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S U M M A R Y

The Bush administration is pushing for elections in Iraq sometime next year. This extremely accelerated timetable is dangerous. Early elections in postconflict situations can produce unstable results and favor radical groups over still-emergent moderate forces.

Because the administration has made elections a requisite for Iraqi sovereignty and faces growing pressure to transfer sovereignty, delaying elections is not an option. The solution is to limit the current constitution writing to an interim document that provides the framework for the election of a constituent assembly and an interim government of national unity. This would produce an elected Iraqi government to which sovereignty can be transferred and create a framework for the longer-term process of political consensus building necessary to create permanent democratic institutions. ■

The Right Road to Sovereignty in Iraq

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The Bush administration is pushing for an Iraqi constitution to be written and approved by spring 2004 and elections to be held as soon as possible thereafter, most likely in the second half of the year. This approach responds to growing Iraqi and international pressure for a transfer of sovereignty from the Coalition Provisional Authority (CPA) to an Iraqi government, as well as to domestic pressure to limit the mounting financial and human costs of the occupation. Although this timetable is less compressed than the recent proposal by the French government for elections by early 2004, it still represents a dangerously accelerated process. The desire for moving so quickly is understandable, but the experience of many other countries emerging from civil conflict or forcible regime change shows that hurriedly organized elections often create more problems than they solve. Much more thorough political preparation is needed for elections to produce meaningful and lasting results.

Undoubtedly Paul Bremer, U.S. civil administrator in Iraq, and the CPA have the muscle and the technical resources to rush a

constitution into place and race through the logistical challenges involved in setting up elections. But short-circuiting the process of domestic discussion, negotiation, and consensus building that should accompany the crafting of a new Iraqi political system would be unwise. It would likely result in political institutions and processes to which many Iraqis feel little connection and that do not command the loyalty or respect of some key political actors. Worse still, early elections might provoke precisely the sort of civil conflict that the CPA hopes so much to avoid.

Despite these dangers, delaying the elections is not a viable option. The U.S. government decided early on after ousting Saddam Hussein that a transfer of sovereignty back to an Iraqi government would take place only once elections are held. As a result, the election timetable is hostage to the inexorably growing pressure for sovereignty. It did not have to be that way. Other countries emerging from conflict and regime change under some kind of external occupying or administering force have regained domestic sovereignty before having



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elections. Afghanistan is just one example. After the defeat of the Taliban in October 2001, Afghanistan quickly gained its own interim administration, led by President Hamid Karzai, and a detailed transition roadmap, finalized in Bonn in December 2001. With sovereignty and a roadmap for transition already in hand, Afghans have been willing to wait for elections. The planned elections of next year will take place close to three years after the end of the war.

If elections remain the gate to sovereignty in Iraq, there is only one way to reconcile the resultant imperative of holding early elections with the need for a lengthy process of political consensus building and institutional creation: Limit the first phase of constitution writing to an interim constitution and hold the first elections under that framework only for an interim government of national unity and a constituent assembly. This would produce an elected government to which the CPA could hand over sovereignty and create an institutional framework that could oversee the longer term, less hurried effort to create permanent democratic institutions. Even with more time Iraqis may not reach the compromises necessary to make a democratic system work. The history of Iraq is one of political strife kept in check only by authoritarian governments capable of strong-arming all existing political forces into submission. This is not a particularly good starting point for building democracy, but it is the reality on the ground, one that makes it all the more important not to rush the process.

Danger of Premature Elections

Rushing to elections in countries emerging from conflict or sudden regime collapse often prevents the necessary process of negotiation over the basic political rules and bargains for a new democratic system. Holding elections without a solid underlying political consensus on the rules and substance of a new political system presents at least two major dangers.

First, some of the major political forces may lack the confidence that if they do poorly in the elections their basic interests will

still be protected by the system. They may refuse to accept the results unless they win. Several examples of such rejection of results occurred in the 1990s, with different but equally undesirable outcomes. After a long civil war in Angola and then an uncertain peace agreement, the two rival movements, disguised as political parties but still armed, agreed to participate in elections in 1992. Each side assumed it would win; neither was seriously committed to a democratic process. International technocrats under UN supervision performed logistical miracles in pulling off the elections, for naught. The losing party launched another military offensive within days of the elections and ten more years of civil war followed.

In Cambodia, opposition parties emerged victorious from UN-sponsored elections held two years after the 1991 peace agreement that brought the long-running civil war to an end. But the incumbent leader, Hun Sen, refused to accept the results. Still in control of the bureaucracy and the military, he forced the parliament to accept the formation of a government headed by two prime ministers—himself and the head of the winning party. Before long, however, he grew discontented with sharing power and seized full power militarily.

And in Liberia, elections imposed by the international community in 1997 reconfirmed the dominant position of Charles Taylor, the victorious leader of the armed group that had devastated the country in years of war. Liberians gave Taylor a majority vote not because they liked him but because they realized he would not allow himself to be sidelined by an electoral loss and would plunge the country back into war in response to an unfavorable showing. Elections that promised at least stability and perhaps the start of a political liberalization process brought neither. Taylor ruled repressively, and opposition forces returned to fighting. The country lapsed again into disastrous civil war, prompting recently another round of international intervention, led by West African peacekeepers, with minor U.S. support.

The second danger of early elections is that they can increase the power of radical, uncompromising groups. Such political forces tend to be the first to organize in post-conflict situations and do well in hurried elections. Citizens divided along ethnic or religious lines are often wary of the ability of a fragile new political system to protect their core identity-based interests and vote for radicals who promise to defend such interests by any means.

Bosnia is a telling example in this regard. At the insistence of the international powers occupying the country after the 1995 Dayton Accords, Bosnia held elections just nine months after the peace agreement was reached. In those elections, which are now widely viewed by political analysts as a setback for reconciliation and democratization, radical nationalist forces on all three sides of the ethnic divide defeated more moderate groups. New, moderate parties had insufficient time to organize. Voters, still unsure whether the new system would really protect them, rewarded the radicals.

The dangers of rejection and radicalization are present in Iraq. The most visible groups on the emergent political scene are those with clear ethnic or regional identities. In a hurried political campaign, the more radicalized groups and the sharper messages are likely to stand out. Other groups—such as the new, moderate, secular organizations and the formerly exiled organizations that the United States hoped would become major domestic forces—are only just beginning to develop their base. Moreover, the major groups that have already emerged may not easily abide by elections results if those results thwart their ambitions or exacerbate their grievances. The Kurdish parties have governed a virtually independent region of Iraq for a decade and would likely be loath to submit to any elected government that attempted to curb their autonomy. The Shia clerics already have a wide political base and a surging sense of political destiny, one they might be unwilling to abandon if electoral results did not give them what they want.

The Sunni elite, struggling with the calamitous loss of its dominant position, is unlikely to be very happy with what elections will bring it.

Crafting a Political System in Iraq

In building a new political system, Iraqis will have to reach agreement on an almost overwhelming number of difficult, divisive political issues. The most important and divisive, but by no means the only, issues that will arise in writing a constitution include the following:

- In devising a federal system for Iraq, which many groups favor, critical decisions will be necessary about the boundaries of the new internal states and the degree of autonomy they possess. The Kurds have already drafted a constitutional proposal calling for a federation composed of one Kurdish and one Arab state, with significant autonomy for the states. Other Iraqis want to see states with less autonomy and with boundaries set in accordance with population size and geography, disregarding ethnic and religious lines. Still others would be interested in boundaries that maximize Shia power, enhance Sunni influence, or protect minorities.

- A fundamental choice will need to be made whether to have a presidential or a parliamentary system. The presidential system would be in keeping with the strong executive tradition of Iraq and other Arab countries but would raise the specter of a return to strongman rule. A parliamentary system would be less threatening but more alien, and could be more easily paralyzed by dissension and instability.

- Equally hard and contentious will be the decision whether to incorporate, and if so, how to incorporate into Iraq's new constitution and legal institutions the principles derived from the vast body of Islamic laws and interpretation known as the *Sharia*.

In addition to constitutional issues, Iraq will also face major choices in establishing the



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Doing It Right

The Value of Protracted Negotiations...

When Nelson Mandela was released in February 1990, the African National Congress (ANC) demanded that the apartheid government be disbanded immediately and elections held within six months. The government, still intent on finding a formula to enhance the power of the white minority, insisted on prolonged negotiations and on staying in power until the elections.

Despite the ANC's initial dismay, the slow transition was crucial to success. The negotiations showed the white minority that Africans would not accept a political system based on ethnic representation and convinced the ANC that a quick transition was impossible. The lengthy talks forced all political parties to confront not only what divided them but also what they had in common. They eventually reached agreement on a set of principles that would be included in the future constitution and on transitional power-sharing mechanisms. Negotiations were slow and painful but paid off when a peaceful transition took place in 1994.

...and of Transitional Steps

Many have derived lessons for Iraq from the post-World War II reconstruction of Germany and Japan, but Italy provides a more pertinent example. Having signed an armistice with the United States in 1943, Italy was not a defeated enemy in 1945, although the United States and Great Britain had a strong military presence there. Italy thus maintained its own government, with the main authority initially in the hands of a Committee of National Liberation that included all major parties. In 1946, Italy held elections for a constituent assembly. The Christian Democratic Party was the winner with 35 percent of the vote, but the socialist and communist parties combined gained 39 percent. What saved the day was the formation of a government of national reconciliation, with a Christian Democratic prime minister and the participation of communists and socialists. It was a tense period, but in two years the constituent assembly produced a document accepted by all. The parliamentary elections held in 1948 under the new constitution showed the value of the transitional steps. The moderate Christian Democrats had time to get better organized and gained 48 percent of the vote, with the communist/socialist alliance getting 30 percent.

core laws and procedures necessary for the construction of a democratic electoral process, including the following:

- In adopting a new electoral system, should Iraq opt for a system of proportional representation, for single member districts, or for a mixed system? Proportional representation is favorable to small parties and can potentially allow better representation of national minorities. It also can lead to unstable legislatures. With their winner-take-all quality, single member constituencies tend to eliminate small parties and render it more difficult to achieve representation for minorities. But they are often relatively stable and create stronger ties between elected representatives and their constituents.
- In writing a law on political parties, there will arise critical issues about their registration. For example, should the registration of parties with a religious identity be allowed, creating the possibility of an Islamist victory or at least a strong Islamist voice in government? Or should such parties be outlawed as incompatible with liberal democracy, leading part of the population to feel disenfranchised?
- Establishing a voter registration system will be more than a technical challenge; it will require choices with important political implications. Ideally, the registration of voters should be preceded by a national census and the issuance of identity cards and voter registration cards to all Iraqis. But a census before next summer is out of the question, partly because of time, partly because census taking in countries with a heterogeneous population and poor record keeping is a politically charged exercise that can upset carefully constructed balances. Although countries facing transitional elections often do register voters without a prior census, the result is frequently controversial. Minorities complain they are underrepresented, and opposition groups blame their poor performance on inaccurate voter lists.

These myriad constitutional, legal, and procedural issues will inevitably arise in crafting a new political system in Iraq. They would be contentious in any context. They will be particularly difficult to solve in Iraq, given its ethnic and religious divisions, its history of conflict and repression, and its lack of experience with even partial efforts to democratize. This does not mean that reaching consensus is impossible or that Iraq can never be democratic. It only means that these issues need to be thoroughly aired, and compromises must be negotiated at length. Thus, expectations for a rapid process are not realistic. Fundamental issues cannot all be settled within the next nine months or even the next year—no matter

tution could be written, widely debated within Iraq, and voted on, all in the less than six months remaining in the timetable for the constitution announced by U.S. Secretary of State Colin Powell in September. Given its near complete authority over political and legal matters, the CPA could give U.S.-supported aid technocrats leeway to race the country through the logistical preparations for elections. Constitutions, electoral systems, rules for the registration of parties, voter registration mechanisms, and all the rest can be pulled ready-made off the shelf. But no matter what miracles of organization and efficiency outside experts manage to accomplish, Iraq will not be politically ready for elections

Iraq needs an interim constitution to elect an interim government of national unity and a constituent assembly.

how hard both Iraqis and the CPA work. Indeed, the projected timetable is extremely short even by the standards of the typical hurried postconflict election, which usually takes about two years to organize.

Value of the Provisional

Under these circumstances, there are only two ways to ready Iraq for elections by the second half of 2004. One way is to treat the process of political construction and preparation as a technical rather than a political challenge, keeping most decisions in the hands of a very limited circle of Iraqi elites and CPA officials and minimizing wider political negotiations and public participation in the process. Paul Bremer promised that “the constitution will be widely circulated, discussed and debated among the Iraqi people” and ratified in a referendum. Yet, it is impossible that the consti-

next year. There are no technical shortcuts to the necessarily lengthy processes of political compromise, consensus building, and civic education. Overlooking this fact could lead to outcomes similar to those witnessed in Cambodia, Angola, Liberia, or Bosnia.

The CPA should therefore pursue a different course. The constitution writing beginning now should be limited to producing an interim constitution or basic law. Such a document would contain a broad commitment to democratic principles and respect for human rights; institutionally, however, it would only provide a minimalist and temporary framework needed to elect an interim government of national unity that would rule the country for three years, and a constituent assembly that would oversee the writing of a permanent constitution in the same period. Under this approach, the

Doing It Wrong

Bosnia

"It is worth bearing in mind that both Bosnia and the rest of the former Yugoslavia had already held democratic elections when they fell apart in war. Indeed, their disintegration can, in part, be attributed to the nature of the democracy which emerged. In Bosnia the 1990 election amounted to a poor ethnic census and as politicians exclusively represented the narrow interests of their own ethnic group and not the entire electorate, Bosnian society polarized and politics degenerated into a zero-sum affair."

—*International Crisis Group,*
"Doing Democracy a Disservice," September 9, 1998

Liberia

"In the 1997 Special Elections in Liberia, many voters understood their choice to be between Taylor or war, clearly an unenviable range of options. Given the legacy of the recent conflict and the pervasive fear that Taylor would return to war if not elected, many Liberians made a calculated choice that they hoped would more likely promote peace and stability. One Liberian said, 'He [Taylor] killed my father but I'll vote for him. He started all this and he is going to fix it.'"

—*Terrence Lyons,*
"Peace and Elections in Liberia" in Krishna Kumar, ed.,
Postconflict Elections, Democratization and International Assistance

Cambodia

"The process of holding elections has yet to lead to any national reconciliation; rather, it has legitimized Hun Sen's authority... Thus, a decade after the UNTAC intervention, political factionalism, 'strong-man' tactics, corruption, and social cleavages are still common in Cambodia. Despite two elections, Cambodian democracy is not yet fully representative or plural."

—*Daniel P. L. Chong,*
"UNTAC in Cambodia" in Jennifer Milliken, ed.,
State Failure, Collapse, and Reconstruction

United States would fulfill its commitment to transfer sovereignty to an elected government in the second half of 2004 but avoid many of the risks of early elections. The elections would be for significantly lower stakes than those currently being discussed. Yet the process would create nascent democratic institutions that would have the legitimacy and the time necessary to take the Iraqi political class and society through the inevitably difficult process of settling the many choices and dilemmas that arise in constructing a permanent democratic system.

The interim constitution should be kept as simple as possible. For the three-year interim period, it should establish a unitary rather than a federal system. This is not because a unitary system is the best for a democratic Iraq but because the contentious issues of federalism cannot be quickly solved. The interim constitution should provide for a parliamentary system rather than a presidential one, with proportional representation. This would avoid the dangerous winner-take-all quality of an early election for a strong presidential post and would make the constituent assembly as inclusive as possible. The registration of political parties should be kept quite open to encourage new organizations to form and to dispel fears that registration rules are being used to exclude some groups. Voter registration should proceed using a very simple method, such as election day finger marking, to encourage a large turnout and make as many Iraqis as possible feel they are part of the process.

Establishing an interim constitution and an interim government before moving to a permanent constitution and permanent political institutions would mean deliberately postponing many of the most difficult political choices facing Iraq. It would not mean sweeping them under the rug, as would happen if a permanent constitution were quickly put into place and aid technocrats took responsibility for solving the major issues of an electoral process.

An objection that has been raised against the idea of putting the writing of the constitution in the hands of an elected assembly is that this body would be dominated by Shias, who constitute 60 percent of the population, and that this would lead to the transformation of Iraq into a Iran-style theocracy. But not all Shias support radical Islamists—a poll conducted in August by Zogby International in four cities indicated that only 27 percent of Shias polled favored an Islamic government. Furthermore, a constitution is never approved by a simple majority, but by a qualified majority, and this would make it even more difficult for radicals to have their way.

ment an exit strategy. But as has been painfully learned in many countries around the world, holding elections does not a democracy make. In some cases, elections are not even the beginning of democracy. Elections are a necessary part of the process of building new democratic institutions. But if elections are rushed and held without adequate political preparation, they can provoke political conflict, distort emergent processes of political representation, and aggravate rather than heal societal divisions. The idea of a slower transition with interim steps and provisional institutions may not seem as satisfying or decisive as a democratic “big bang.” And those Iraqi

If elections are rushed without adequate political preparation, they can provoke political conflict and aggravate societal divisions.

The approach suggested here does not guarantee that when Iraqis eventually confront and try to solve the challenges of building democratic institutions they will reach happy compromises that all major political actors can accept. But it does increase the probability that this will happen. In the end, some groups will lose out, as some always do in a democratic process. The losers are more likely to accept such an outcome, however, if the issues have been the subject of real negotiations and handled within the framework of institutions—such as a constituent assembly—that were chosen by Iraqis rather than the CPA.

The Bush administration is understandably anxious to have an elected government in Baghdad, both so it can claim success in establishing democracy and begin to imple-

political actors who stand to benefit from a rapid process that rewards those already in favored political positions may well resist it. But a more gradual process, rooted in extended negotiation and consensus building on the part of major domestic political actors, as well as broader public debate and participation, corresponds to lessons from other countries and the real needs of Iraq. ■

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