe decay in public services. Prime Minister Nouri al-Maliki's government has exacerbated the problem by interfering in anti-corruption cases, manipulating investigations for political advantage and intimidating critics to prevent a replication of the type of popular movements that already have brought down three regimes in the region. The government's credibility in the fight against corruption has eroded as a result, and this, together with troubling authoritarian tendencies, is giving ammunition to the prime minister's critics. To bolster its faltering legitimacy, Maliki's government will have to launch a vigorous anti-corruption campaign, improve service delivery and create checks and balances in the state system.

As violence spread following the 2003 U.S. invasion, the state suffered in equal measure to the general population. In an environment of escalating kidnappings, explosions and assassinations, public services were thoroughly devastated. In the wake of the dramatic February 2006 Samarra bombing, entire ministries were empty, as officials dared not travel to work. Longstanding projects were abandoned overnight. Judges and parliamentarians found they had become targets. Oversight agencies, which should have been less exposed to risk because of their lack of direct contact with the general population, were forced to roll back their operations, leaving state institutions without effective safeguards against corruption or abuse. As a result, state output declined dramatically for a number of years, even as the annual budget steadily increased due to elevated oil prices. The state's paralysis contributed to the proliferation of criminal elements and vested interests throughout the bureaucracy.

By 2009, a combination of factors allowed the state to reassert itself. The U.S. surge (2007-2009) was an important initial factor in improving security, but insofar as institutions were concerned, the rebuilt security forces sufficiently enhanced safety to enable officials to go back to work without protection or assistance from the U.S. military. Today judges are protected by interior ministry forces. The Council of Representatives (parliament) is reliant solely on local police and private contractors for its security. The state has resumed most of its functions.

Despite this improved environment, public services continue to be plagued by severe deficiencies, notably widespread corruption, which spread like a virus throughout state institutions during the years of lawlessness that prevailed until 2008. One of the major causes of this depressing state of affairs is the state's failing oversight framework, which has allowed successive governments to operate unchecked. The 2005 constitution and the existing legal framework require a number of institutions – the Board of Supreme Audit, the Integrity Commission, the Inspectors General, parliament and the courts – to monitor government operations. Yet, none of these institutions has been able to assert itself in the face of government interference, intransigence and manipulation, a deficient legal framework and ongoing threats of violence.

These factors have caused senior officials to resign, including most notably the head of the Integrity Commission on 9 September 2011. Even civil society organisations – confronted by government intimidation in the form of anonymous threats, arrests of political activists and violence, including police brutality – have proved incapable of placing a check on government. Although the perpetrators have yet to be found, the killing on 9 September 2011 of a prominent journalist and leading organiser of weekly protests against government corruption has contributed to rising fears of the Maliki government's authoritarian streak.

The current oversight framework was established by the U.S. Coalition Provisional Authority (CPA) in 2004. The CPA enacted a number of ill-considered reforms from the start. It stripped the Board of Supreme Audit, previously Iraq's only such institution, of significant powers, including the exclusive authority to oversee public procurement and refer suspected corruption cases to the courts. The CPA transferred that authority to the Integrity Commission, an institution established in 2004 to act as the focal point for all anti-corruption activities. Despite having overcome serious threats to its existence in its early years, the Commission to this day cannot carry out its investigations in-

dependently, as a result of staffing problems and restricted access to certain government departments. It has, therefore, been dependent on the Inspectors General, another CPA-established institution that has placed auditors and investigators in all ministries and other state institutions. However, due to a seriously deficient legal and administrative framework, that institution has been incapable of organising its work and remains one of the most underperforming state entities.

The Council of Representatives, the most important body in the new oversight framework as it holds the key to reform in all areas of governance, is perhaps the most ineffective of all. Its inner workings are hopelessly sectarian, and its bylaws are so cumbersome and deficient that it has been incapable of enacting long-overdue legislation designed to repair the damage caused to state institutions since 2003. Moreover, as a result of the delicate political balances struck following both the December 2005 and March 2010 elections, which saw the rise of broad coalition governments deprived of a real parliamentary opposition, the Council has been unable to exercise effective oversight on government, for fear it might upset the political alliances that undergird it.

Meanwhile, the judicial system (in particular the Federal Supreme Court, supposedly the arbiter of all constitutional disputes) has been highly vulnerable to political pressure. It decided a number of high-profile disputes in a way that gave the Maliki government a freer hand to govern as it pleases, unrestrained by institutional checks.

The impact is palpable: billions of dollars have been embezzled from state coffers, owing mostly to gaps in public procurement; parties treat ministries like private bank accounts; and nepotism, bribery and embezzlement thrive. Partly as a result, living standards languish, even paling in comparison with the country's own recent past. This applies to practically all aspects of life, including the health, education and electricity sectors, all of which underperform despite marked budget increases. Also of great concern has been the deterioration in environmental conditions, especially an alarming increase in dust storms and desertification. Pervasive corruption has impeded the state's capacity to deal with these problems.

If corruption has taken root, it is not because of a lack of opportunities for reform. Technical experts have excelled in presenting workable proposals, but almost none have been adopted. Because of its deficient framework, and also because of government obstruction, parliament has been unable to pass any of the legislative reforms that have been on the table since at least 2007. These include, among others, a law that would force political parties to disclose their financial interests; rules that would improve the oversight institution's performance; and a law that would protect the Supreme Court's independence. The few reforms that have been adopted restate the existing framework's deficiencies and will not significantly improve the state's performance. Until these, as well as other, actions are taken, the government will continue to operate unchecked, bringing with it the type of chronic abuse, rampant corruption and growing authoritarianism that is the inevitable result of failing oversight.

RECOMMENDATIONS

To the Government of Iraq and to the Council of Representatives:

1. Strengthen the anti-corruption framework to allow for greater and more effective cooperation and coordination between the various state institutions involved in combating corruption, specifically by:
   a) allowing all anti-corruption and audit officials to refer criminal matters directly to the courts;
   b) guaranteeing the independence of the Inspectors General from government ministers, in particular by providing that ministers and the prime minister play no role in inspectors' recruitment and dismissal;
   c) formalising cooperation between oversight agencies by requiring them, notably the Inspectors General, to adopt standard operating procedures;
   d) increasing each oversight institution's training budget to develop skills necessary to carry out auditing and investigatory missions independently of other institutions; and
   e) passing effective witness protection legislation and ensuring public access to government information.
2. Pass political party legislation requiring parties to display financial transparency and publish detailed annual accounts, including all sources of income and expenditures.
3. Reform the Council of Representatives' bylaws, including by removing administrative matters from the speaker's prerogatives, facilitating the formulation of legislative bills and accelerating the lawmaking process.
4. Streamline the legislative process by:
   a) clarifying and strengthening the working relationship between institutions involved in the preparation of new legislation;
   b) clarifying each institution's role; and
   c) establishing clear lines of communication between these institutions.

5. Reform the Council of Representatives' oversight function to focus on policy implementation through the questioning of senior technocrats and administrative officers rather than politicians.
6. Enact a law that would prevent the head of the Higher Judicial Council from occupying the position of chief justice, and protect the Supreme Court's independence by forbidding any political interference.

To the United States and other members of the International Community:

7. Publicly express disapproval of the Iraqi government's and parliament's failures regarding long-overdue reform.
8. Provide immediate and direct support to the Council of Representatives by seconding experts in parliamentary development to work directly in the Council's offices on a long-term basis.
9. Support efforts to reform the anti-corruption framework, notably through advice on rendering administrative functions more efficient.

Baghdad/Brussels, 26 September 2011

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I. INTRODUCTION: RISING PUBLIC ANGER

A. INITIAL PROTESTS AND GOVERNMENT RESPONSE

The Iraqi state is facing important challenges to its legitimacy that could undermine its stability. The impending U.S. troop withdrawal will test security forces' ability to maintain law and order, given the potential for increased insurgent attacks and a deterioration along the "trigger" line in the north separating Kurdish forces from those under Baghdad's control.[1]

At the same time, the government's continued inability to deliver adequate services represents just as serious a threat to the state's legitimacy. Corruption, most notably the embezzlement of state funds by senior officials, reached staggering levels several years ago and shows no sign of abating. Iraqis are increasingly critical of the sometimes appalling quality of service delivery (most notably electricity, health, housing, education and garbage collection), which they see as resulting directly from graft and nepotism in both Baghdad and the governorates. This perception, combined with summer temperatures that can sometimes reach close to 60 degrees Celsius, made worse by the exponential rise in sandstorms (perceived as resulting from man-made causes),[2] led to riots in the south (notably in Naseriya and Basra) in 2010, leading to several deaths and the resignation of the electricity minister in the then-caretaker government.[3]

The revolutions that have spread throughout the Middle East and North Africa since December 2010 have given new impetus and a sense of urgency to the call for better governance in Iraq. Spontaneous demonstrations broke out in February 2011 in Suleimaniya (the Kurdistan region's second-largest city), partly in solidarity with the Tunisian and Egyptian revolutions, but specifically also to protest the rule of the two main Kurdish parties. A new generation of Iraqi youth leaders then sought to capitalise on this momentum, launching demonstrations throughout the country on 25 February, which they dubbed a "day of rage".

Prior to the demonstrations, the government made a series of pre-emptive concessions, including an announcement by Prime Minister Nouri al-Maliki that he would halve his salary and not seek a new term after the next elections, scheduled for 2014. The council of ministers, fearing an increase in inflation, voted to suspend a decision that had been taken a few weeks before to introduce higher customs fees and duties on the import of certain goods (a decision that was designed to protect the agricultural sector from dumping and other non-competitive practices by neighbouring countries). Parliament (the Council of Representatives, Majlis al-Nuwwab) initially rejected an initiative to increase the number of vice presidents from two to three, saying the additional position would be a waste of public funds.[4] It also shifted close to $1 billion intended originally for the acquisition of military aircraft to social programs in the 2011 state budget.

In addition, security forces took a number of pre-emptive measures of their own, including by beating and intimidating anyone who participated in warm-up demonstrations in the days leading up to 25 February. In Suleimaniya, armed guards belonging to the Kurdistan Democratic Party shot and killed a protester and injured scores on 17

[1] See Crisis Group Middle East Report N°103, *Iraq and the Kurds: Confronting Withdrawal Fears*, 28 March 2011.

[2] Dust storms are distinct from sandstorms. They occur in dry areas; the dust in question is organic material (including soil) that has been dried during periods of drought. Sandstorms occur in areas such as the Sahara and carry with them actual particles of sand. Although very little official data is available on the occurrence of dust storms in Iraq, the research that has been carried out and anecdotal evidence suggest that, prior to 2003, they had been taking place at a rate of one or two a year; nowadays, they occur several times a week. They are proving to be deadly. During a particularly bad episode on 16 April 2011, there were thirteen deaths due to respiratory difficulties in Najaf province alone. See Fadhil Rashad, "Najaf: 13 people killed during a dust-storm", *Al-Hayat*, 17 April 2011.

[3] The minister was replaced by Hussain al-Shahristani, the oil minister, who assumed dual portfolios until a new government was formed in December 2010.

[4] The original proposal for three vice presidents was approved on 16 May 2011. Vice President Adel Abd-al-Mahdi resigned on 21 May to express dissatisfaction with the government's size and performance and has not been replaced.

February. In Baghdad, a gang attacked a group of protesters with knives and other weapons four days later. Military officers raided the offices of a non-governmental media organisation, the Journalistic Freedom Observatory, in the early hours on 25 February, ransacking the premises and seizing equipment and data. Later that same day, security forces announced a "no-drive" zone throughout the capital. Nevertheless, thousands took to the streets in Baghdad and at least sixteen other cities, torching government offices and forcing the resignation of several public officials, including the governors of Basra and Babel, as well as the head of the Fallujah municipal council. Security forces killed close to twenty demonstrators on 25 February and wounded many more.

In the weeks that followed, demonstrations largely died down, in part as a result of continued government intimidation. Two small political parties that supported the demonstrations were expelled from their offices, journalists were attacked and demonstrators imprisoned and beaten. Suleimaniya proved an exception: despite the use of force by Kurdish security forces, local citizens continued to press for meaningful political reform and the eradication of corruption. Several were killed and scores injured in clashes that continued intermittently for three months, contributing to serious disagreements between rival factions in both the regional parliament and the Council of Representatives in Baghdad. In the end however, even those protests were brought under control by local security forces.

A. 100 DAYS WASTED

Two days after the dust settled, on 27 February, Maliki announced a 100-day deadline on the government to improve service delivery and reduce corruption. Subsequently, the Sadrist movement, one of the governing coalition's main components, carried out its own "referendum" – more a straw poll – to measure public perception of service delivery. Unsurprisingly, the results confirmed that Iraqis are wholly unsatisfied on that score and blame the deterioration of living standards on corruption. The prime minister's deadline expired on 7 June without noticeable improvement in service delivery or government performance. Parliament passed little or no relevant legislation during that period, while a number of key bills got caught up in the same type of legislative procedure that prevented serious reform during Maliki's first term (2006-2010). Maliki's only serious proposal for reform appears to be to concentrate power in his hands by forming a majority government he would lead and modifying the constitution to strengthen the federal government at the expense of regions and provinces,[5] a prospect that virtually all other parties are unwilling to entertain.

A renewed focus on fighting corruption in 2011 cannot mask the fact that the issue has been at the top of the government's agenda since at least 2006, when Stuart Bowen, the U.S. special inspector-general for Iraq reconstruction, referred to graft as the "second insurgency". Since then, the government has failed to institute the reforms needed to empower anti-corruption agencies, while parliament and the courts remain inadequate checks on the government. The problem reflects the state's general weakness: not only is each ministry and state-owned company struggling to deliver services, but state institutions that are theoretically responsible for acting as a check against unrestrained state power and for prosecuting corrupt practices have failed to play that role.

When the 100-day deadline passed, the government engaged in a campaign to silence its critics, while it continued to shirk its commitments on governance. Although poorly attended, the weekly demonstrations in Baghdad's Tahrir Square met with a violent response on 10 June when pro-government thugs armed with sticks and knives attacked protesters. This regime-supported action – police stood by idly during the attack – carried the unmistakable threat of continued violence against dissent.[6] Moreover, during a televised session, the council of ministers reported on improvements in service delivery during the previous 100 days, but what was supposed to be an occasion to celebrate success became an airing of frustrations, with ministers shouted down by the prime minister.[7] On 9 September, Hadi al-Mahdi, a prominent journalist who had previously been arrested as a leading figure in Friday protests, was

[5] Maliki has pushed for the formation of a majority government and for constitutional reform since at least 2008. He has argued that a majority-led government would be able to formulate and implement policy without having to obtain consensus among all political parties in parliament (which has been the case so far under governments of national unity). Although there is only a single region in existence at the moment – the Kurdistan region – the constitution allows the formation of additional regions, which would diminish the powers of the centre.

[6] Although the pro-government crowd was ostensibly participating in a demonstration to demand the execution of men who had confessed earlier in the week to a major 2007 terrorist attack, their sudden attack against the weekly anti-government protesters appeared organised and was carried out with impunity. See "Iraq: Attacks by Government-Backed Thugs Chill Protests", Human Rights Watch, 30 June 2011.

[7] The minister for electricity was forced to resign on 18 August 2011 for suspected acts of corruption, but his decision was unrelated to the prime minister's 100-day deadline and to the wider call for greater transparency and accountability in government. See below.

assassinated in his home.[8] Although the killers and their motives are unknown, that tragedy, combined with incidents of repression and a 22 September arrest warrant against Sheikh Sabah Al-Saadi, a prominent government critic, for allegedly defaming Maliki, has created an air of fear among government critics.

Reflecting strategies in other parts of the region, the government's approach appears to be to buy time by intimidating protesters, in the hope that expected oil revenue increases will expand the capital investment budget and that this will lead to an improvement in service delivery, despite inaction on graft. Matters are starting to come to a head, however. The chief of the Integrity Commission, one of the principal and nominally independent oversight bodies, resigned on 9 September, alleging continuous interference in his work. This was perhaps the most high-profile act of opposition to the government to date (see below). Meanwhile, demonstrations have continued on a weekly basis, despite a violent response from both security forces and pro-regime thugs, with several thousand making an appearance in Baghdad's Tahrir Square on 9 September.

Even if the budget deficit eventually is plugged by oil income (and there is no clear prospect of this happening anytime soon), their activism suggests that Iraqis are unlikely to wait much longer for better government performance. A sense of urgency is palpable: whereas previous governments routinely blamed poor security and sabotage for preventing progress, today this excuse rings hollow. Citizens are sufficiently familiar with their own system of governance and ruling elite to understand that the problem lies elsewhere. They have also shown increasing willingness to challenge state authority, especially at times when basic services, such as a reliable power supply in the hot summer months, is most glaringly absent. Whether it realises it or not, the government is working against the clock: it must reform fast if it is to maintain whatever legitimacy it retains. Regional precedents have already been set for the type of escalating unrest that could occur if citizen demands fall on deaf ears.

[8] See "Outspoken Iraqi Radio Journalist Shot Dead at Home", Amnesty International, 9 September 2011. A few hours before his killing, Al-Mahdi had written on his Facebook page that he had been threatened with government reprisals and had been living "in a state of terror".

II. A SISYPHEAN BATTLE AGAINST CORRUPTION

Iraq has witnessed an explosive and alarming rise in corruption since 2003. The international watchdog organisation Transparency International has ranked the country near the bottom of its global corruption perceptions index for three years – 175th out of 178 in 2010.[9] A number of factors help explain the phenomenon: the sheer mass of capital that has flowed into the country and overwhelmed government institutions and parastatal organisations;[10] a breakdown in security and in the criminal justice system that has allowed officials to operate in an environment of impunity;[11] targeted assassinations of state officials, as well as random violence, that have seriously impeded oversight agencies in their work;[12] and gaps in the legal and institutional framework established to provide a check on government. Meanwhile, both government and parliament have been reluctant to engage in the type of reform that

[9] According to its website, Transparency International's Corruption Perceptions Index "measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is a 'survey of surveys', based on thirteen different expert and business surveys". Iraq is no stranger to corruption. During the 1990s "sanctions decade", it became the country's primary economic driver, both a symptom of a collapsing middle class and the direct result of leadership efforts to encourage alternative sources of income so as to deflect public anger from the regime.

[10] A former Iraqi National Investment Commission official said, "the United States did not properly control the millions of dollars it brought to Iraq. There was just too much money floating around – billions and billions of American and Iraqi money – and too many opportunities for that money to get into the wrong hands". Testimony of Abbas S. Mehdi, U.S. Senate Democratic Policy Committee Hearing, 22 September 2008. "[The Bureau of International Narcotics and Law Enforcement Affairs]'s prior lack of management and financial controls created an environment vulnerable to waste and fraud and a situation whereby INL does not know specifically what it received for most of the $1.2 billion in expenditures". Testimony of Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction, U.S. Senate Committee on Appropriations, 11 March 2008.

[11] A senior Board of Supreme Audit official said Iraq's pre-2003 anti-corruption framework "was effective but based on fear. If the national assembly summoned a minister to provide evidence, he would tremble in fear. In those days, falling afoul of parliament meant falling afoul of Saddam Hussein and the Baath Party". Crisis Group interview, Baghdad, 10 November 2009.

[12] A Board of Supreme Audit official said in 2009, "in the past two years, at least twenty of my colleagues have been killed. My colleagues and I sometimes have to hide behind armoured vehicles to reach our offices in Haifa Street". Crisis Group interview, Baghdad, 21 August 2009. The most recent assassination of a Board of Supreme Audit (BSA) official occurred in November 2010. Crisis Group interview, BSA official, Baghdad, 1 June 2011.

would help bring corruption under control and have even sought to manipulate the phenomenon for political ends.

A. The Oversight Framework

The constitution provides that a number of key institutions should oversee and check the government's work. The Board of Supreme Audit, the oldest, is responsible for ensuring that the annual state budget is executed efficiently and in accordance with the budget law passed at the beginning of each calendar year. The Integrity Commission, created by the U.S. Coalition Provisional Authority (CPA) in 2004, is primarily charged with investigating and reporting on acts of corruption throughout the public sector. Both the Board of Supreme Audit and the Integrity Commission are assisted by inspectors operating under an agency called the Inspectors General (also CPA-instituted), who are present in each ministry and serve as the two oversight bodies' eyes and ears (together, the Board of Supreme Audit, the Integrity Commission and the Inspectors General are referred to as the "oversight agencies"). Each inspector is assisted by a number of auditors and investigators. These teams carry out their own investigations or respond to specific requests from the Board of Supreme Audit or Integrity Commission.

Another important oversight role is played, at least in theory, by parliament, which debates and formulates policy and is charged with monitoring the executive branch by questioning and impeaching senior officials in committee or plenary session. Although parliamentary oversight is necessarily political in nature, the constitution anticipates that it should be based on information collected by the oversight agencies. Finally, by virtue of Iraq's inquisitorial court system, the judiciary, a third source of oversight, should carry out its own investigations or at least act upon the information received from the Integrity Commission or other sources (see below).

B. An Unchecked Government

During six years of rampant violence and lawlessness – from the start of the U.S. occupation in 2003 to the end of sectarian fighting in 2008 – a feeling of impunity prevailed among senior officials and of fear among investigators, auditors and law enforcement officials. The oversight framework outlined above came apart at the seams, and as a result, corruption grew exponentially; as agency staff tried to keep their heads down, senior government officials manipulated investigations, while eschewing any reform that would curb corruption. Despite the reduction in violence since 2008, attitudes remain firmly entrenched (encouraged by continuing threats of violence), vastly complicating any effort to launch a genuine anti-corruption campaign.

1. The lawlessness of 2003-2008

From the start of the occupation in 2003, institutions were frequent targets of attacks, which prevented service delivery and caused a serious deterioration in living standards. Between 2003 and 2005, institutions more or less adapted to generalised insecurity; as levels of violence increased and eventually spiralled out of control during the 2005-2007 sectarian war, several could barely function, creating ideal conditions in which corruption could flourish.

In the early days of the occupation, large-scale looting was aimed at public and private property alike.[13] But as an insurgency took shape, state institutions were more systematically targeted. The repercussions were felt throughout the state apparatus. During some periods, work ground to a halt, as government staff were unable to reach their offices. Thousands of skilled professionals were forced into exile. After the Samarra shrine bombings in February 2006,[14] many offices remained empty for weeks, either because entire Baghdad neighbourhoods were cut off from the rest of the city as a result of security cordons or because security forces and armed groups were engaged in pitched sectarian battles. An agriculture ministry official said, "for close to four years, between 2005 and 2009, the ministry paid my salary but I never went to the office. It was too dangerous. I even removed the license plate from my ministry-issued vehicle to avoid any attention by militias. All our projects were frozen during those years".[15] A former UN official described the impact:

> In 2007 I had a meeting with the planning minister to discuss how to invest some funds at my disposal. We were looking over a diagram of the ministry's departments. Each time I expressed an interest in investing in a particular unit's capacity building, the minister responded the same way: this department is practically empty, and whoever is left is incapable of running things. The ministry was practically an empty shell.[16]

[13] A senior Board of Supreme Audit official described the situation as follows: "Our offices were broken into by looters trying to steal our equipment. We negotiated with them. They had already caused a lot of damage. We told them they could take our equipment but asked them to allow us to keep our files. Lots of our offices had already been burned down. We transferred our files to the accountants' association. We were able to resume our normal level of activity within a few months". Crisis Group interview, Baghdad, 16 October 2009.

[14] Crisis Group Middle East Report N°50, *The Next Iraqi War? Sectarianism and Civil Conflict*, 27 February 2006.

[15] Crisis Group interview, agriculture ministry official, Baghdad, 7 July 2010.

[16] Crisis Group interview, former UN official, Amman, 17 January 2011. According to the U.S. Government Accountability Office (GAO), in 2006 the government only expended 22

In 2005-2008, the oversight agencies struggled to carry out their work. Widespread, deadly violence deterred them from sending staff to government offices to carry out auditing missions and investigations. Dozens of the Board of Supreme Audit's staff lost their lives.[17] The agency's headquarters often were inaccessible due to its location on Haifa Street, an area that witnessed almost daily gun battles.[18] Staff involved in sensitive auditing missions were particularly at risk, as they became targets for assassination.[19]

Courts, judges and lawyers also came under fire during that period, notably those involved in criminal cases. Some 39 judges were killed from 2003 to 2008.[20] Others lost loved ones (including the chief justice, whose son was assassinated in May 2006) or were kidnapped for ransom.[21] Some court houses were attacked in an effort to free particular detainees.[22] Parliamentary staff were also targeted, given their political function. A parliamentary aide said:

> There were militias all over the streets, and there was a danger of running into any one of them. For us, there was no difference between the Mahdi army [the armed militia loyal to Shiite cleric Moqtada al-Sadr] or al-Qaeda.[23] Either would have killed any one of my colleagues. We would never tell anyone where we worked, not even our friends. One of my colleagues put his identity card in his sock when he went to work. When security got really bad, the office would be practically empty for weeks.[24]

2. Government manipulation

As violence raged in the streets, the government sought to further restrict the little work that was being carried out by the oversight agencies by undermining their institutional independence, interfering in investigations considered politically sensitive and using them as leverage against political rivals. Thus, even when a given agency had collected specific information on corrupt practices, government intimidation was such that the relevant files were allowed to gather dust. On occasion, senior government officials and politicians publicly embraced the prosecution of a particular act of corruption, seeking to convey the notion they were tough on graft, while at the same time allowing more egregious violations to go unpunished, because it was politically expedient to do so or served their personal interest. The effect has been not only to prevent oversight agencies from carrying out their work, but also to impair the proper formulation and execution of policy.

In 2007, the U.S. embassy noted that the prime minister's office had expressed "open hostility" to the principle of institutional independence.[25] This manifested itself through

per cent of its budget for capital projects. See "Iraq Reconstruction: Better Data Needed to Assess Iraq's Budget Execution", GAO, January 2008, p. 6.

[17] Crisis Group interview, Board of Supreme Audit official, Baghdad, 16 January 2011.

[18] See *The Washington Post*, 13 September 2004 and 25 January 2007. A senior Board of Supreme Audit official stated that snipers prevented civilians from burying or removing a corpse a few meters from the agency's entrance for more than two days in 2007. Crisis Group interview, Baghdad, 18 January 2011.

[19] A number of attacks targeted officials involved in specific auditing missions. A Board of Supreme Audit official recalled: "As my immediate supervisor completed an auditing mission at the trade ministry, someone threw a grenade into her car. She survived but to this day has shrapnel in every part of her body". Crisis Group interview, Baghdad, 21 August 2009. In an untitled report leaked to the media and subsequently classified, the U.S. embassy in Baghdad wrote: "The inability of [Integrity Commission] investigators to travel safely to and from the ministries in the red zone [Baghdad excluding the international zone] has so hobbled the agency it is relegated to relying almost entirely on IGs [Inspectors General] to conduct investigations. Because the IGs are subject to the same threat, anticorruption investigations are subject to tampering or political manipulation". U.S. Embassy, untitled report, September 2007 (hereinafter the September 2007 U.S. Embassy Report on Corruption), www.fas.org/irp/eprint/anticorruption.pdf, pp. 3-11.

[20] The Higher Judicial Council maintains a list of assassinated judges and court workers on its website (www.iraqja.iq). Despite a marked reduction in assassinations during 2009 (only two judges killed), and during 2010 (three), 2011 has seen a noticeable increase of attacks against judges, with four killed so far.

[21] A practicing attorney specialising in criminal cases said, "I had accepted to represent an individual accused of joining an insurgent group. A few days before the trial, I was kidnapped by the accused's tribe. They held me for a few days before my tribe intervened to have me released". Crisis Group interview, Baghdad, 17 December 2009.

[22] Another attorney said, "In 2006 and 2007, courts often were targeted, and on many occasions, militias attacked detention centres to free their comrades as soon as they were arraigned. The Higher Judicial Council had to resort to moving judges around from governorate to governorate for their own safety". Crisis Group interview, Amman, 25 February 2011.

[23] See Crisis Group Middle East Report N°55, *Iraq's Moqtada Al-Sadr: Spoiler or Stabiliser?*, 11 July 2006.

[24] Crisis Group interview, parliamentary adviser, Baghdad, 15 February 2011.

[25] The U.S. embassy wrote: "The Prime Minister's Office has demonstrated an open hostility to the concept of an independent agency to investigate or prosecute corruption cases. The Iraqi Government also withholds support and resources from [COI]. There have been a number of identified cases where government and political pressure has been applied to change the outcome of investigations and prosecutions in favour of members of the Shia Alliance. Advisers have documented a pattern of pressure seemingly designed to hire personnel along political lines. There also has been a clear sectarian shift in those who have been appointed as IGs since the Shia Alliance has taken

the alleged withholding of material support from the Integrity Commission and issuance of "secret orders" by the prime minister's office, which tried to prevent the Commission from referring cases relating to high-ranking officials to courts.[26] A U.S. official claimed, moreover, that individuals in both Maliki's office and that of Vice President Adel Abd-al-Mahdi prevented certain cases from being pursued in court.[27] U.S. officials also accused Maliki's staff of ordering that certain Commission personnel be replaced.[28]

A major confrontation ensued in September 2007, when Judge Radhi Hamza al-Radhi, the agency's commissioner, resigned after accusing security forces of complicity in large-scale corruption and of attacking his home.[29] In response, the government appointed Mousa Faraj as the Commission's acting chief. When he began repeating many of his predecessor's allegations,[30] receiving significant support from U.S. anti-corruption officials,[31] the government dismissed him a few weeks later. He was replaced by Judge Rahim al-Ugaili in January 2008, who remained in his position until he resigned on 9 September 2011. To date, all three Commission chiefs have either resigned or been fired, an exceptional phenomenon by Iraqi standards. The government never requested that parliament confirm Ugaili, although applicable law requires it.[32] This meant that he could be dismissed by the prime minister's office at the stroke of a pen. The government regularly used this leverage against him whenever he raised concerns relating to high-level corruption.[33]

The circumstances surrounding Ugaili's resignation are another reminder of the government's modus operandi on corruption. According to well-placed government sources, the Integrity Commission and the Board of Supreme Audit discovered in 2011 that hundreds of shell companies had been registered abroad by political parties and senior offi-

control of the government". September 2007 U.S. Embassy Report on Corruption, op. cit.

[26] A former senior U.S. embassy official testified: "Most notably, the Prime Minister issued 'secret orders' to [the COI], prohibiting that agency from referring cases to the courts if the cases involve former or current high-ranking Iraqi government officials, including the Prime Minister …. The secret order is, literally, a license to steal". Senate Democratic Policy Committee Hearing, testimony of James Mattil, 12 May 2008. Mousa Faraj, former acting Integrity Commission chief, said, "the prime ministry's general secretariat issues official directives reminding the commission it is not eligible to request a certain minister's file or asking the commission not to interfere in the financial wealth of high-ranking officials". Interviewed in "Corruption rampant in ministries", *Niqash*, 17 July 2008.

[27] Crisis Group interview, former U.S. official, Amman, 10 October 2009. A 2007 U.S. report stated: "American advisers have noted numerous efforts to interfere with investigations by senior members of the Shia Alliance Party, government officials and American officials. This has included direct calls from the Shia Vice President Mahdi demanding not only a withdrawal of the case already sent to court but a demand that all cases filed be vetted through him. When the Commissioner refused, a call on the case came several hours later from the President of the Iraqi Supreme Court. The Adviser of the Prime Minister's Office [Dr Adel Muhsien Abdulla] has in the presence of American advisers pressed the Commissioner of [COI] to withdraw cases referred to court as well". September 2007 U.S. Embassy Report on Corruption, op. cit., p. 67.

[28] "Have Bush Administration Reconstruction and Anti-Corruption Failures Undermined the U.S. Mission in Iraq?", Senate Democratic Policy Committee Hearing, testimony of James Mattil, 12 May 2008.

[29] In an interview, Judge Radhi said, "they have militias, and they attacked my neighbourhood with missiles, and these missiles fell very close to my house". NBC News. 7 September 2007. In another interview, he said, "most ministries are involved. Some officials, such as the minister of defence, have been dismissed, but we have about $4 billion in corruption cases there [and] $2 billion in cases involving the Interior Ministry". National Public Radio (NPR), 7 September 2007. Judge Radhi subsequently appeared before the U.S. House of Representatives' Oversight Committee on 4 October 2007 as well as the Senate Committee on Appropriations on 11 March 2008, where he repeated many of the same allegations and also indicated that of the 3,000 corruption cases his commission had investigated and forwarded to the courts for prosecution, only 241 had been adjudicated. "Judge Radhi testifies on Iraqi corruption", *The Nation*, 5 October 2007, and Senate Committee on Appropriations, testimony of Judge Radhi Hamza al-Radhi, 11 March 2008.

[30] In a press interview, Mousa Faraj said, "the Ministry of Defence comes top among state institutions with regard to administrative and financial corruption, followed by the ministries of interior, commerce, oil and electricity. The problem here lies in the fact that corruption is rampant among the middle management of ministries starting with general secretaries, their advisers and general directors of institutions and not necessarily the ministers themselves". *Niqash*, 17 July 2008.

[31] In testimony before the U.S. Senate, a former senior U.S. embassy official said, "the Prime Minister's office has ignored the Iraqi constitution and thrown it into the Tigris River, as they have attempted to seize control over [COI]'s internal operations, replacing staff and withholding funds". Senate Democratic Policy Committee Hearing, testimony of James Mattil, 12 May 2008.

[32] Crisis Group interview, former UN official, Amman, 17 January 2011.

[33] He said, "the other day, Judge al-Ugaili stated publicly that the number of investigations of acts of corruption increased in 2010. That was meant as a sign of progress, but the prime minister's office took it to mean that corruption is increasing. They reacted by seeking to have him replaced, because they thought he was giving the government bad press". Crisis Group interview, Baghdad, 26 February 2011. Following comments by Judge al-Ugaili to the media in August 2011 that the government is not interested in combating corruption, several senior officials called for his replacement. *Al-Hayat*, 14 August 2011 (in Arabic).

cials.[34] Ministries and state-owned firms were allowed to enter into "cooperation agreements" with these shell companies whenever a major government contract was on offer. This form of contracting enabled the government to circumvent procurement rules that would have required public tenders and independent scrutiny of the contracts.

As the investigation progressed, the Integrity Commission, assisted by several inspectors general inside the ministries as well as foreign anti-corruption bodies acting in their own countries, created a database with each of the companies' details and thus uncovered the connection between them and senior government officials, including in the defence ministry and the prime minister's office. The Commission also learned that many of these contracts were never fully implemented even though their entire value was paid to the companies in question.[35] When the Commission sought to engage the courts to prosecute, it found that the government blocked all avenues, spurring Ugaili to resign in protest.[36]

Another worrying trend is the manner in which the government has manipulated specific investigations to satisfy political aims, a practice that has outlived the period of worst violence. The manner in which the head of the Trade Bank of Iraq is being prosecuted provides a good example. The bank, established in 2003 as an independent government agency, is a vital artery for international transactions and lines of credit. In May 2011, the government accused its director, Hussein al-Ujri, a grand-nephew and close associate of the politician Ahmad al-Chalabi who is said to have helped him get the job,[37] of irregular practices and corruption and started considering ways in which the bank could be brought under its control.

What is curious, however, is that the government's accusations are based on investigations that were carried out as early as 2007 and that have been on-going since; this raises the question as to why it is going after the bank only now.[38] A senior political adviser to parliament suggested that the prosecution was timed to coincide with a multi-front campaign to marginalise Chalabi.[39] Similar questions have been raised in relation to parliament's 2011 impeachment of some of the Independent High Electoral Commission's senior officials,[40] as well as the effort to purge certain ministries of unqualified personnel.[41]

3. Failure to enact reform

If the government's progressive encroachment on the oversight agencies has been problematic, the failure to provide a clear and effective legal framework has been even more detrimental. Lack of progress by both government and parliament has been so striking (despite clear and relatively straightforward avenues for reform) that it is impossible to avoid the conclusion that senior policymakers have acted out of vested interest to maintain a thoroughly corrupt system.

The clearest illustration of this failure was the government's continued refusal to repeal Article 136(b) of the Criminal Procedure Code, by virtue of which an investigative judge could not prosecute a state official without

[34] A "shell company" is defined as a company with a physical address but without assets or operations. Shell companies are typically used as a conduit in money-laundering operations.
[35] Crisis Group interview, senior official, Baghdad, 12 September 2011.
[36] Crisis Group interview, another senior official, Baghdad, 12 September 2011.
[37] See Aram Roston, *The Man Who Pushed America to War* (New York, 2008), pp. 298-301.
[38] According to a parliamentary adviser, "we have been receiving reports on irregular practices at the Trade Bank of Iraq since 2007 at least. The question is not why the bank is being reined in. The question is: why now?" Crisis Group interview, Baghdad, 15 June 2011. Hussein al-Ujri fled the country after police authorities issued an arrest warrant against him in June 2011.
[39] He said: "We have to place the prosecution in its proper context. Chalabi has been the source of significant trouble for the government for some time, and some political parties have now decided that he should be ostracised. This explains why some of his closest political allies have been targeted for assassination, why there is government pressure to remove him as chairman of the Justice and Accountability Commission and why the Trade Bank is being targeted". Crisis Group interview, Baghdad, 16 June 2011. On 26 May 2011, Chalabi's close ally Ali Faisal al-Lami, director of the Justice and Accountability Commission, was assassinated in Palestine Street in downtown Baghdad. For the commission's polarising actions in the run-up to the March 2010 legislative elections, see Crisis Group Middle East Report N°94, *Iraq's Uncertain Future: Elections and Beyond*, 25 February 2010, pp. 27-32.
[40] According to a Board of Supreme Audit official, "we have known about and have reported on corruption at the Electoral Commission for years. Now, after it refused to be pliant in how it ran the 2010 parliamentary elections, the Maliki government is raising the corruption issue". Crisis Group interview, Baghdad, 10 June 2011.
[41] A justice ministry official said that up to one third of the ministry's employees are in the process of being dismissed for having presented fraudulent degrees at the time of their recruitment. Crisis Group interview, Baghdad, 5 June 2011. According to an official at the council of ministers, the same parties that are pushing for this to be done submitted a draft law before parliament weeks earlier that would have granted a blanket pardon to those employees. He said, "the campaign against the justice ministry's staff is politically motivated. That ministry is no different from any other. All have high numbers of staff with fraudulent degrees. In this case, however, the intent is to weaken the minister in question, who belongs to a rival political party [the Fadhila Party]". Crisis Group interview, Baghdad, 13 June 2011.

the relevant minister's prior permission,[42] which meant that ministers could unilaterally grant immunity to their staff.[43] Article 136(b) was passed during the early years of Baath Party rule and was intended to ensure that ministers had control over their own staffing levels. Before 2003, the provision was hardly ever invoked to prevent prosecutions,[44] but from 2003 to 2011 ministers used it hundreds of times – it is impossible to say precisely how often – to protect political appointees from prosecution.[45] The estimated combined value of the funds allegedly stolen or wasted, and in relation to which prosecutions were never launched, is in the hundreds of millions of dollars.[46]

Despite enormous internal and international pressure on parliament to repeal the provision since at least 2004,[47] successive governments prevented reform for eight years.[48] Parliament finally acted on 18 April 2011, and despite continued government objections,[49] the amendment was brought into force by publication in the Official Gazette in July. Although this is welcome, the fact that the government resisted repealing what was universally regarded as an invitation to steal is a clear indication of its priorities.

Despite this notable instance of progress, no further effort to curb corruption is likely to achieve even a modicum of success until the many other existing legal loopholes are closed. For example, no law compels political parties to publish their accounts or disclose the source of their income. Many parties have extensive property and operate costly satellite television channels, yet they do not provide reliable information on how they have financed these holdings. This has created the general perception that they are funded in large part through corruption. For years, civil society organisations, jurists and many senior officials have been calling for a political parties law that would obligate all parties to open their accounts to the public. The government and parliament have largely ignored those calls. A senior judge said, "the absence of a political parties law is the single most important factor encouraging corruption in Iraq. Until an effective law is passed, anti-corruption efforts are largely a waste of time".[50]

Furthermore, draft legislation to reform the oversight agencies and courts' operations has been in parliament since 2007, but a serious lack of will to reform makes it unlikely that anything enacted will bring about significant change to the current system.[51] In the words of a senior legislative aide:

> A draft Board of Supreme Audit law, a draft Integrity Commission law and a draft judicial sector law are be-

[42] Article 136(b) of Law 23 (1971) provides in relevant part: "The transfer of the accused for trial for an offence committed during performance of an official duty, or as a consequence of performance of this duty, is possible only with permission of the minister responsible or his deputy, in accordance with the stipulations of other codes" (Crisis Group translation).

[43] The minister's decision not to grant authorisation for prosecution is not subject to appeal. The U.S. State Department reports: "Section 136(b) … provided immunity to selected government employees and enabled a component of the executive branch to terminate proceedings initiated by the judicial branch. During the year permission was given to arrest only lower-level ministry employees under Section 136(b)". "2009 Country Report on Human Rights Practices in Iraq", U.S. State Department, Bureau of Democracy, Human Rights, and Labor, 11 March 2010 (hereinafter the 2009 State Department Report on Human Rights in Iraq). A former UN official said, "Article 136(b) presents a fantastic possibility for the minister and his staff to abuse their office and authority. The Integrity Commission's staff have often said this makes a mockery of their job". Crisis Group interview, Amman, 19 January 2011.

[44] Sheikh Sabah al-Saadi, head of parliament's Integrity Committee, said on TV, "in 2007, the Integrity Committee put forth a proposition to repeal Article 136(b). We were surprised that Safaa al-Din al-Safi, who was minister of parliament affairs at the time, objected to this proposal … on behalf of the government. Although it was passed under the previous regime, it was never used during that period". Interview, Al-Sharqiya television network, February 2010.

[45] From 2005 to 2008, the Integrity Commission recorded 210 separate instances in which Article 136(b) was used. See the 2008 COI Annual Report, p. 34. The worst offenders in 2005-2008 were the oil ministry (35 recorded instances), the municipalities ministry (33), the transport ministry (27) and the electricity ministry (23). Statistics for at least eight ministries, including the trade ministry (a constant target of citizen scorn), are not available. Another 54 instances were recorded in 2009, and yet another 172 in 2010. See the 2009 COI Annual Report, p. 5; and the 2010 COI Annual Report, p. 25.

[46] See the 2008 COI Annual Report, pp. 35-46; and the 2009 COI Annual Report, p. 5. According to the latter, a case against a telecommunications ministry official that was withdrawn involved the waste of $15.5 million. Another, against an electricity ministry official, related to the embezzlement of 58 billion Iraqi dinars (approximately $50 million).

[47] Crisis Group interviews, former U.S. official, Amman, 10 October 2009; Integrity Commission official, Amman, 1 March 2011.

[48] See "The Many Lives of Article 136(b) Criminal Procedure Code, Law 23 of 1971 (23 May 2009)", Global Justice Project: Iraq, at http://bit.ly/nxeyAm.

[49] The government objected on the basis that repealing Article 136(b) opened the door to frivolous and politicised prosecutions. Crisis Group interview, senior parliamentary adviser, Baghdad, 7 May 2011.

[50] Crisis Group interview, Baghdad, 13 April 2011. A senior electoral official added: "The government must pass political party legislation that forces parties to open up their books to public scrutiny and declare their revenue and expenditure. Until that happens, this state doesn't represent me or my interests as a citizen". Crisis Group interview, Baghdad, 13 February 2011.

[51] For more on the oversight agencies and why reform is necessary, see below.

> fore parliament. Lawmakers made important amendments to those bills in the previous cycle [before the March 2010 elections]. When the new parliament started its work in January 2011, the relevant committees reverted to the original drafts, which means that we're back at square one. This way the process could take years to produce results.[52]

Parliament finally passed new legislation governing the Board of Supreme Audit and the Integrity Commission on 24 September 2011, but apart from modifying the mechanism for appointing their respective heads,[53] it does not address the many problems that have prevented those institutions from playing an important role in overseeing the government's performance.[54]

In fact, instead of seeking to change or cancel laws that nurture corruption, the government and parliament have worked to repeal a series of draconian Baath-era legal provisions that instituted harsh penalties against any public official convicted of corruption or merely under investigation.[55] Thus, despite corruption's astronomical rise, many of the substantive legal amendments effected since 2003 have been designed to soften penalties rather than close the loopholes that have been in place for years.

C. AN EXPLOSIVE RISE IN CORRUPTION

The oversight agencies' paralysis due to violence and government manipulation provided ideal circumstances for senior officials to engage in corruption. There are no exact figures for the amount of public funds stolen or wasted as a result of corrupt practices, but it is safe to say that the yearly figure is in the billions of U.S. dollars.[56] This proposition is supported largely by information released as part of the relatively few convictions for corruption-related crimes secured through the judiciary. These show that, in 2005-2007, 111 electricity ministry officials were convicted of various corruption-related offenses for sums totalling more than $250 million. They also show that 319 defence ministry officials were convicted of crimes involving sums totalling more than $1 billion.[57] In 2010, the number of convictions reached an all-time high, although few appear to have been high profile.[58] Ministries with security-related portfolios are considered the worst offenders.[59] Corruption has also spread to the judicial sector, provincial governments and the Kurdistan regional government.[60]

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[52] Crisis Group interview, Baghdad, 17 March 2011.

[53] The previous system for appointing the heads of the Board of Supreme Audit and the Integrity Commission provided that the Higher Judicial Council should prepare a list of three candidates from which the prime minister would select one candidate, who would then be referred to the parliament for confirmation. That system was subject to abuse: the prime minister, after selecting a candidate from the list, could delay confirmation indefinitely, which subjected the candidate to a constant threat of unilateral dismissal by the prime minister. Under the new laws, the appointment process is to be handled entirely by the parliament. Although this removes the prime minister and government from the process, it also may increase the possibility of a purely political appointment.

[54] See below.

[55] Revolutionary Command Council Order 38 (1993), a severe measure that called for the immediate detention of any public official accused of corruption, was repealed by Law 45 (2007).

[56] The former Integrity Commission chief testified: "[T]he cost of corruption that my Commission has uncovered so far across all ministries in Iraq has been estimated to be as high as $18 billion". Testimony of Judge Radhi Hamza al-Radhi, U.S. Senate Committee on Appropriations, 11 March 2008. The former chief Integrity Commission investigator agreed: "Of this $18 billion, I believe at least $4 billion have been lost due to corruption and criminal acts in the Ministry of Defence alone". Testimony of Salam Adhoob, U.S. Senate Democratic Policy Committee Hearing, 22 September 2008.

[57] See the 2008 COI Annual Report, p. 47. As a result of the February 2008 general amnesty law passed to placate the Sunni Arab community, which claimed that the majority of those jailed were Sunni Arabs (see Crisis Group Middle East Report N°75, *Iraq after the Surge II: The Need for a New Political Strategy*, 30 April 2008, pp. 21-24), all officials convicted of corruption-related crimes prior to 2007, including electricity and defence ministry officials, were released. Altogether 2,772 officials convicted of corruption-related crimes were released in 2008. See the 2008 COI Annual Report, p. 2. An additional 498 officials found guilty of having stolen or embezzled close to $200 million were released in 2009. See 2009 COI Annual Report, p. 5.

[58] The Integrity Commission referred an investigative file to the courts concerning a case in which it found that more than $100 million had been stolen by a defence ministry official. See 2010 COI Annual Report, p. 40. The courts handed down 1,017 convictions in 2010, as compared to 196 in 2007, ibid, p. 19.

[59] The U.S. embassy wrote: "The Ministry of Interior is seen by Iraqis as untouchable by the anticorruption enforcement infrastructure of Iraq. Corruption investigations in Ministry of Defence are judged to be ineffectual. With 196 complaints and only 8 being sent to court and only one person having been convicted in what is widely recognised as a troubled ministry, corruption investigations are clearly inadequate in the Ministry of Trade. The Ministry of Health is a sore point; corruption is actually affecting its ability to deliver services and threatens the support of the government". September 2007 U.S. Embassy Report on Corruption, op. cit., p. 2. This point was reiterated by the U.S. State Department in 2009: "According to an external assessment of the Ministry of Interior, nearly 3,000 employees were fired on administrative corruption charges between 2006 and June [2009]". See the 2009 State Department Report on Human Rights in Iraq.

[60] A practicing attorney described corruption in the police force: "Someone I know was arrested in Mosul. He was supposed to be a high-value target. While he was being transported to

Despite the fact that corruption-related convictions have increased significantly over the past few years (97 in 2008,[61] 296 in 2009[62] and 481 in the first nine months of 2010[63]), court action has barely made a dent in the problem. A senior judge stated: "As long as political parties treat ministries as their private bank accounts and as long as courts and law enforcement officials are not given the legal means to prevent this, high-level corruption will continue".[64] A former U.S. official with responsibility for anti-corruption matters in Iraq said:

> The cases that have been tried don't represent more than a drop in the ocean. These small-level prosecutions are obviously important, but they have no impact on corrupt ministers or directors-general. It's corruption at that level that represents a *real* threat to the state.[65]

There is widespread agreement that corruption has affected the country on numerous levels and is one of the main factors preventing improved public services. It has manifested itself in at least the following ways:

- nepotism is a regular practice, with the hiring of unqualified staff at all levels of government on the basis of family, friendship or party affiliation;
- bribery has become indispensable to obtain any number of services or favours. In particular, qualified graduates complain that unless they pay substantial bribes, they cannot hope to secure stable employment; and
- the public procurement process throughout government is riddled with corruption, allowing for public funds to be embezzled outright, thus placing an additional strain on public finances.[66]

D. SECURITY SINCE 2008: SPACE FOR REFORM

Since 2008, security has improved to a level at which government officials can carry out their work, albeit behind high blast walls and other forms of protection that cut them off from the people they serve. Targeted attacks against public servants and state institutions have ebbed. Many officials, including some who had found refuge abroad, have returned to work.[67] Although the overall security improvement can be traced to the mid-2007 onset of the U.S. military surge, Iraqi institutions now no longer rely on direct U.S. military protection.[68] Responsibility for day-to-day security has been gradually transferred to the Iraqi state, and in some cases security has been in Iraqi hands for years, which suggests that any security gains so far will most likely be consolidated.[69]

Baghdad, his relatives paid the police a $50,000 bribe, and he was released. This is very common". Crisis Group interview, Baghdad, 2 January 2011.

[61] See the 2008 COI Annual Report, p. 2. The U.S. State Department has confirmed these figures: "Since its establishment, the COI sent to trial only 300 of more than 4,000 cases under investigation and 143 persons were convicted on corruption charges. Approximately 70 per cent of those convictions were overturned as a result of an amnesty law passed on February 28". See the 2009 State Department Report on Human Rights in Iraq.

[62] See 2009 COI Annual Report, p. 4.

[63] See "Quarterly Report and Semiannual Report to the United States Congress", Special Inspector General for Iraq Reconstruction, January 2011 (hereinafter the January 2011 SIGIR Report), p. 77.

[64] Crisis Group interview, senior judge, Baghdad, 15 March 2011. This is corroborated by the fact that thousands of corruption investigations remain unprosecuted and by the government's refusal to repeal Article 136(b) of the criminal code (see below).

[65] Crisis Group interview, former U.S. official, Amman, 10 October 2009. An inspector general said that Iraq's anti-corruption framework was "like an aspirin to Iraq's cancer. We have reduced the pain without addressing the underlying cause". Crisis Group interview, Baghdad, 25 January 2011.

[66] In an example of how poor Iraq's procurement process remains, the electricity minister was forced to resign in August 2011 after he was accused of having signed multi-billion dollar contracts with a Canadian shell company (a company with a physical address but without assets or operations) and a German firm that had declared bankruptcy. The minister entered into these contracts despite years of government anti-corruption focus. For other examples, see Crisis Group Middle East Report N°99, *Loose Ends: Iraq's Security Forces between U.S. Drawdown and Withdrawal*, 26 October 2010, pp. 32-35.

[67] A government official commented: "Since 2009, we have been able to resume normal activities. Security no longer is a concern". Crisis Group interview, agriculture ministry official, Baghdad, 7 July 2010. The threat of physical violence has not disappeared, however, manifesting itself in the kidnapping of a senior judge on 1 May 2011 and the murder of another on 9 June.

[68] A parliamentarian said as early as 2009, "from a security standpoint, we are not dependent on the Americans in any way. Previously, they were responsible for security in the Green Zone, but that is no longer the case. Our security is now entirely Iraqi, with the assistance of two private security contractors, neither of which is American". Crisis Group interview, Ahmad Suleiman Jamil, London, 19 June 2009.

[69] This applies to the courts. The interior ministry runs a Judicial Protection Unit, which provides five security personnel for each of Iraq's 1,200 judges. Some senior officials, distrusting the interior ministry, have refused any form of protection. A government official said, "I am entitled to half a dozen security personnel, but I prefer to leave my security to God. Who can guarantee that the ministry's personnel won't kill me themselves?" Crisis Group interview, Baghdad, 10 June 2011. Some officials have expressed concern that security will deteriorate as soon as U.S. troops complete their withdrawal (currently projected for the end of 2011). Crisis Group interview, Ahmad Suleiman Jamil, parliament member, London, 19 June 2009. An Integrity Commission official expressed similar fears. Crisis Group interview, Baghdad, 15 January 2011. There is little evi-

Less violence does not mean normalcy, however; the country remains dangerous for many officials, especially those seeking to control the flow of state monies. Institutions are learning to adapt to the uncertain environment. A senior Board of Supreme Audit official said, "the situation remains violent, and we don't want to attract unwanted attention. For example, our rules require us to publish all our findings; the reality is that we have to be selective. Some matters are best discussed behind closed doors".[70] Judges and other judicial officials have had to cope in like manner.[71]

However, although officials are still at risk, this is not to the extent they cannot carry out their work. Security measures have created a difficult but workable environment, allowing for progress on important issues. Indeed, because the impact of these security improvements could be felt as early as 2009, and given the absence of real progress in service delivery and curbing graft, Iraqis have started wondering openly whether the ruling elites are willing to engage in serious reform or have other interests at heart.

dence to support that view, however, as these institutions that have been under Iraqi control for some time have not witnessed any significant increase in insecurity.

[70] Crisis Group interview, Baghdad, 24 February 2011. An Integrity Commission official emphasised: "It's still extremely difficult to look into matters relating to senior officials. Despite the general improvement in security, when security forces went to the trade ministry to make arrests, including of individuals related to the minister, a gun fight broke out, and several tried to escape. In the end, they had to surrender, and the minister himself tried to flee". Crisis Group interview, Baghdad, 13 January 2011.

[71] A lawyer described the situation: "Because of ongoing assassinations, most senior judges live behind blast walls on the Higher Judicial Council's premises in Baghdad's Green Zone. Although their current arrangement means they can carry out their functions, they rarely go home, and they live in very poor conditions". Crisis Group interview, Baghdad, 23 February 2011.

III. IMPAIRED OVERSIGHT AGENCIES

Serious efforts to combat corruption have yet to be launched, but this is not for lack of institutions dedicated to the fight. Iraq has long had oversight agencies, in particular the Board of Supreme Audit, the oldest, which was created in 1927. As noted above, the U.S. occupation authorities created two further institutions in 2004 designed to enhance oversight: the Integrity Commission and the Inspectors General. And yet, the battle against corruption looks like it cannot be won. The reasons are multiple.

Not only did Iraq's anti-corruption agencies suffer from high levels of violence and government interference in their work, but the framework within which they operated was poorly designed from the start. The legal framework set in place by the U.S. Coalition Provisional Authority in 2004 was ill considered, incomplete and poorly suited to Iraq's administrative structure. It created significant redundancies and inefficiencies in reporting lines and the administrative relationship between oversight agencies. Any problems this caused occurred at a particularly inauspicious time: violence and corruption were both on the rise, and the two new institutions lacked both experience and qualified staff.

The legal framework provides that both the Board of Supreme Audit and the Inspectors General must refer all matters of corruption they uncover to the Integrity Commission, which must then carry out its own assessment before deciding whether to refer a case to the courts. The latter, in turn, are to investigate before deciding to launch a prosecution. This is overly cumbersome in theory, and in practice the Integrity Commission must operate through the Inspectors General to carry out a significant part of its own investigation as a result of legal impediments and lack of access to particular ministries and departments for security reasons. This reliance on the Inspectors General is particularly problematic, because this institution is the weakest of the three.

Although the CPA's much-reported penchant for allowing ideology and political nepotism to drive policy is now almost universally considered to have contributed to its mismanagement,[72] the failure of successive Iraqi administrations to redress the administrative framework they inherited is more difficult to understand and explain. Despite the parliament's passage of two laws on 24 September 2011, the legal framework remains as deficient as it was in 2004, and the performance of some key personnel remains unreliable at best. In the circumstances, the lack of action on corruption is at best a powerful illustration of

[72] See Rajiv Chandrasekaran, *Imperial Life in the Emerald City: Inside Iraq's Green Zone* (New York, 2007).

how inept the constitutional framework is and at worst proof that the ruling elite have a vested interest in keeping a corrupt system in place.

A. THE BOARD OF SUPREME AUDIT: EMASCULATED AT THE WRONG TIME

Until 2003, the Board of Supreme Audit was the only agency with a mandate to investigate suspected acts of corruption.[73] After the 2003 invasion, as unprecedented amounts of cash flowed into the country, Iraq's U.S. and UK administrators emasculated the institution when it was most needed and before a credible alternative was in place. In the years that followed, it became a target of armed attacks that greatly reduced its effectiveness and, as a result of legal reforms, was forced to coordinate with two newly established bodies whose exact mandates and modus operandi remained undefined.

The Board of Supreme Audit was, until 2003, responsible for auditing and inspecting the state's accounts, evaluating its performance in operating expenditure and implementing projects, and detecting "corruption, fraud, waste, abuse and inefficiency".[74] To this end, it had, and still has, the power to access classified state documents relating to public expenditure and carry out on-site inspections of government offices. Importantly, the Board had the authority to refer any suspected criminal activity directly to the courts. Although reliable data is lacking on how it performed before 2003, there is substantial agreement that it did so professionally and relatively effectively in difficult circumstances.[75]

In May 2003, the CPA carried out a number of changes that deeply affected the way in which the anti-corruption framework operated. It ordered political and security-related institutions linked to the Baath party dissolved.[76] This included the national assembly and all organisations subordinate to it.[77] Because the Board of Supreme Audit was answerable to the assembly, the CPA considered it abolished as well. The Board's former head (who was assassinated in July 2004), approached the CPA in 2003 to explain the role the Board had played under the previous regime, pursuant to which the CPA reinstated the institution in September 2003.[78]

In April 2004, the CPA issued a new order that reformed the Board's operating procedures. It provided, for the first time, that the Board should refer allegations or evidence of criminal activity to the relevant ministry's inspector general or the Integrity Commission rather than to the courts.[79] It also provided that the Board should refer specific requests for information to the Inspectors General instead of obtaining that same information directly from the ministries themselves.[80]

Even in the best of times, the CPA reforms would have significantly increased the number of bureaucratic hurdles to be cleared to secure a conviction for a corruption-

[73] The Board of Supreme Audit was established by Law 17 (1927), which provided that it was to audit a limited number of governmental institutions under the finance ministry's control and supervision. Its mandate was amended over the subsequent decades, notably through Law 194 (1980), which widened its scope by requiring that it evaluate the state's financial and economic policies, investigate the application of all laws relating to financial and economic matters and investigate all governmental agencies that invest public monies.

[74] Article 2 of Law 6 (1990).

[75] "Strengthening the Working Relationship between the Iraqi Council of Representatives and the Board of Supreme Audit", background paper, United Nations Development Programme (UNDP), 2009, www.pogar.org/publications/legislature/2009/bsa/background-e.pdf, p. 8.

[76] Drafted in English rather than Arabic, all CPA orders can be found on www.iraqcoalition.org/regulations/#Orders.

[77] The full list of dissolved entities is set out in an annex to CPA Order 2 and includes: (i) defence related entities such as the defence ministry, the information ministry, the Iraqi Intelligence Service, etc. (ii) military organisations, including the army, the air force, the Republican Guard, etc.; (iii) paramilitary organisations; (iv) civilian organisations that were dominated by the Baath party, including the Presidential Diwan, the Presidential Secretariat, the Revolutionary Command Council, the National Assembly, etc. Finally, the annex provides that "all organisations subordinate to the Dissolved Entities are also dissolved".

[78] In the words of a senior Board official, "the Americans assumed that we were part of the Baath Party. They didn't know that the Board predates the Baath. Our staff continued working for some time without even being aware that our institution had officially been abolished. Only the Board's then-president knew what had happened. He spoke with the Americans and managed to convince them to reverse their decision, at least with respect to the Board". Crisis Group interview, Baghdad, 16 October 2009.

[79] In the words of a senior Board of Supreme Audit official, "the Integrity Commission became the focal point for anything relating to corruption. If the Board or an inspector general uncovers a matter relating to corruption, we have to submit it to the Integrity Commission, which then carries out its own evaluation before referring it to the courts". Crisis Group interview, Baghdad, 15 January 2011. This framework is maintained under the law that passed by parliament on 24 September 2011, except that the Board can now also refer matters to public prosecutors. Although theoretically a positive development, prosecutors are notoriously ineffectual.

[80] Under Law 6 of 1990, the Board of Supreme Audit could refer any criminal matter to the courts, and the relevant minister was required to fire officials who were merely under investigation. The law passed by parliament on 24 September will abrogate this amendment to the 1990 law once published in the Official Gazette, but it does not introduce any significant changes in this regard.

related crime. However, the CPA forced the Board to work through newly created bodies at a time when these hardly had any staff, violence against public officials was rising, and public expenditure was rapidly increasing.[81] Given its reduced mandate and the climate of violence, the Board has made little effort to adapt to the changed environment and the emergence of organised crime throughout the state apparatus. Particularly since security improved in 2008, the Board could have done more to update its investigators' and auditors' standard operating procedures so as to widen the scope of their missions to include complex money laundering operations. The Board continues to audit state institutions diligently but rarely carries out specific investigations on the impact these criminal elements have on the state's finances.[82]

B. THE INTEGRITY COMMISSION: THE CPA'S PAPER TIGER

The CPA precipitated an institutional upheaval when, in January 2004, it created Iraq's first anti-corruption agency, the Integrity Commission, to serve as an umbrella institution, coordinating all anti-corruption efforts. The Commission was responsible for enforcing basic integrity measures (according to which, for example, all senior government officials must publicly disclose their annual income and assets), enforcing anti-corruption laws and public service standards[83] and investigating corruption cases and presenting these to an investigative judge.[84] As with many other new institutions, the Commission's establishment came at a time when the state was disintegrating and public officials were being targeted by insurgents and criminals. In addition, the Commission, which was modelled after elements of the U.S. system and had no precedent in Iraqi administrative culture, had a poorly defined mandate that created confusion.[85] As a result, it remained ineffective during its first four years and came to mirror the state it was seeking to cleanse of corruption.[86] Its staff and administration developed undesirable practices as a matter of survival. A Commission official said:

> Although Judge Radhi [the commissioner at the time] was an honest man, he wasn't strong enough to deal with our significant problems. Investigators who were accused of mismanagement or corruption would turn to their sectarian or party affiliation for protection and were untouchable. Judge Radhi also allowed the hiring of individuals who had falsified their resumes and had questionable backgrounds.[87]

Since the end of the sectarian war in 2008, the Commission is widely credited with significantly improving its capacity, largely a result of its staff's determination and considerable international support.[88] Judge Rahim al-Ugaili, the acting chief from January 2008 to 9 September 2011, put an end to some of the agency's more flagrant violations, dismissing unqualified personnel and terminating sectarian and partisan practices.[89] Each of the Commission's de-

[81] Board officials have expressed displeasure at this reduction of its powers. A senior Board official said, "it's no secret that we are opposed to this framework, which causes unnecessary duplication. It creates additional administrative hurdles, causing files to be lost and triggering unwanted attention from political forces. There is no logical reason why Board officials, many of whom have been in their jobs for decades, could not refer cases directly to the courts". Crisis Group interview, Baghdad, 1 June 2011.

[82] In the words of a senior official, "the Board follows a particular routine and rarely deviates from that role". Crisis Group interview, Baghdad, 12 September 2011.

[83] CPA Order 55 (2004). Order 55 will be abrogated once the law passed by parliament on 24 September 2011 is published in the Official Gazette, but the new law does not introduce any significant changes to the Commission's framework.

[84] After its inception, the Integrity Commission established several departments covering, among others, investigations, legal matters, civil society relations and special operations. The latter department carried out dozens of operations, using secret cameras and other recording equipment. See the Integrity Commission 2009 Annual Report (hereinafter 2009 COI Annual Report), pp. 19-27. With regard to public procurement – a major source of inefficiency and corruption – the Commission employs officials to inspect irregularities based on specific complaints. See, "Improving Transparency within Government Procurement Procedures in Iraq", Organisation for Economic Co-operation and Development (OECD), February 2010 (hereinafter the OECD Benchmark Report), p. 7.

[85] Crisis Group interview, Board of Supreme Audit official, Baghdad, 13 February 2011. A former anti-corruption official at the UN in Baghdad added: "The Integrity Commission's lack of institutional history within the Iraqi state and the law's failure to properly define its mandate and operating procedures have made it a weak institution". Crisis Group interview, Amman, 12 February 2011.

[86] In contrast, a Board of Supreme Audit official claimed that although he and his colleagues had been targets of significant violence, their agency never degenerated from the inside; likewise, its internal structure remained unaffected by sectarian tensions. Crisis Group interview, Baghdad, 24 February 2011.

[87] Crisis Group interview, Integrity Commission official, Amman, 25 February 2011.

[88] An Integrity Commission official said, "when our department was first created, we received significant American assistance. They provided us with some of our hardware and software; they assisted us in conceptualising our work; and they provided training. Their level of support in the past year [2010] has been very limited, however, but this is because there is not much left for them to do". Crisis Group interview, Amman, 8 February 2011. In addition, the UN has supported the Commission's capacity-building efforts through a multi-million dollar project since at least 2007.

[89] A Commission official stated: "Judge Rahim cleaned up the Commission. He got rid of unqualified staff. Sectarian practices

partments received more detailed mission statements, as a result of which they began to improve their procedures. The Commission has received UN support, especially in drafting development strategies.[90]

Despite these improvements, a number of fundamental difficulties continue to impair its functioning. Aside from the above-mentioned governmental interference,[91] qualified manpower shortages mean that the Commission never initiates an investigation but only acts on tips or specific allegations received from others.[92] Even more seriously, as a result of its inability to access specific government departments, it is forced to rely on the inspectors general in individual ministries to carry out investigations on its behalf,[93] limiting its own role to desk reviews.[94] Thus, the investigation's results and the quality of the information it receives depend on external factors, such as the reliability of the inspectors general, which has been the subject of repeated criticism.

C. THE INSPECTORS GENERAL: OVERSIGHT'S ACHILLES' HEEL

The CPA designed the inspectors general (organised in the agency known as the Inspectors General) to act as the two main oversight agencies' eyes and ears within each ministry. The decision to thus shape their institutional relationship has been highly problematic, considering the institution's continued weakness, its vague legal framework and its lack of independence from government ministers. These weaknesses have seriously impaired anti-corruption efforts – to the extent that many government officials and advisers have questioned their utility, almost precipitating their demise on several occasions.[95]

The CPA established the Inspectors General in 2004, modelling it after the U.S.'s own anti-corruption framework.[96] It has independent offices to conduct "investigations, audits, evaluations, inspections and other reviews" of government ministries.[97] In theory, the Inspectors General institution supports both the Integrity Commission

came to an end as well". Crisis Group interview, Integrity Commission official, Amman, 25 February 2011. A former UN official agreed but expressed concern that the institution would be incapable of reform in the absence of a strong-willed commissioner. Crisis Group interview, Amman, 17 January 2011.

[90] Crisis Group interview, former U.S. embassy official, Washington DC, 15 January 2011.

[91] See "Letter to all Ministries" from Farhad Namat-Allah Hussein, Council of Ministers secretary general, dated 3 September 2007 (in Crisis Group's possession). See also the 2009 State Department Report on Human Rights in Iraq, which states that "according to a prime ministerial order, the COI may not initiate cases and has instructed the ministerial Inspector Generals to perform all initial investigations. In practice this order has placed the ministers in control of any investigation of corruption within their own ministry. There are documented instances where the ministers have ordered major corruption … investigations to be dropped".

[92] Its incapacity to absorb and act upon information has also been a matter of concern. A former UN official specialising in anti-corruption in Iraq said, "the Integrity Commission generally has access to information but doesn't know how to use it. The job is dangerous, and the staff lack adequate protection, so turnover is very high. Lack of institutional memory and a cadre of staff with substandard skills and inadequate tools is the norm". Crisis Group interview, Amman, 16 January 2011.

[93] In a report on corruption in Iraq, the U.S. embassy in Baghdad wrote: "Since [the COI] has no real authority to demand or even cajole Ministry officials to provide books, records, documents and witnesses, [the COI] relies upon the [Inspectors General] and the [Investigative Judges] to provide such evidence. Even where [Inspectors General] cooperate, the pervasive atmosphere of corruption, criminal and sectarian violence, and political/tribal partisanship undermine true anti-corruption efforts". September 2007 U.S. Embassy Report on Corruption.

[94] The U.S. embassy in Baghdad wrote that the Integrity Commission "is currently a passive rather than a true investigatory agency. Though legally empowered to conduct investigations the combined security situation and the violent character of the criminal elements within the ministries make investigation of corruption too hazardous for all but a tactically robust police force with the support of the Iraqi government. Currently this support is lacking", ibid, p. 2. A former UN anti-corruption official stated that "the cornerstone of the Commission's work – investigations – may be threatened. Moreover, it has branches with affiliated law investigation offices in all governorates, including in the Kurdish region, but most of them seem to be in an embryonic state with limited manpower and inadequate financial as well as technical resources to pursue investigations effectively". Crisis Group interview, Amman, 15 January 2011. A Board of Supreme Audit official noted: "The Integrity Commission's investigations and enforcement capacity are both very weak". Crisis Group interview, Baghdad, 4 March 2011.

[95] An Integrity Commission official said, "there was a view recently that the inspectors general were pointless, that they weren't performing, and that they should be eliminated altogether. The Central Bank of Iraq actually cancelled their Inspectors General office, unilaterally. All the Inspectors General offices would have been dissolved if it hadn't been for the Integrity Commission's intervention". Crisis Group interview, Baghdad, 15 January 2011. In June 2011, the parliamentary integrity committee once again pushed for the institution to be dissolved altogether.

[96] See "Quarterly Report and Semiannual Report to the United States Congress", Special Inspector General for Iraq Reconstruction, 30 January 2009 (hereinafter the January 2009 SIGIR Report).

[97] CPA Order 57 (5 February 2004) establishes "independent Offices of Inspectors General to conduct investigations, audits, evaluations, inspections and other reviews in accordance with generally accepted professional standards" (Section 1). It also gives inspectors general the responsibility to audit all ministry records and carry out administrative investigations (Section 5).

and the Board of Supreme Audit by carrying out specific audits and investigations on their behalf.[98]

The CPA order that established the Inspectors General was flawed and continues to impair its workings today. For instance, it fails to provide for coordination between individual inspectors, partly contributing to important differences in the way they carry out their work.[99] This is relevant, for example, when an inspector requires his minister's approval before transmitting a corruption allegation against a staff member to the Integrity Commission. Some inspectors believe that such approval is necessary, while others do not.[100] A senior Board of Supreme Audit official explained that the confusion stems from the fact that the relevant CPA order is silent on the issue.[101] The Integrity Commission has sought to address these differences through the establishment of a coordination committee, headed by its commissioner, that meets once a month. However, as the committee lacks official status, its decisions are non-binding.[102]

The law also fails to clarify the exact process through which individual inspectors must be recruited and can be dismissed.[103] This, combined with individual ministers' obvious interest in controlling the process, has led to the appointment of unqualified personnel selected on the basis of their relationships with the minister in question.[104] This led to a highly publicised incident in late 2008, in which the first Maliki government dismissed several inspectors who had been appointed prior to its instalment in 2006, prompting accusations of political interference and further undermining the institution's credibility and effectiveness.[105] Efforts have since been made to reform recruitment, including by placing it in the hands of a special Integrity Commission committee.[106] The difficulty with the new process is that it remains non-binding, which means that some inspectors continue to be recruited through non-competitive processes.[107] Ministers also have significant leeway in dismissing inspectors, which serves as a powerful disincentive to act aggressively against corruption.[108]

[98] An inspector general described the relationship as such: "The Integrity Commission doesn't have any representatives in the ministries. We carry out investigations based on their specific requests. The Board of Supreme Audit will have three to four employees present at each of the ministries. They send us their reports, and either they will ask us to carry out an investigation or we will carry out an investigation based on our own interpretation of their reports. There is a special council in each ministry responsible for responding to the Board of Supreme Audit". Crisis Group interview, Baghdad, 9 October 2009.

[99] An inspector general commented: "The CPA order doesn't provide for coordination between the inspectors general". Crisis Group interview, Baghdad, 19 October 2009.

[100] A series of interviews carried out during the same period with different inspectors general revealed that some were convinced that an investigative file against a staff member within a ministry could not be transferred to the Integrity Commission without the relevant minister's approval, whereas other maintained that such approval was not necessary. Crisis Group interviews, Baghdad, 15-17 January 2011.

[101] Crisis Group interview, Board of Supreme Audit official, Baghdad, 12 February 2011. A senior Integrity Commission official agreed: "Not only is CPA Order 57 unclear, but the inspectors general don't even want to admit that they don't understand what their mission is". Crisis Group interview, Baghdad, 3 March 2011. An inspector general explained that this confusion, as well as pressure from the government and the Board of Supreme Audit, led to an initiative to merge each ministry's internal audit and Inspectors General offices: "This was a major mistake, because even internal auditors have to be inspected. The inspectors general can't inspect the internal audit offices if they are part of the same office". Crisis Group interview, Baghdad, 3 March 2011.

[102] The coordination committee meets once a month, headed by the Integrity Commission chief. Crisis Group interview, inspector general, Baghdad, 23 January 2011.

[103] The only legal guidance relating to the recruitment and dismissal of inspectors general is provided by Order 19 (2005), which provides that they are appointed by the prime minister based on the advice of the Integrity Commission's head and can be dismissed by the prime minister only on the basis of that same person's reasoned opinion.

[104] An inspector general said in 2009, "in the past, many appointees were linked in some way to the relevant minister. As a result of a lack of special procedures to guide the recruitment process, many were unqualified for the job". Crisis Group interview, Baghdad, 9 October 2009.

[105] In November 2008, *The New York Times* reported: "The government of Prime Minister Nuri Kamal al-Maliki is systematically dismissing Iraqi oversight officials …. While some Iraqi officials defended the dismissals, saying there had been no political motivation, others pointed to the secrecy involved as supporting their view that those removed had lost their posts without good cause". James Glanz and Riyadh Mohammed, "Premier of Iraq is quietly firing fraud monitors", 18 November 2008.

[106] Crisis Group interview, inspector general, Baghdad, 15 January 2011. Another inspector general described the new recruitment procedures as including the advertisement of vacancies in newspapers and the use of a lie detector test during face-to-face interviews. Crisis Group interview, Baghdad, 13 February 2011.

[107] A former anti-corruption official at the U.S. embassy stated in February 2011: "There are new recruitment procedures in place, but these have been applied on a small number of occasions only. At least one inspector general was replaced recently through a direct appointment without following the new procedures". Crisis Group interview, Amman, 19 February 2011.

[108] An inspector general said, "I am a ministry employee. My minister could fire me today". Crisis Group interview, Baghdad, 4 March 2011. Another agreed, adding: "We depend on the ministry that we operate in, as well as on the finance ministry. When we request funds for our work, the finance ministry usually gives us only a part of the budget we ask for". Crisis Group interview, Baghdad, 16 February 2011.

The impact is that the inspectors lack any standard operating procedures, which means that individual auditors and investigators do not have instructions about how specific tasks should be carried out and what each task's objective is. In the words of a former international adviser to the government familiar with the oversight agencies:

> The inspectors general do not use indicators and have no operating procedures to speak of. Without standards, they can't solve problems. Staff performance review is basically absent. Most offices lack sufficient team members – at most twenty – who are also insufficiently trained. How could they hope to do their jobs with so few people when some ministries have hundreds of departments with more than 100,000 employees?[109]

Lacking capacity, inspectors general remain largely passive, acting only on specific allegations despite their presence in each ministry.[110] While the UN has provided assistance to both the Board of Supreme Audit and the Integrity Commission through multi-million-dollar training programs since at least 2005, a similar effort for the Inspectors General is due to begin only in the second half of 2011. Meanwhile, the Maliki government has done little or nothing to develop the institution. As a result, it remains one of the state's most underperforming.

D. The Urgent Need for Reform

1. Bureaucratic inefficiencies

The legal framework governing the oversight agencies has led to duplication in their work, made worse by their poor capacity. In the words of a senior parliamentary adviser:

> If an inspector general in a given ministry detects corruption, his first step is to report it to the minister. This can take months because of the small size of his staff. After the minister is given notice, the Integrity Commission becomes involved, but the Commission's performance is also very limited and slow. It can take months for it to respond. Once the Commission completes its investigation, the matter is referred to the courts. Even if the agencies and individuals involved want to solve the problem, by the time all the investigations and duplicated procedures have been carried out, the specific instance of corruption will almost certainly have reaped its reward for the culprit, and the relevant people might have moved on.[111]

As a result, even assuming an investigation in relation to a corrupt act involving, for example, procurement is completed, by the time a conviction is secured, the contract will already have been awarded, and significant time will have passed.[112] The effect is no real check against the awarding of contracts to inappropriate contractors. This partially explains why contracts for the improvement of services often fail to be carried out per specification, if at all.

A striking example is the manner in which the procurement of the infamous bomb detectors known colloquially as "magic wands" has been investigated and prosecuted. Although these devices were clearly useless to even the casual observer, the government purchased 1,500 of them in 2008 at a cost of approximately $85 million, deploying them at checkpoints and the entrances of government buildings all over the capital and in the provinces.[113] It took years for the matter to be investigated and prosecuted, despite intense media reporting on the fraud. Moreover, despite the fact that both the UK entrepreneur and the Iraqi official involved in the purchase were arrested in their respective countries,[114] the devices are still in use at checkpoints throughout Iraq as the only means to detect car bombs.

2. A deficient legal framework

The laws governing the three oversight agencies are in desperate need of reform as well.[115] These provide little

[109] Crisis Group interview, former international adviser to the government, New York, 28 February 2011.

[110] An inspector general described the process as follows: "We act upon specific information. We don't carry out continuous investigations. The information leading to an investigation can come from different sources. It can be based on information obtained from a ministry employee, the Board of Supreme Audit or the Integrity Commission, or it can be based on a simple impression of corruption". Crisis Group interview, Baghdad, 9 October 2009.

[111] Crisis Group interview, senior parliamentary adviser, Baghdad, 1 March 2011.

[112] Crisis Group interview, Board of Supreme Audit official, Baghdad, 10 November 2009.

[113] Some of these devices were so costly that certain government departments refused to deploy the ones they had, lest they be stolen or damaged and in need of replacement. A municipalities and public works ministry official said, "my department has two at its disposal, each of which we bought for $50,000. Our boss refuses to use them, so we keep them in a locked drawer". Crisis Group interview, Baghdad, 15 February 2011.

[114] The head of the company that sold them to the Iraqi government was arrested and accused of fraud in the UK in January 2010. The Iraqi official responsible for their purchase was arrested in February 2011. For more detail, see Crisis Group Middle East Report N°99, *Loose Ends: Iraq's Security Forces between U.S. Drawdown and Withdrawal*, 26 October 2010, p. 33.

[115] "The Government of Iraq may consider clarifying different control institutions' responsibilities and tasks. It may find it important to establish specific monitoring institutions for the *a priori* control to be in charge of, in particular, reviewing the

guidance on how they should coordinate their roles, which has led to duplication in a sector that is already stressed to the limit.[116] Tensions over jurisdiction have led to gross inefficiencies,[117] while the laws fail to clarify who is responsible for overseeing procurement.[118]

Draft laws that could streamline the three agencies have been before parliament since 2007.[119] They are meant to serve different purposes: correct translation errors into Arabic from the CPA orders' original English; codify and enforce the Integrity Commission and Inspectors General's operating procedures; strengthen each institution's independence; and improve their mutual working relationships.[120] A senior Board of Supreme Audit official cautioned, however:

> A draft law to reform the Board's legal framework, which we had a hand in preparing, was completed back in 2007. The new framework was designed to provide additional guidance on how the Board should carry out its investigations, which standards it should employ and which institution it should answer to. It was also supposed to re-establish the Board's right to refer corruption files directly to the courts. However, the draft hasn't made any progress in parliament, so we have asked that it be withdrawn and replaced with a much simpler proposal: to make some minor amendments to the existing law, which will hopefully have a better chance of being approved.[121]

The lack of coordination between and within agencies has led to a complete absence of standard operating procedures that spell out how officials should perform their tasks.[122] Other problems include the failure to pass effective witness protection legislation[123] and ensure public access to government information.[124]

The failure to make substantial progress at least helps clarify that the government is working against, not in favour of reform. In the words of a senior judge:

> Why is there no progress on corruption? Because the ruling parties divide ministries between them, appoint ministers on the basis of their party affiliation and consider ministries sources of income. The ministers benefit and so do their parties. The post-2003 state was built on that basis. It doesn't act against corruption, because it has an active interest not to.[125]

bidding documentation and approving the applied tendering method". OECD Benchmark Report, p. 96.

[116] A Board adviser said, for example, that "when an investigation is launched by one of the agencies, the Board might never find out about it". Crisis Group interview, senior Board of Supreme Audit adviser, Baghdad, 3 March 2011.

[117] An Integrity Commission official described his agency's relationship with the Board of Supreme Audit as follows: "Things are difficult with the Board. It feels it shouldn't have to go through the Integrity Commission to pursue corrupt practices". Crisis Group interview, Amman, 8 September 2009. An inspector general agreed: "There is a problem with our relationship with the Board. They are very negative and aggressive in their comments. They feel they have to find irregularities or instances of corruption everywhere". Crisis Group interview, Baghdad, 9 January 2011.

[118] See the OECD Benchmark Report, paragraph 1.1.1.

[119] The two of these laws approved by the parliament on 24 September do not significantly address the above difficulties.

[120] An inspector general described the proposed reform as such: "There were two main objectives [behind the draft Inspectors General law]. One is to clarify problems caused by the CPA order's poor translation from the original English into Arabic. The other is to codify the working methods that we have developed through our practice and experience over the past few years". Crisis Group interview, Baghdad, 18 January 2011. An Integrity Commission official said, "the draft Integrity Commission law should be passed. The Commission is very pleased with it, in that it merely confirms and codifies the practices that have developed within the Commission over the past few years". Crisis Group interview, Amman, 21 February 2011.

[121] Crisis Group interview, Board of Supreme Audit official, Baghdad, 13 February 2011. A law that introduces such minor amendments was approved by parliament on 24 September 2011. An inspector general also expressed frustration at the lack of progress: "A draft law to amend Order 57 was submitted to parliament more than two years ago, but it made no progress. It wasn't debated, and because it had no chance of being approved, it was withdrawn. Crisis Group interview, Baghdad, 9 October 2009. A legal adviser to the Integrity Commission noted that this might have a positive side-effect: "Those laws' original drafts were far superior to the versions that were on the table at the end of the parliamentary term, which had the politicians' fingerprints all over them. Hopefully, we will be able to protect the integrity of those drafts and have them passed soon". Crisis Group interview, Baghdad, 1 March 2011.

[122] A former anti-corruption official at the U.S. embassy said, "the lack of standard operating procedures among the majority if not all state institutions is serious. The Board of Supreme Audit and the Integrity Commission are responsible for carrying out investigations in relation to money laundering. Efforts have been made to make these institutions adopt standard operating procedures, but they have resisted these efforts, supposedly because they have networks of contacts that provide them with all the information they need. They rely on rumours they pick up through the grapevine. When the Board starts an investigation, it doesn't even establish what its objectives are. This is a major flaw". Crisis Group interview, Amman, 12 January 2011.

[123] Crisis Group interview, former UN official, Amman, 25 January 2011.

[124] 2009 State Department Report on Human Rights in Iraq. Studies confirm that even in cases when documents are said to be available to the public, they are difficult to locate. See the OECD Benchmark Report, paragraph 8.1.

[125] Crisis Group interview, Baghdad, 1 March 2011.

IV. PARLIAMENTARY PARALYSIS

The 2005 Constitution marked a significant departure from previous practice in that it contemplates a strong parliament with wide-ranging legislative and oversight powers. From its inception, parliament experienced a number of difficulties that have hindered its effectiveness. These include the fact that it is an entirely new body that had to establish its operating procedures in an environment of security threats and a tradition of policy being set solely by government bureaucracy. Moreover, it emerged in a profoundly sectarian atmosphere and has been compelled to work in effect without an opposition because of a succession of national unity governments.

It has shown it is in no hurry to enact new legislation. After returning from a one-year hiatus during the 2010 elections and government formation crisis, and with a dramatically altered composition, it failed to pass any substantive legal reform in the first half of 2011. Its oversight record has been no better: since 2006, it has summoned and questioned government officials on only a handful of occasions.

The impact of these failures has been devastating. First and foremost, yet another check on government and the potential abuse of executive power has been rendered toothless, undermining great hopes for a new departure generated by the former regime's ouster. Moreover, as a result of outdated legislation, state institutions and officials are forced to apply rules that many observers agree are contrary to the country's interest. These symptoms reveal a larger truth: the political system – in which most political parties are represented in both government and parliament in ruling coalitions – is incapable of delivering desperately needed reform.

A. POWERFUL ON PAPER

Iraq's post-2003 constitutional drafters established a strong parliamentary system.[126] The 2005 constitution[127] created a Council of Representatives with extensive powers.[128] It can enact federal laws without limitations on substance, elect the president of the republic and two vice presidents and ratify treaties. It also has a mandate to oversee government performance, offering the only mechanism (apart from elections) through which citizens can express their views on service delivery. Parliament likewise is empowered to approve certain executive appointments, revoke the president's immunity in exceptional circumstances, question the prime minister and ministers, grant confidence to the government or withdraw it and consent to declarations of war and states of emergency (which can only be based on a joint request by the president and prime minister). Finally, parliament has the power to approve the annual state budget and closing accounts.[129]

Despite these significant powers, which represent a radical departure from the pre-2003 period, parliament has in effect been side-lined since 2006. It has not enacted the type of major reform that the country requires and has failed to exercise effective oversight. It has remained ineffectual in large part because of the charged political and sectarian atmosphere, escalating violence in the streets and members' lack of experience.[130] Lawmakers were confined to the Green Zone, and sessions were not broadcast for much of 2006-2008, which meant that parliament remained out of the public eye for its first years. In that vacuum, the fragile and sectarian power-sharing agreements that have been the mainstay of post-2003 politics became a way of parliamentary life, to the extent of setting quotas for even the most modest staff positions.

There also are disturbing signs that parliament's failures are part of a larger problem linked to the country's current culture of governance. Each successive government since 2005 has been based on broad ruling coalitions, to the extent that only small minority-based parties have

[126] From April 2003 until January 2005, Iraq did not have an elected parliament. Prior to the U.S. invasion, Iraq's legislative function was exercised nominally by the National Assembly. That body was dissolved by the Coalition Provisional Authority in May 2003 and replaced following the parliamentary elections that took place in January 2005, as per the interim constitution (the Law of Administration for the State of Iraq, also known as the Transitional Administrative Law). Those elections established the Transitional National Assembly, which drafted the permanent constitution that was adopted in a popular referendum on 15 October 2005. Pursuant to the constitution, parliamentary elections were held in December 2005 that established the Council of Representatives, Iraq's first and so far only post-war legislative institution to complete a full four-year term.

[127] The text was published in the Official Gazette, Issue 4012 (28 December 2005). An official English language translation does not exist, but an unofficial translation is available from www.uniraq.org/documents/iraqi_constitution.pdf. The constitution entered into force when the new government was seated in June 2006.

[128] The Council of Representatives' official website is: www. .parliament.iq.

[129] Parliament's internal organisation is set out in its bylaws, available in the Arabic original at http://tinyurl.com/6xqp2qv. The bylaws provide for a speaker's council (see below), as well as the establishment and organisation of various legislative committees.

[130] A political adviser to parliament said, "in 2006, the Council was a blank page. That page has now been filled with writing and not all of it is pretty". Crisis Group interview, Baghdad, 12 June 2011.

found themselves without government portfolios.[131] The process of forming such coalitions is long and tortuous,[132] produces oversized governments with dozens of ministerial posts[133] and hangs together by fragile political arrangements that most parties feel compelled to protect, given their stake in being part of government. As a result, despite huge popular pressure on government and parliament to act, very little happens, because the ruling partners do not want to upset the arrangement. On the contrary, parliament is currently engaged in tactics to avoid passing reforms, precisely for that reason.

B. AN IMPAIRED LEGISLATIVE FUNCTION

1. Inexperience, nepotism and sectarianism

After the December 2005 elections, when 275 representatives from over two dozen parties took their seats, parliament faced the critical task of organising itself administratively and politically, yet it had no prior experience or institutional precedent. Staff members had received close to no training and were uncertain as to what their job descriptions entailed.[134] Members often misunderstood how parliament functioned[135] and displayed a lack of understanding of how the state was designed to function, even after having served in particular committees for years.[136] Others complained that nepotistic hiring practices were harming effectiveness. A parliamentary adviser complained: "I am aware of several senior staff members who have fraudulent university diplomas. For the most part, it's open knowledge as to who they are, but no one has ever been fired for this".[137] Some lawmakers said nepotism affected every aspect of parliament's work.[138]

Parliament also was particularly vulnerable to the raging sectarian conflict, because of its high political profile as well as the charged atmosphere of the January 2005 and December 2005 elections, which catapulted sectarian parties to power. Many questionable practices were established in that context. For example, the main parties reserved the speaker's position for a Sunni Arab, while the two deputies were a Shiite and a Kurd.[139] Combined with parliament's bylaws, which grant the speaker and his two deputies power over almost all the institution's functions,[140] this ethno-sectarian framework contributed to paralysis,[141] affecting even the hiring of support staff.[142]

[131] Only Goran, a relatively new Kurdish party that was formed in opposition to the ruling KDP-PUK coalition and has eight seats in the parliament elected in March 2010, was excluded from the government formed in late 2010. The parties to which the remaining 317 lawmakers belonged all obtained some form of representation in government.

[132] Following the 7 March 2010 general elections, it took more than eight months to form a government.

[133] The government formed in December 2010 has 48 portfolios.

[134] A parliamentary adviser said, "when the Council first started its work four years ago, we were having serious trouble. Most of our staff members had no idea what they were supposed to be doing. They didn't have a clear idea what their job descriptions were or what their objectives should be". Crisis Group interview, Baghdad, 15 October 2009.

[135] When time came to distribute committee assignments, members rushed to join what appeared to be the most prestigious ones (including the foreign affairs committee), not understanding that real power existed with more technical committees, such as the finance committee. According to the Kurdistan Democratic Party's Sirwan al-Zihawi (who was a member of the parliamentary development committee in 2006-2009 and the finance committee in 2009-2010), "only six members asked to be put on the finance committee, which wasn't enough even to establish a quorum". Crisis Group interview, Beirut, 17 October 2009.

[136] According to a Board of Supreme Audit official, "a finance committee member shouted at my colleagues and me, accusing us of having violated the constitution, supposedly because we hadn't been providing his committee with the closing accounts for the financial year. In fact, that's the finance ministry responsibility, not ours". Crisis Group interview, Amman, 17 June 2009.

[137] Crisis Group interview, parliamentary adviser, Baghdad, 15 January 2011.

[138] A lawmaker said, "senior members and staff are in the habit of appointing their sons and relatives to key administrative positions. The impact is felt everywhere. For example, our IT services are a joke. We don't even have a reliable internet connection". Crisis Group interview, Sami al-Atroshi, Dohuk, 20 January 2011.

[139] Mahmoud al-Mashhadani of the (Sunni) Iraqi Consensus Front was speaker in 2006-2008, followed by Iyad al-Samarrai of the (Sunni) Iraqi Islamic Party (2009-2010). Sheikh Khaled al-Attiyah of the (Shiite) United Iraqi Alliance was first deputy speaker and Aref Tayfour of the Kurdistan Democratic Party second deputy in 2006-2010.

[140] Parliament has a speaker's council (the speaker and two deputies) that organises the agenda for each plenary session; drafts parliament's administrative plan; holds authority over its staff, including in matters regarding recruitment, retirement and disciplinary action; and oversees its research and studies directorate.

[141] A 2009 confidential UN report states: "We understand the political reasons that originally led to implement these provisions …. However, this transitional phase cannot last forever, as the current structures might lead to a paralysis of the Council". "Analysis and Recommendations Study", 2 June 2009, unpublished.

[142] The Kurdistan Islamic Union's Sami al-Atroshi said, "each party represented in the Council is allowed to appoint a certain number of staff members to the Council's administration, under a quota system. We were refused the right to hire our preferred candidates [who happened to be Arabs] because, we were told, our staff had to be Kurds". Crisis Group interview, Dohuk, 20 January 2011. A parliamentary official agreed, adding that citizen requests have to be directed to the office staffed by members of the petitioner's ethnic or religious group. Crisis Group interview, Baghdad, 15 October 2009. Another parliamentary official added that the same rules are applied whenever a par-

The speaker and his deputies are so powerful that the institution's functioning has come to depend on whether the speaker is an effective administrator.[143] In that sense, many parliamentarians and outside observers expressed relief at the ousting of Mahmoud al-Mashhadani, whose 2006-2008 tenure was characterised by erratic behaviour.[144] As if to underscore that point, parliament failed to elect a speaker and remained idle for several months during the 2010 government-formation process.[145] Its sessions,[146] as well as administrative matters such as training, were suspended.[147]

When Usama al-Nujayfi was elected speaker in November 2010, a number of lawmakers expressed optimism that parliament would become more effective, based on the perception that he is a competent administrator.[148] However, the institution's performance in 2011 so far suggests that little has changed.[149]

2. Parliament or conference centre?

One of the main challenges parliament needs to overcome is its failure to develop a mechanism for preparing and debating bills designed to address essential needs, combined with an enduring ethno-sectarian logic that allows for each of the country's main groups to veto key bills in committee.

An unpublished 2007 U.S. embassy study revealed that more than a dozen bodies are involved in suggesting new legislation, without any particular institution or individual being responsible for overall control or identifying legislative gaps.[150] The legal committee is one such body. It is responsible for sponsoring legislation in key areas but has remained incapable of fulfilling its role because it is understaffed and heavily politicised.[151] According to Salim al-Jubouri, the committee's former deputy head:

> We are uncertain as to what the exact mechanism for approving legislation should be. We have also established a number of procedures that are turning out to be extremely burdensome. At the end of the previous parliamentary term, the legal committee was holding up more than 200 draft laws because of an understand-

liamentary delegation is formed for an international visit of any kind. Crisis Group interview, Baghdad, 21 January 2011.

[143] Ahmad Suleiman Jamil, a parliament member now affiliated with the Iraqiya Alliance, said, "if any future speaker is disorganised, we will revert to the difficulties we had during Dr Mashhadani's tenure". Crisis Group interview, London, 19 June 2009.

[144] See Damien Cave and Richard A. Oppel, "Iraq's parliament leaders agree to remove speaker", *The New York Times*, 11 June 2007. Al-Mashhadani was replaced by Iyad al-Samarrai, who was welcomed as a more professional administrator. A parliamentary adviser said, "there has been a marked improvement in administration since Dr Iyad became speaker. At a very superficial level, people used to watch parliamentary sessions on television just to laugh at us. We were a source of comedy. Now sessions are more serious; the discussions are dry and substantive". Crisis Group interview, Baghdad, 15 October 2009.

[145] Pursuant to Article 55 of the constitution, on 14 June 2010 the Council held its first session after the election results were certified by the Federal Supreme Court on 1 June 2010. Veteran Kurdish politician Fuad Masoum, who chaired that session as the oldest lawmaker present, announced that it would "remain open", because the major political blocs had not reached agreement on who should occupy the positions of president, prime minister and speaker of parliament. A group of civil society organisations challenged that procedural manoeuvre before the Federal Supreme Court, which found on 24 October 2010 that the Council's actions violated Article 55 and ordered it to reconvene its session. The Court's decision (Decision 55/2010) is available at www.iraqja.iq/view.594/.

[146] A lawmaker from Kirkuk governorate explained: "I and a group of around 40 parliamentarians convene in the Council as often as we can, just to pretend that we are working, but we can't hold any official sessions, nor can we take any decisions in the speaker's absence. This has been going on for months". Crisis Group interview, Emad Yokhanna, Beirut, 15 October 2010.

[147] A European parliamentary official explained: "We had entered into an agreement with the Council in 2009 to provide training and generally increase our bilateral cooperation and support. We were supposed to start implementing it in 2010, but since the March 2010 elections, the Iraqis haven't been answering our phone calls or emails". Crisis Group interview, Paris, 25 November 2010.

[148] Crisis Group interview, Humam Hamoudi, parliament member, Baghdad, 12 January 2010. Another lawmaker explained in more detail: "Usama Nujaifi is proving to be a very competent administrator. In the previous parliament, Mahmoud Mashhadani complained about absenteeism but didn't impose any sanctions. Iyad al-Samarrai sought to embarrass individual parliamentarians by publishing details of who the worst truants were. Now Nujayfi is publishing daily reports of who isn't attending sessions and is imposing financial penalties on truants. Everything rests on Nujayfi". Crisis Group interview, Baghdad, 14 January 2010.

[149] A legal adviser to parliament said: "A number of bills are making their way through various committees, but it is taking a very long time. I have not felt any perceptible improvement in the Council's efficiency". Crisis Group interview, Baghdad, 12 June 2011.

[150] "Iraq's federal lawmaking process", U.S. embassy, Baghdad, 5 December 2007, powerpoint presentation in Crisis Group's possession.

[151] According to a parliamentary adviser, "the legal committee is understaffed measured against the amount of work it is asked to do. Moreover, many of its members are well-known politicians with different responsibilities, which occupy too much of their time". Crisis Group interview, Baghdad, 15 October 2009. A second parliamentary adviser agreed: "The legal committee's members are not very strong lawyers, and some have used their positions for political gain". Crisis Group interview, Baghdad, 9 February 2011.

> ing that the head, the deputy head and the rapporteur [all positions distributed according to *muhasasa*, ethno-sectarian logic] had to approve every single bill put before us. As a result, areas that should be updated regularly have remained unchanged.[152]

The legislative process has broken down also as a result of longstanding work methods that continue to define the relationship between the executive and legislature, including an abiding belief among members of the executive branch that parliament is little more than a distraction to the task of governing. Sami Al-Atroshi, a finance committee member in 2006-2010, said:

> Although the finance ministry is supposed to provide the parliament with the state's closing accounts before we debate the new budget law, this hasn't happened even once. Also, when the ministry sends us the draft budget law, it expects us to adopt it without debate. Our questions are usually met with silence or disdain. Once we convened a meeting of the finance and economics committees, as well as ministry representatives. The atmosphere was very negative. There was a complete misunderstanding about the nature of our relationship and who was answerable to whom.[153]

More than a year into parliament's second term, these difficulties have not been resolved. In the first five months of 2011, only seven laws were passed, none of which began even to address the scale of Iraq's problems. Parliamentarians spent much of that time on holiday and reduced debates to dialogue sessions in which lawmakers were invited to express their views on the issue of the day but rarely voted on proposed legislation.[154]

Parliament's inability to enact legislation has stood in the way of important reforms. For example:

- The absence of laws regulating the functioning and administration of political parties, both generally and during electoral campaigns, has become a main contributor to corruption.[155] Many expert Iraqis agree on the type of regulation to which political parties should be subjected – for example, the need to publish their accounts and the sources of financial donations – but no progress has been made during the past five years.[156]
- As noted above, institutional oversight that could curb corruption is failing because parliament has yet to enact legislation to significantly reform the principal oversight agencies, despite a large number of bills, studies and proposals put forward over the past four years.
- The vast majority of law remains antiquated, including the main corpus of criminal and criminal procedural law.[157] For example, although the office of the public prosecutor is theoretically responsible for preventing violations of fundamental rights before, during and after trial, longstanding problems in the relevant law have undermined prosecutors' independence from the judiciary and rendered it ineffective.[158] As in other cases, reform proposals have been on the table for years but studiously ignored.
- One of parliament's most egregious failures has been its inability to reform its own bylaws in a way that would promote greater efficiency in legislating. An ad hoc committee to study the question was formed in

[152] Crisis Group interview, Baghdad, 13 February 2011. Salim Abdullah al-Jubouri was the legal committee's deputy head in 2006-2010 and became chairman of the human rights committee in 2010.

[153] Crisis Group interview, Dohuk, 20 January 2011. A senior parliamentary adviser complained at the lack of cooperation between parliament and the finance ministry: "We received a breakdown of budget figures for the first time in September 2009, but it was a spreadsheet with thousands of numbers with no explanation what the figures meant". Crisis Group interview, Baghdad, 12 January 2011.

[154] Sheikh Humam Hamoudi, chairman of parliament's foreign affairs committee, said, "I have great respect for parliament's leadership but I think it should have delivered more, in particular by passing new laws and carrying out missions. Instead parliament's sessions have been something akin to conferences. We don't have debates between people in favour of a point of view and those against it on a particular matter that end with a vote. Parliament's leadership wants to make all the blocs happy. In the end, all those same blocs are now criticising the leadership". Interview on Al-Sharqiya television network, May 2011.

[155] A senior judge complained that in the absence of a political parties law, the fight against corruption was rendered meaningless: "Political parties see ministries as bank accounts to which they have free access. There is no point prosecuting petty acts of corruption when ministries and political parties are free to plunder the state". Crisis Group interview, Baghdad, 12 March 2011.

[156] Crisis Group interview, senior parliamentary adviser, Baghdad, 16 February 2011. A parliamentary debate was held on 5 July 2011 in the absence of a bill or a specific proposal. A bill was subsequently submitted to the legal committee, which vetoed it on the basis that it violated the constitution.

[157] Crisis Group interview, Basra, 13 February 2011.

[158] This is not the role they play, however. An attorney explained: "To be effective, the public prosecutor would have to be completely independent from the courts, the police, etc., but in practice, that type of independence is never respected. I often see them sitting down sipping tea together, discussing cases in completely inappropriate ways". Crisis Group interview, Baghdad, 13 February 2011. An international adviser with years of experience in dealing with the Iraqi courts observed: "Every time I went into a judge's office, there was a prosecutor there. In the Iraqi system, they should be separate". Crisis Group interview, William Wiley, Beirut, 19 August 2009.

2008, but its proposals would concentrate even greater power in the hands of the speaker and his two deputies.[159]

C. OVERSIGHT: FEAR NOT PARLIAMENT'S WRATH

Structural difficulties also are to blame for parliament's failure to exercise oversight on the executive. The broad power-sharing agreement between political blocs that has been at the heart of government since 2003 has subordinated the legislature to the executive to the extent that its main objective has become merely to ensure government's continued survival. Apart from a one-year aberration (which the government fought hard to prevent, see below), it has remained docile, incapable of holding government accountable for its actions either of omission or commission.

For four of the five years since 2006, the leaderships of both parliament and government have been politically aligned: during Mahmoud al-Mashhadani's tenure as speaker in 2006-2008 and since Usama al-Nujayfi became speaker in November 2010. During those four years, parliament avoided playing an oversight role.[160]

In a way, what happened during the only year in which an opposition existed and managed to seize control of parliament was worse: seeing a chance to embarrass, undermine and possibly oust the prime minister, Nouri al-Maliki, the opposition in 2009 used corruption allegations to launch a torrent of attacks against his allies in the government. As soon as Iyad al-Samarrai, the opposition's standard bearer, assumed the speakership in April 2009, he and his colleagues forced three ministers, all Maliki allies, to appear in parliament to answer charges of waste, fraud and mismanagement.[161] Despite significant evidence of mismanagement by these three officials, some opposition lawmakers expressed dismay at how the institution's oversight function was used as a weapon in what looked like a political vendetta. Sami al-Atroshi, an opposition member of the finance committee, commented: "Some people have said that the trade minister was the first to be targeted, because he was the most corrupt minister in that government. But all the ministers were the same. The only reason he was targeted before the others was that he was close to Maliki".[162]

The government's response was to employ a series of procedural tactics to delay or block the ministers' appearance in parliament. In particular, Deputy Speaker Khaled Attiyah, Maliki's strongest parliamentary ally, successfully blocked the attempt to question Hussain al-Shahristani, the oil minister. A parliamentary adviser remarked:

> Sheikh Khaled used various procedural means to slow down the process. For example, when lawmakers sought to question a particular minister, he first asked for a meeting to discuss the matter. He then demanded a memorandum on the meeting's conclusions; required a particular department to comment on the paper; and called yet another meeting to discuss the paper. And this went on. He also asked one of his advisers to find a legal mechanism to delay the process. The adviser produced a memorandum stating that the relevant minister should first be requested to provide information in writing; then be asked to provide explanations in person; and finally that further steps should be taken before he could be summoned to parliament.[163]

Parliament's oversight function has been weakened further by its poor relationship with the Board of Supreme Audit and Integrity Commission. Constitutionally, both institutions are required to feed the information they collect as part of their investigations directly into parliament, which should use it to hold the government accountable. Lack of communication between parliament and the two agencies has impaired this arrangement, however. Parliament has barely consulted any of the reports it received,

[159] Crisis Group interview, legal adviser to parliament, Baghdad, 16 February 2011.

[160] Crisis Group interview, Ahmad Suleiman Jamil, parliament member, London, 19 June 2009. Speaking in 2009, a parliamentary adviser agreed that parliamentary oversight had been ineffective: "Before this year, government officials would occasionally come to parliament to provide information, but they were not held accountable for their actions. In 2006, the electricity minister said many times that by 2011 we would have round-the-clock electricity. It's almost 2010 now and we aren't even at four hours". Crisis Group interview, Baghdad, 15 October 2009. Two years later, in 2011, the electricity supply has barely improved.

[161] The first of these three ministers to appear before parliament, Faleh al-Sudani, the trade minister, was the only one to suffer repercussions. He was arrested shortly after his testimony but later acquitted by a Baghdad court.

[162] Crisis Group interview, Sami al-Atroshi, parliament member, Dohuk, 20 January 2011. A legislative aide agreed: "There is no question that the oversight process is abused. All you have to do is look who is doing the questioning and who is being questioned. If the parties carrying out the questioning were truly concerned about corruption, why would they summon only ministers close to [Maliki's] Daawa party?" Crisis Group interview, Baghdad, 15 February 2011. A former senior parliamentary adviser agreed as well: "Political parties will use corruption charges only when it suits them". Crisis Group interview, Baghdad, 15 December 2010.

[163] Crisis Group interview, parliamentary adviser, Baghdad, 15 October 2009.

nor has it referred to these agencies' findings during its debates, thus preventing effective oversight.[164]

While some improvements have been made in the relationship between these three institutions since 2009 (the Board has opened a liaison office in parliament, for example, enhancing cooperation),[165] these were based on personal initiatives. An Integrity Commission official said, "our relationship with parliament is based on personal contacts that Judge Rahim [al-Ugaili] managed to build with individual lawmakers. There are no real institutional links between us and them. Parliament has not been an active participant in efforts to build an anti-corruption strategy".[166]

This trend does not appear to have been reversed in 2011. Despite evidence of deep dissatisfaction across the country, parliament has yet to hold any government minister or senior official to account for the government's failure to deliver essential services.

V. THE JUDICIARY: WEAK AND VULNERABLE TO POLITICAL INTERFERENCE

The judiciary is designed to be a vital check on government. It is constitutionally independent from the other government branches and is administered by the Higher Judicial Council,[167] which has its own budget and functions without interference from the justice ministry (whose mandate is limited to overseeing the operation of certain prisons and the Judicial Training Institute). The reality, however, is that the courts remain dominated by a class of judges who learned to cope with political pressure under Saddam Hussein's regime and have continued to be pragmatic under post-2003 prime ministers. The fact that the Higher Judicial Council and the Federal Supreme Court remain firmly under the control of a single judge makes political pressure a relatively simple affair.

A. CENTRALISATION OF CONTROL

The judicial system has been under the control of the chief justice of the Federal Supreme Court since 2003. Many credit the court system, including the chief justice, for having successfully insulated itself from sectarianism and other forms of discrimination at a time when most of the country was engulfed in civil strife. Yet, the concentration of decision-making authority in the hands of a single individual has led to a number of questionable practices and bureaucratic delays, as well as a failure to exercise effective oversight on the government.

After 2003, the courts became administratively and financially independent from the executive branch. A Higher Judicial Council replaced the justice ministry as the body responsible for managing the judiciary. Since it was established, the Council has been led by Judge Medhat Mahmoud, who is also the president of the Federal Supreme Court (Iraq's highest jurisdiction, which is responsible for interpreting the constitution and determining the constitutionality of laws). He commands significant respect in Iraq as well as the wider Arab legal world but has come under criticism for the manner in which he has concentrated power in his hands and micromanages decision-making in the Council.[168]

[164] Crisis Group interviews, former parliamentary adviser, Baghdad, 12 February 2011; and Sami al-Atroshi, parliament member, Dohuk, 20 January 2011.

[165] This development was the direct outcome of a UN-sponsored project in 2007-2009.

[166] Crisis Group interview, Integrity Commission official, Baghdad, 8 September 2009.

[167] The Higher Judicial Council was established pursuant to the Transitional Administrative Law (the 2004 interim constitution), and is mandated by the 2005 constitution to oversee judiciary affairs. Because parliament has yet to approve a law governing the judicial sector, there are no rules in place on how the Council should replace its members.

[168] A former UN official who worked closely with the judicial sector said, "it doesn't make sense to me that a single judge is

The impact of centralisation can be felt throughout the sector, including in relation to internal oversight of the courts, for which the chief justice is responsible as well. In the words of a former judge:

> The judicial oversight board isn't as effective as it should be. The chief justice personally decides which matters should be brought forward and investigated. Most of us agree that corruption and incompetence in the judiciary should be managed internally, but the mechanism should be administered by an independent body within the judiciary that is not beholden to the chief justice.[169]

Centralisation has led to questionable practices that have tarnished the entire judicial sector. For example, judicial training has suffered as a result of a territorial war between the justice ministry and the Higher Judicial Council since 2003 over who should be responsible for managing the Judicial Training Institute, which currently falls under the ministry's purview. In the words of a judge:

> We have been in conflict with the justice ministry over judicial training for years. The Higher Judicial Council is supposed to provide the institute's trainers, but it usually doesn't send any trainers at all; even when trainers are sent to us, they are incompetent, which has led to very poor training. The Council's objective is to kill off the institute and replace it with the Judicial Education and Development Institute, a new institution that originally was designed only to provide continuing legal education for sitting judges. In the end, this could be the optimal solution but in the meantime, we have a generation of judges who are graduating from the institute and whose training on matters of substance and procedure has been very poor or non-existent.[170]

This refusal to invest adequate resources in training has contributed to trainees' low standards, both judges and prosecutors. A common criticism among international advisers to the Iraqi courts was described by one such individual as follows:

> The problem is the failure of judges, prosecutors and defence council to understand their own law and how to apply it. This is mainly because of the uneven quality of legal education. The result is that formal rules are rarely observed and alternative procedures seep into the court system. Court officials often hold discussions on how to resolve disputes outside the court room, and I don't mean plea bargaining.[171]

B. POLITICAL INTERFERENCE

The court system in general continues to suffer from undue political interference, which mostly takes the form of threats of physical violence against judges and their friends and family. Often the threat no longer even needs to be made: on the rare occasions when a case involving high-level corruption are forwarded to a particular judge, he or she will not give it a fair hearing and will either dismiss it on procedural grounds or issue a reduced sentence.[172]

With respect to the Federal Supreme Court, the concentration of power in the hands of the chief justice has opened the door to political influence. Under the current constitutional framework, the Court has exclusive jurisdiction to interpret the constitution; its decisions are not subject to appeal. Over the past two years, a series of claims have been brought, usually by the government, in an apparent attempt to impose its particular interpretation of the constitution. The Court's decisions in these cases have almost invariably favoured the government's inter-

the head of the Higher Judicial Council, president of the Constitutional Court, and the head of the highest appellate court. Too much power is centralised in one individual. Nobody in the Higher Judicial Council will take any decision without his approval". Crisis Group interview, Amman, 6 December 2010. A judge with close ties to the Higher Judicial Council agreed: "No one in the Council can take any decisions without his approval. This would be problematic under ordinary circumstances, but considering how often he travels abroad to participate in conferences, this has caused lots of delay and interfered with the work". Crisis Group interview, Baghdad, 1 February 2011. A senior parliamentary aide concurred: "Dr Medhat is the head of three institutions within the judiciary. There is too much power concentrated in his hands. To make things worse, he has been reluctant to take decisions that involve any type of risk". Crisis Group interview, Baghdad, 9 January 2011.

[169] Crisis Group interview, Baghdad, 23 February 2011.

[170] Crisis Group interview, Baghdad, 6 February 2011.

[171] Crisis Group interview, William Wiley, Beirut, 19 August 2009. A senior judge agreed: "Our younger judges are of very poor quality. Older judges can be lazy, but younger ones haven't had the benefit of any meaningful judicial training". Crisis Group interview, Baghdad, 15 February 2011.

[172] In the words of a senior government official, "it's natural that judges should behave in this way. They are people like the rest of us, and most of them never assumed when they became judges that they would have to deal with this type of corruption and violence. The circumstances in which we are living are unheard of – for us and for our country. So why shouldn't judges protect themselves and their families? Why should they take risks that they never expected to have to take?" Crisis Group interview, Baghdad, 12 September 2011. Another official offered an example of a conviction secured in 2010 of a government official who was arrested in a sting operation as she tried to embezzle $7 million. The court sentenced her to two years imprisonment, far less than what is usually meted out for lesser crimes. Crisis Group interview, Baghdad, 12 September 2011.

pretation. This raises serious doubts about its ability to act as an effective check on the government's power.

In February 2010, the chief justice came under sustained criticism for having presided over the Federal Supreme Court's well-publicised reversal of an earlier decision to postpone final adjudication on the de-Baathification of 500 candidates in the March 2010 election until after the results were announced.[173] The Court's rationale was not what was at issue; it was the fact that it reversed a decision it had rendered only days earlier and that it did so pursuant to a high-profile political meeting involving Prime Minister Maliki.[174] In a second example, in January 2011, the Federal Supreme Court faced a barrage of criticism from senior government officials, politicians and commentators for its decision attaching independent agencies to the council of ministers[175] despite constitutional provisions requiring them to be attached to parliament.[176] Although some judges and international advisers have defended the decision as well-reasoned,[177] the court's rationale is clearly questionable.[178] Moreover, the ruling was one of a series of decisions favourable to the government.[179] A senior judge provided the following explanation for his claim that the court is particularly vulnerable to political interference:

> The reason is the weakness of the Higher Judicial Council's leadership. These are the same people as during the former regime: Saddam-era justice ministry cadres have risen to the top of the post-2003 judiciary. It is very difficult for this leadership to free itself from the executive authorities' influence, because for about 35 years, they were not independent, and mentally they cannot work independently. They still fear the executive, and this affects their decisions. The Judicial Council cannot take a decision without first checking if others agree.[180]

[173] See, Steven Lee Myers, "Candidates to stay off ballot in Iraq", *The New York Times*, 13 February 2010.

[174] See Crisis Group Report, *Iraq's Uncertain Future*, op. cit., pp. 27-32.

[175] Decision 88 (2010), dated 18 January 2011, at www.iraqja.iq/view.729/. Critics were concerned in particular about the fate of the Independent High Electoral Commission, given the potential for government manipulation in future elections. See, for example, "Heavy criticism of the decision to attach independent agencies to the Prime Minister", *Al-Hayat*, 23 January 2011 (Arabic).

[176] Section Three, chapter Four of the constitution is devoted to the powers, responsibilities and reporting lines of independent agencies, including the Board of Supreme Audit, the Integrity Commission and the Martyrs' Foundation.

[177] A legal officer at the U.S. embassy in Baghdad familiar with the Federal Supreme Court said, "the problem is not with the court's reasoning. It's with the text of the constitution itself, which is unclear and contradictory. The court's decision has redressed the balance in favour of legal clarity in a way that conforms with best practice as well as common sense". Crisis Group interview, Baghdad, 23 February 2011. A senior judge agreed: "In its analysis, the court made reference to the fact that parliament is not capable of working in conjunction with independent agencies. That is absolutely right. These agencies are administrative in nature, and so they have to report to the executive branch. The legislative branch isn't even in session half the time, so who would these agencies report to?" Crisis Group interview, Baghdad, 18 February 2011.

[178] To reach the conclusion that all independent agencies should be attached to the council of ministers and not to parliament, the Federal Supreme Court had to set aside specific constitutional language, such as Article 103(2), which provides that the Board of Supreme Audit and the Communication and Media Commission are "attached to the Council of Representatives". The court's reasoning that this wording is redundant (given that all administrative officials are in any event answerable to parliament) stands against the widely established legal principle that specific wording should be given meaning and not set aside in favour of general principles. Moreover, the court held that where the constitution provides that specific agencies are attached to parliament, this meant that the latter should be responsible for "establishing [the agency's] general policy, without interfering in its decisions, procedures, and professional affairs, because these commissions were given administrative and financial independence to guarantee the neutrality and independence of their decisions and procedures, within the context of their jurisdiction". (Crisis Group translation from Arabic.) Nevertheless, the court found that the government should "supervise" those same agencies, without providing any indication as to how it should exercise that supervision and whether it would have authority to overrule an agency's decisions.

[179] In August 2011, the Federal Supreme Court issued a decision that removed former Interior Minister Jawad al-Bolani from his parliamentary seat. Bolani stood for election in March 2010 in Baghdad governorate but failed to obtain enough votes to secure a seat. He subsequently entered parliament after a member of his Unity of Iraq list, who had stood in Salah al-Din province, was given a ministerial portfolio and released his seat to Bolani. The Court held that Bolani could not replace a candidate who had stood in another province and so unseated him. Although the Court's decision was well reasoned, it is unclear why that same reasoning did not serve to unseat Salim Abdullah al-Jubouri, an Iraqi Islamic Party member who had not obtained enough votes to represent Dyala Province but entered parliament when he replaced a party colleague who had obtained election in Salah al-Din province and had resigned for health reasons. A jurist close to the Federal Supreme Court attributed its discriminatory treatment toward Bolani to government pressure: "Maliki doesn't like Bolani [who has publicly accused Maliki of dishonesty and caving to Iranian interests]. It's as simple as that". Crisis Group interview, Baghdad, 20 August 2011.

[180] Political interference is not limited to the Federal Supreme Court. Many jurisdictions within the court system, including criminal courts, have been subjected to pressure over politically sensitive trials. Crisis Group interview, former international adviser to the Iraqi courts, Baghdad, 27 August 2010.

Until the Federal Supreme Court becomes entirely independent, the government will continue to rely on the constitutional legitimacy of its decisions to obtain leverage against its critics and to broaden control over state institutions.

VI. CONCLUSION

Despite relative security since 2008 and the huge resources at its disposal, the Iraqi state remains incapable of curbing corruption and improving service delivery. Reform proposals that have been on the table for years and that could help bring corruption under control have progressed through neither parliament nor government. These include, but are not limited to:

- making all oversight agencies completely independent of government. This would involve ensuring that their operating budgets are guaranteed by the finance ministry and are not politicised in a way that could restrict their operations, and that individual ministers and the government play absolutely no role in the recruitment and dismissal of inspectors general and the Integrity Commission's head;
- allowing all oversight agencies to refer matters relating to corruption directly to the courts, without the need to engage in repetitive and overlapping bureaucratic procedures;
- ensuring that all oversight agencies have the capacity to carry out auditing and inspection missions without having to rely on, or involve, any of the other agencies. This would involve amending the existing legal framework to allow for greater flexibility in carrying out specific missions and increasing the training budget for each of the oversight agencies to develop the skills that are necessary to carry out these tasks;
- formalising cooperation between oversight agencies by requiring them, in particular the Inspectors General, to adopt standard operating procedures and make greater efforts at sharing information;
- enacting a political parties law forcing all parties to publish detailed accounts and prohibiting raising funds from illegitimate sources (including through corrupt practices);
- reforming the parliament's bylaws, including by removing all administrative matters from the speaker's prerogatives, facilitating the formulation of legislative bills and accelerating the lawmaking process;
- depoliticising parliamentary oversight by shifting the focus on ministers and other political appointees developed since 2009 to senior technocrats and administrative officers, which would allow more detailed questioning with respect to policy implementation; and
- separating the head of the Higher Judicial Council from the position of chief justice and protecting the Supreme Court's independence by passing a judicial-

sector law that forbids any form of political interference in its work.

The government remains reluctant to enact any of these reforms. Its only proposed solution remains establishing a majority-based government, which would allow it to shed its supposed obligation to act on a consensus basis and give it greater flexibility in enacting reform. Based on the manner in which government has behaved since 2006, however, there is little reason to believe that, were it to be given the additional flexibility it has demanded, it would engage in any pursuit other than consolidating its own power. The types of reform Iraqis are demanding are achievable, but they require unity of vision and good faith – qualities desperately lacking today.

Baghdad/Brussels, 26 September 2011

APPENDIX A

MAP OF IRAQ

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 (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group'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, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-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.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group 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 Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

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September 2011

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