

Iraq: Outlook for National Elections and Governance

By Gregory Hooker

January 2005

The Washington Institute for Near East Policy

The Washington Institute for Near East Policy

Table of Contents

Table of Figures	3
1. Executive summary	4
2. The transition so far	5
Iraqi Governing Council	5
The IIG	6
3. Elections in January 2005	7
Process	7
Campaigning and Electoral Strategy	13
4. Hypothetical election scenarios derived from polling data	14
Hypothetical results from polling data without multiparty electoral coalitions	14
Hypothetical results from polling data with a Shiite combined slate	20
5. Post-election milestones in the transition	25
Process	25
Issues	27
References	29
About the Author	99

Table of Figures

Figure 1: Proportional representation/party slate balloting system to be used in the elections..... 8
Figure 2: Time line for the elections and ITG formation 10
Figure 3: The ITG’s institutions and powers..... 11
Figure 4: Simulation of party representation in hypothetical National Assembly, with parties grouped by sectarian identity 16
Figure 5: Simulation of party representation in hypothetical National Assembly, in which sectarian parties do not show unity 20
Figure 6: Simulation of “Shiite slate” representation in hypothetical National Assembly, with sectarian blocs grouped together 223
Figure 7: Simulation of “Shiite slate” representation in hypothetical National Assembly, in which sectarian blocs do not show unity 24
Figure 8: Branches and sequels to the constitutional drafting and adoption process 25
Figure 9: General design of the political transition in Iraq..... 30

Iraq: Outlook for National Elections and Governance

1. Executive summary

Iraq's political transition accelerated in 2004 and will experience even more significant advances during 2005. The approaching elections, scheduled for January 30, 2005, represent the next major milestone in the transition. The winners of these elections will fundamentally define Iraq's future political system. Yet Iraq's lack of experience with representative government makes forecasts of electoral outcomes difficult.

Following the January 2005 elections, the current Iraqi Interim Government (IIG) will surrender power to a new Iraq Transitional Government (ITG). The electoral process and the Iraqi Transitional Government's structure and powers are now defined explicitly in a temporary constitution (Transitional Administrative Law). A single-district proportional representation system will be used in the elections, which will lead to selection of an Iraqi legislature. The legislature, in turn, will select the executive branch of the government, including the preeminent leader in Iraq's next government, the prime minister. The primary function of the transitional government will be to write a permanent constitution that paves the way for a permanent government to be elected in late 2005.

An analysis of the electoral process and mechanics suggest several important factors in the elections:

- Traditional modes of identity—ethnicity, religion, tribe—are likely to figure prominently in the decisionmaking of voters, especially during the first elections, when issues and party platforms are not well established or widely recognized.
- Various factors will affect—in ways that cannot be quantified—the relative differences in rates of voter participation among different Iraqi sectarian groups.

Potential election outcomes can be examined based on poll data and assumptions about Iraqi political behavior. Such simulations cannot be definitive but can describe potential scenarios and possible features of the new government:

- Kurd and Shiite factions will likely dominate the legislature and lead the formation of the executive branch.
- Sunni Arabs will be somewhat marginalized at the national level, probably receiving a limited number of seats in the legislature.
- Legislative leaders might choose to reach across the sectarian divide to marginalized groups, thereby “rebalancing” the executive branch leadership to avoid alienating Sunni Arabs.
- The political parties and coalitions that are best able to maintain their post-election cohesion and discipline will be the most successful in advancing their agendas. The Kurds may have an advantage over the Shiites in this respect.

The Washington Institute for Near East Policy

Following elections and the formation of the executive branch, Iraqis will focus on governance and the drafting of a constitution. The process, if successful, will result in a constitution's passage by October 2005 and new elections by the end of 2005. Key issues in the formation of the constitution include the following:

- The continued conduct of counterinsurgency operations in Iraq will be discussed, as well as the evolving relationship of Iraqi forces and Coalition forces in combating this threat.
- Kurdish federalism will be a major point of contention in the negotiations, despite present efforts to forestall discussion of the issue.
- Allocation of natural resources (mainly oil income)—through legislative action and executive decisions—will likely spur intense political competition.
- Religion and state: the role of Islam in the government could be a critical point of debate during the drafting of a constitution.
- Iraq's permanent government may differ markedly from the transitional institutions, but the transitional government's design and institutions may establish precedents that endure.

2. The transition so far

Iraqi Governing Council

Following the destruction of Saddam Hussein's regime in Operation Iraqi Freedom (OIF), Iraqis have gained increasing political control of their country. Early moves by the Coalition to initiate broad political participation and awaken political dialogue in Iraq were made during two conferences in April 2003. Held in Ur, near Nasiriyah in southern Iraq, and then in Baghdad, these two meetings largely failed to produce substantive results, but they helped initiate discourse on a range of issues and allowed for free expression and an airing of complaints.

The Coalition Provisional Authority (CPA) made the first significant step in reconstituting Iraqi governance in July 2003 with the establishment of the Iraqi Governing Council (IGC). The twenty-five IGC members were selected by the CPA, drawing from a broad spectrum of Iraq's citizens. Advisory in nature, the council had no real governing power. Eventually the IGC established a system of rotating presidents to head the body and selected ministry heads who could begin to oversee the reconstitution of professional civil service institutions.

The CPA's plans for an eventual reconstitution of Iraq's government underwent significant changes in late 2003. After being recalled to Washington, D.C., in November 2003, CPA head L. Paul Bremer announced a dramatic new plan to accelerate the handover of power to the Iraqi government. In concept, this plan involved the rapid transfer of power in a supervised "caucus" system that would involve Iraqi political, civic, business, tribal, and religious leaders. The details of this transition were worked out in a CPA/IGC meeting on November 15, 2003, in which the IGC accepted an accelerated time line and plan. This became known as the "15 November Agreement."

The Washington Institute for Near East Policy

The details of this transition scheme quickly sparked controversy, with Iraq's senior Shiite cleric, Grand Ayatollah Muhammad Ali Hussein al-Sistani, raising objections as early as December 2003. The key sticking point was that the plan did not call for immediate elections. In the 15 November Agreement, the initial transition of power relied on a complicated system of caucuses in Iraq's governorates, in which Coalition-chosen committees would eventually select national representatives. Shiite leaders feared that this system could be subverted—either by the Coalition or by their Sunni or Kurd rivals—in a way that would result in a government that did not reflect the Shiite demographic majority in Iraq. Sistani's influence on Shiite IGC members, as well as the Shiite population at large, resulted in a breakdown of the consensus for the 15 November Agreement.

Mainly at Ayatollah Sistani's behest, a United Nations team visited Iraq to study the problem and make recommendations. The team expressed pessimism about the prospect of holding rapid elections. Growing instability on the ground, they felt, would make for practical difficulties in the organization of elections. The UN therefore concluded that elections would not be possible by June 30, 2004, the planned date for transition of power. Instead UN officials supported a target date in late 2004 or early 2005.

The IGC drafted a new plan in February for the transitional government that would come to power after the first elections. Known as the Transitional Administrative Law (TAL), it defined a formula that compromised among the U.S. desire to accelerate the handover through a caucus system, Sistani's desire for rapid direct elections, and the UN's reluctance to endorse immediate electoral transitions given the current circumstances in Iraq. IGC members vetted the agreement with Sistani, delaying the vote several days for direct consultations with the Grand Ayatollah at his residence in Najaf. Though tepid, Sistani's support for the compromise was sufficient for IGC consensus. The TAL was adopted on March 8, 2004.

By establishing an accelerated transition in phases, the TAL was able to buy time before direct elections would be held. The plan specified that on June 30 a new government, the Iraqi Interim Government (IIG), would take control in Baghdad. The IIG would be selected by the Coalition and the UN in consultation with Iraqi leaders. This would be a sovereign government, meant to act as a "caretaker" administration. The IIG would undertake the ongoing governance and administration of Iraq, while a separate process—overseen by the UN and Coalition and staffed mainly by Iraqis—would undertake the planning and organization of direct elections.

The IIG

The IIG, whose powers were defined in the TAL Annex, was formed largely through the work of UN Special Envoy Lakhdar Brahimi. His consultations with a wide array of individuals, including senior Iraqi officials, led to the selection on June 1, 2004, of Ayad Allawi as Iraq's prime minister, Ghazi Yawir as president, and Ibrahim Jafari and

Rowsch Shaways as deputy presidents. Cabinet ministers were quickly selected to continue the work of the government.

The National Council, designed to be the IIG's weak "legislative" branch, was not immediately selected. The convoluted process for its formation involved the National Conference, a meeting of more than a thousand Iraqis in mid-August 2004. This meeting was stage-managed by the existing parties to produce a legislature in which these dominant parties would largely retain control. It ended in the successful selection of the one hundred-member National Council.

3. Elections in January 2005

Process

In essence, the TAL acts as a "temporary constitution," guiding the transition in Iraq until a permanent constitution is approved. The TAL focuses largely on the formation and function of the Iraqi Transitional Government (ITG), which will assume control from the IIG following the January 2005 elections. The ITG will rule Iraq during 2005 and will aim to fulfill the following three missions: (1) continuing to run the nation, (2) drafting and winning national consensus for the permanent constitution, and (3) organizing the conduct of elections for the first constitutional government.

The Independent Electoral Commission of Iraq (IECI)—created by the CPA, guided by the UN, and staffed largely by Iraqis—has been planning the conduct of elections to form the ITG. Early in the process, the IECI adopted an electoral system of "proportional representation," in which a single nationwide electoral race yields multiple winners in proportion to their party's share of votes. Such a system tends to favor smaller parties, giving them a political voice even if they can only draw votes from a niche segment of the population. Proportional representation might therefore encourage greater variety—as well as more extreme views—among Iraq's political parties. In addition, proportional representation makes no geographic distinctions, instead drawing from the proportion of votes across the entire nation. The national elections will select only the 275 officials that form the legislative branch of the government; the legislators will then meet to select the executive branch.

Iraq's political parties were required to register with the IECI by mid-December 2004. Parties can submit their own slate of candidates or form coalitions with other registered parties to submit combined slates. The slates are simply lists of candidates in ranked order. Every third candidate on the list must be a female, and the order of candidates on each list will be fixed. On election day, voters will use ballots that contain names of the registered parties or party coalitions, rather than names of individual politicians. Iraq's voters, at their local polling places throughout the country, cast secret ballots—a single vote for the party or party coalition of their preference. After the election results are tabulated, each party's percentage will be translated into seats in the 275-member

National Assembly. A party's seats are awarded to its candidates according to their position on the list. (See Figure 1.)

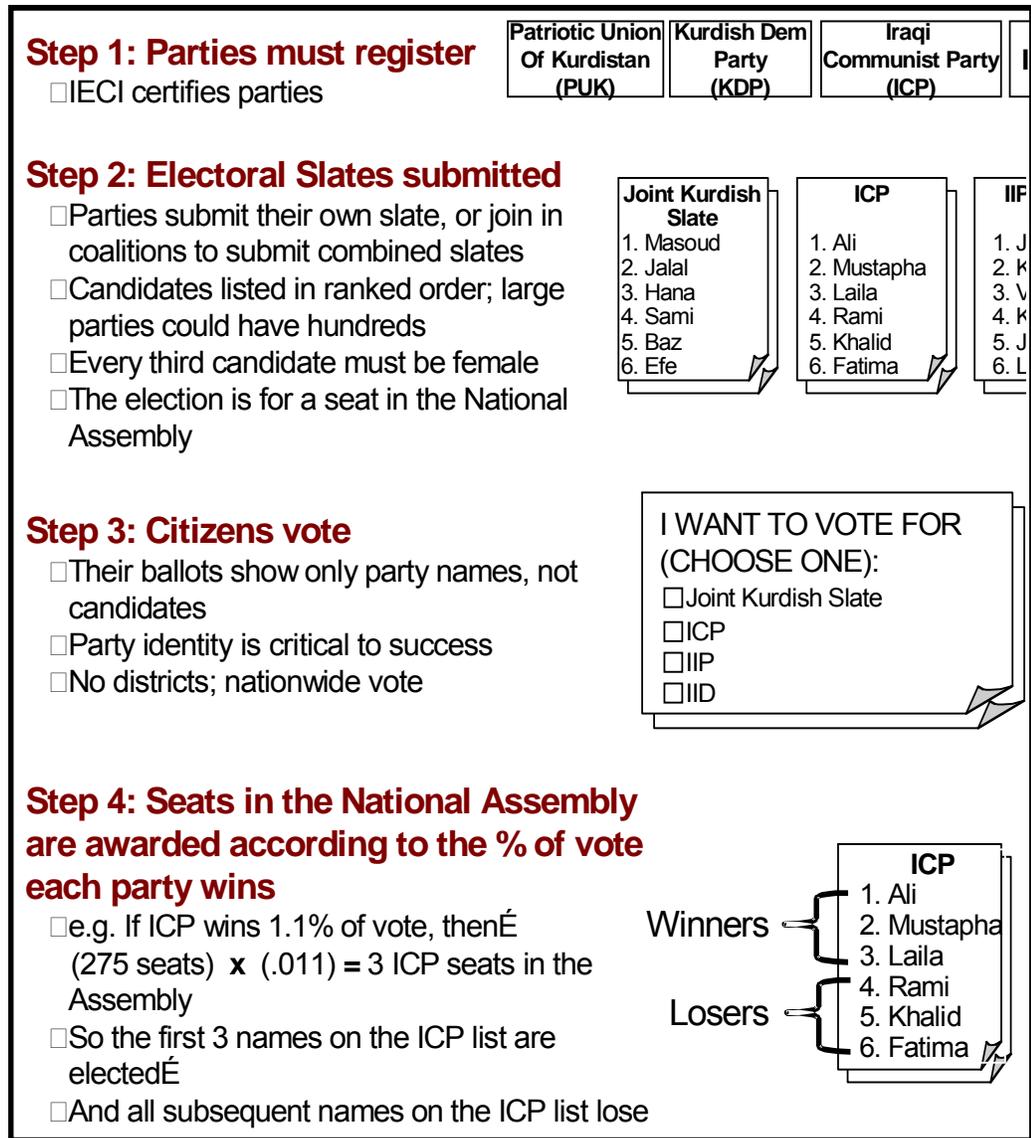


Figure 1: Proportional representation/party slate balloting system to be used in the elections

This establishes a natural threshold for representation: a party can win a seat in the Assembly only if it receives 1/275 of the total electorate. If, for example, a total of 10

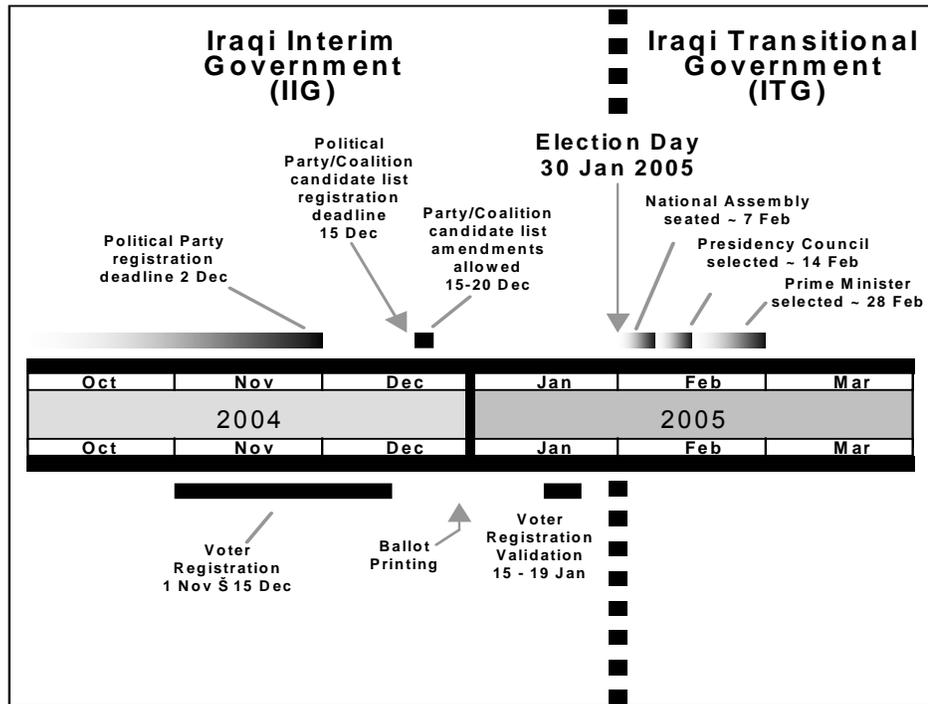
The Washington Institute for Near East Policy

million votes are cast, then a party would have to break a threshold of 36,363 votes in order to attain representation.

Per the TAL, the elections are required to take place no later than January 31, 2005, and are currently scheduled for January 30, 2005. This date is likely to remain fixed, despite international and some internal pressure to delay elections for the purpose of enhancing security and organizing electoral activities. The majority of Iraqis support holding elections on schedule, however, including prominent figures such as Ayatollah Sistani. In the conduct of Iraq's political transition so far, most key events have occurred on time or have been delayed for very short, defined periods for a specific purpose. The passage of the TAL, for instance, was delayed for several days in order to secure Ayatollah Sistani's approval; the conduct of the National Conference (to choose the IIG "legislature") was delayed for about two weeks, to better organize the meeting's mechanics. There was intense speculation that the most significant milestone so far, the transition of sovereignty, would be delayed until security fears subsided. Officially, the transition occurred two days early on June 28, 2004—but in substance it occurred almost a month early, when on June 1 the IIG leaders were selected and shortly thereafter the IGC dissolved itself.

The eagerly awaited milestones for Iraq's transition are sometimes the most broadly accepted elements of the transition plan. The key dates are the least controversial elements, and probably the elements least likely to be changed due to obstacles resulting from lack of security or organizational challenges. Iraqis have shown a much greater willingness to compromise on the substance of the process in order to preserve the dates. (See Figure 2.)

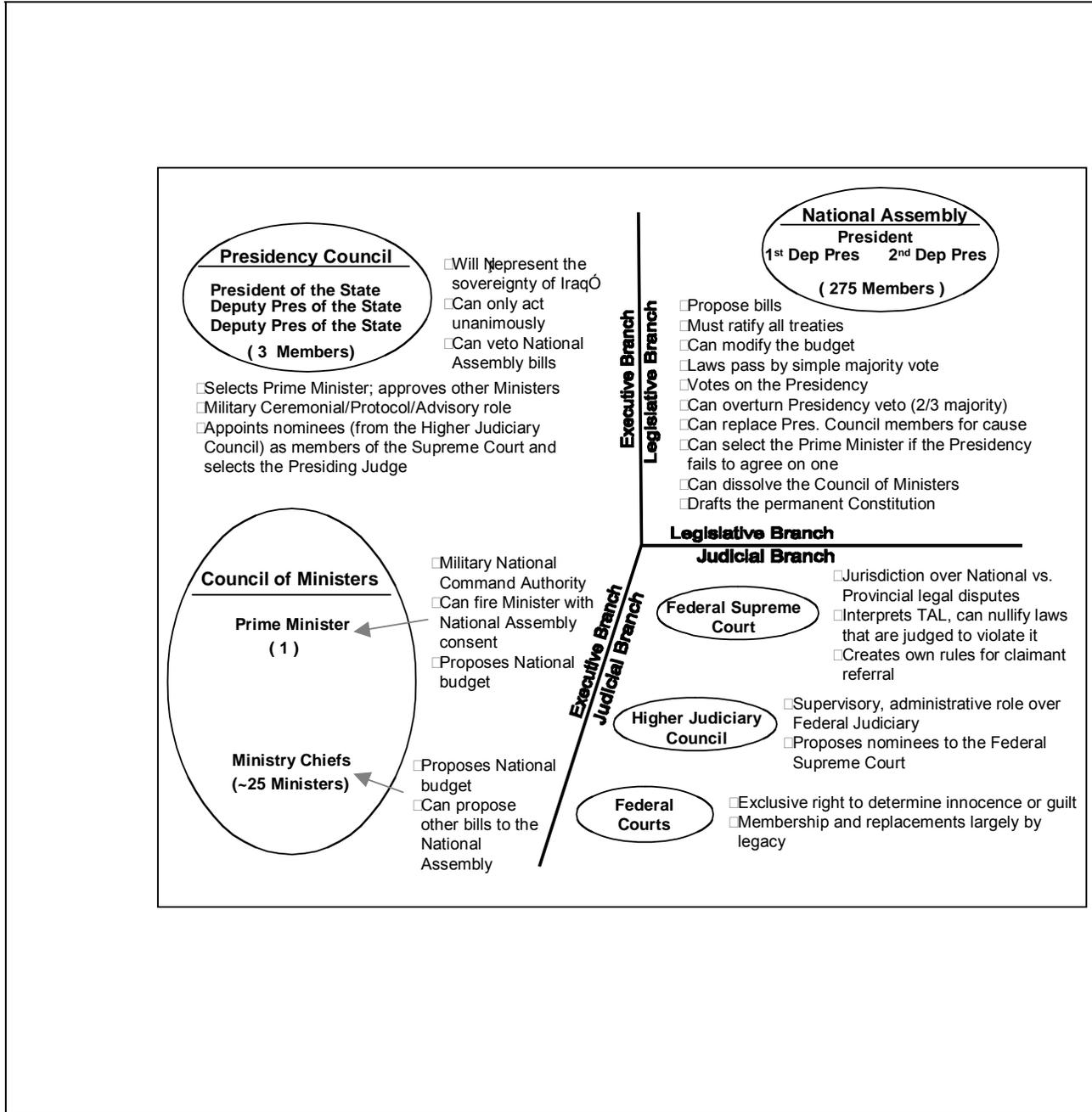
Figure 2: Time line for the elections and ITG formation



The Washington Institute for Near East Policy

The Iraqi Transitional Government is composed of three branches: legislative, executive, and judicial. (See Figure 3.)

Figure 3: The ITG's institutions and powers



The Washington Institute for Near East Policy

The legislative branch: The legislative authority of the ITG will rest with the National Assembly, whose 275 members' primary mission will be to draft and pass laws, as well as to draft a permanent constitution. The senior leadership of the National Assembly will consist of a three-person council—an Assembly president and two deputy presidents. In the TAL, the exact role and powers of the Assembly leadership are not specified, but presumably they will have authority to set agendas and shape legislative activity, giving the parties in the three leadership positions an advantage in promoting their partisan agendas. The National Assembly leadership—known as the president, first deputy president, and second deputy president—will be selected through a process that involves a single instance of voting by the entire Assembly. The candidate with the most votes will be the National Assembly president, the candidate with the second most votes will be first deputy, and the third-place finisher will be the second deputy.

The executive branch: In the Presidency Council, the leadership will be composed of a president of the state and two deputies. Although its members will be voted into office by the National Assembly, the voting process and methodology are distinct from those that produce the National Assembly leadership. The Presidency Council's three leaders will be voted on by the National Assembly, approved for office by a two-thirds majority vote. The Assembly votes for the entire list as a "package deal," rather than voting for individual candidates. There is no specified time frame for this selection process, and there is no penalty or alternative process if the National Assembly fails to select leaders.

The prime minister will be selected by the unanimous choice of the three Presidency Council members; if this task is not completed within two weeks, the National Assembly would be obliged to decide the matter by a two-thirds majority vote. The prime minister would then select his cabinet ministers (roughly twenty-five in number), who must be approved as a package by the unanimous consent of the Presidency Council.

The role of prime minister will be the most powerful and highly visible in Iraqi politics. The prime minister will most likely be selected by the party or coalition having a dominant position in the Presidency Council.

Judicial branch: Largely staffed by existing judges from across Iraq, the judiciary will be composed of several bodies. Supreme court candidates will be named by existing judges and approved by the Presidency Council. The primary mission of the ITG's judicial branch will be the interpretation of the TAL and the oversight of the Iraqi judicial system.

Ambiguities in the voting laws, regulations, and the TAL include the following:

The Washington Institute for Near East Policy

- There is no guidance on procedures to follow if a party receives more votes than it can represent with candidates on its list.
- There is no explicit guidance specifying that executive branch members *must* be chosen from the elected legislators; and there is also no explicit guidance specifying that executive branch members *cannot* be chosen from the elected legislators. So either possibility is allowed, although the TAL prevents simultaneous service in the legislative and executive branches.
- No time frame has been specified for the selection of the Presidency Council, and no alternative method exists should the process falter.
- There is no clear delineation of the timing for an official transfer of authority between the IIG and the ITG.

Campaigning and Electoral Strategy

A number of factors will affect candidates' electability, some of which are more important than others. As Iraq's political culture matures, such priorities will likely change, but initially the traditional factors related to social identity and money/patronage will be key variables in determining election results. The following specific items are considered primary election factors, listed roughly in order of importance:

- **Sectarian appeal:** The ability of groups to appeal to voters on the basis of ethnic and religious identity will greatly enhance their success at the polls. In Iraq's first elections, party platforms and political ideologies will be neither well established nor widely understood, leading many voters to default to their most fundamental social identities and loyalties when voting.
- **Tribal identity and allegiance:** Many Iraqis, particularly in rural areas, associate tribal leadership with local government and authority. Using these traditional ties of loyalty and respect might help candidates succeed.
- **Money:** Financial resources are a fundamental commodity in politics, potentially buying loyalty in a traditional Iraqi pattern of patronage; they are also critical to building a competent organization to "get out the vote" and can help buy access to the media. Money can even buy support through largesse and outright bribes.
- **Organized political apparatus:** An organized political party promotes itself across broad geographic regions and builds public awareness and support.
- **Media access and savvy:** Exploiting Iraq's expanding media will be a key way to inform voters and build public awareness of party actions; many political parties already have their own publications.

For all these predictions, the ultimate behavior of Iraqi voters is an unknown. The way in which voters will respond to politicians' messages, and the extent to which they will fall back upon sectarian identities, is unclear. Voter participation is also a subject of conjecture. Cultural factors, particularly as they may affect female voter participation, could greatly influence voter turnout. Variation in geography and transportation systems throughout Iraq, particularly for Kurds in the mountainous north during the winter, may

also have a significant impact. Finally, security concerns, strongest in western Iraq, may cause regional differences in voter participation around Iraq.

4. Hypothetical election scenarios derived from polling data

It is possible to use polling data to simulate the TAL process for forming the Iraqi Transitional Government. The following two scenarios are gross oversimplifications, relying on crude polling data and a series of assumptions about individual and party behavior. They are not intended to predict outcomes but rather as an exercise in examining the dynamics of the ITG's formation, using data and rules sets that demonstrate potential pathways in the formation of Iraq's next government. Each of these two scenarios results in somewhat different outcomes for the ITG.

Hypothetical results from polling data without multiparty electoral coalitions

A recent poll conducted in Iraq by the International Republican Institute (IRI) permits an analysis of potential election outcomes based on data reflecting voter recognition of (and loyalty to) existing political parties in Iraq.

The IRI polling data were gathered in late September and early October 2004. A sample of more than two thousand Iraqi adults was surveyed, and this group was roughly representative of Iraq's demographics, including ethnicity, religious affiliation, and gender. The poll asked voters to identify organized political parties and political entities in Iraq with which they were familiar. The poll then included a question: "Among those parties that you have named, for which would you be most likely to vote if elections were held at this time?" The results are listed below:

Party	% support
None	26.5
Dawa Party	17.9
Patriotic Union of Kurdistan (PUK)	13.1
Kurdish Democratic Party (KDP)	11.5
Supreme Council for the Islamic Revolution in Iraq (SCIRI)	7.8
Iraqi National Accord (INA)	5.5
Iraqi Islamic Party (IIP)	4.1
Office of the Martyr Sadr (OMS)	3.9
Kurdish Islamic Union (KIU)	2.2
Iraqi Communist Party (ICP)	1.1
Iraqi Independent Democrats (IID)	.5
Iraqi National Congress (INC)	.1

To use this data in the simulation, several assumptions will be made:

- that the poll reflects the eventual electoral result, except that those who chose "none" either will not cast votes, or else their eventual votes will collectively reflect the same proportion of opinions as those who did express a preference

The Washington Institute for Near East Policy

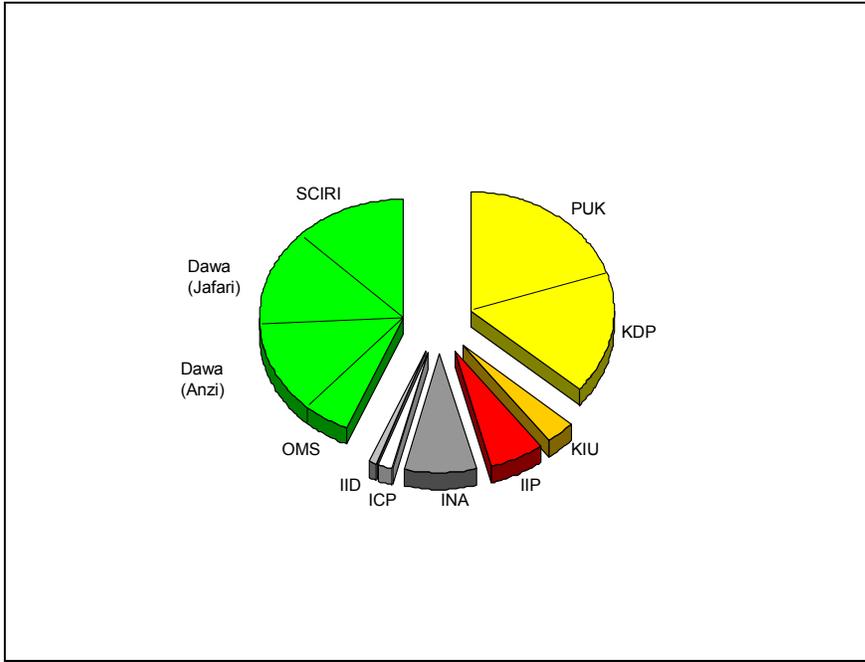
- that the parties included in the poll all register and compete with their own slates, and do not establish a coalition with a combined slate
- that the Dawa Party vote is split evenly between the two major Dawa Party factions (not differentiated in the IRI poll), led by Ibrahim al-Jafari and Karim al-Anzi, respectively.

In this case, the election would result in seats in the Assembly for all the parties with the exception of the INC, which fell below the 1/275 threshold necessary to win a seat. (See Figure 4.) The parties would be awarded seats as follows:

Rank	Party	Vote % (adjusted to remove voters with no preference)	# of National Assembly Seats
1	PUK	19.4	53
2	KDP	17.0	47
3	Dawa Party (Jafari)	13.2	36
4	Dawa Party (Anzi)	13.2	36
5	SCIRI	11.5	32
6	INA	8.1	22
7	IIP	6.1	17
8	OMS	5.8	16
9	KIU	3.3	9
10	ICP	1.6	5
11	IID	.7	2
12	INC	.1	0

These results are interesting in several respects. The Shiites and Kurds represent the two strongest potential voting blocs in the Assembly, the Shiites with 43.7 percent (120 seats) and the Kurds with 36.4 percent (100 seats). Looking at the composition of these two potential sectarian blocs, however, notable differences emerge. After splitting the Dawa Party vote to reflect the two party factions, the two largest parties in the National Assembly are the Kurdish parties, the PUK and KDP. This is true even though a breakdown according to primary sectarian identity shows the Shiite parties to have overall dominance in numbers. The reason for this disconnect is clear: the level of factionalization within the Shiite community.

Figure 4: Simulation of party representation in hypothetical National Assembly, with parties grouped by sectarian identity



These results emphasize the importance of coalitions that will be formed after the elections, when success in legislative functions will rely on the ability to reach consensus, and sectarian dominance may be potentially undercut by factionalism.

Another interesting outcome here is the success of the Muqtada al-Sadr’s organization, the OMS. Despite its rejectionist stance toward the Coalition and the process of political transition (which the OMS associates with the Coalition), Sadr’s party has polled relatively well. If the OMS were actually to embrace the political process and actively campaign for office, it would likely build even greater levels of support; the number of seats shown in this simulation probably underrepresents Sadr’s appeal.

For the National Assembly to exercise its powers, varying degrees of consensus-building will be required in order to achieve sufficient votes. Vote thresholds for various activities (as established in the TAL) are shown in the following table:

Activity	Votes required	Minimum # Seats
Passage of laws	Simple majority	138

The Washington Institute for Near East Policy

Overturing a presidency veto	2/3 majority	184
Budget approval	2/3 majority	184
Treaty ratification	2/3 majority	184
Naming of presidency candidates	2/3 majority	184
Confirmation of ministers, intelligence agency heads	Simple majority	138
Naming of prime minister (if Presidency Council fails to do so)	2/3 majority	184
Dissolving of government in no-confidence vote	2/3 majority	184

It should be noted that the passage of laws, the most fundamental power of the National Assembly, requires only a simple majority vote. This prevents any of the major sectarian parties from acting alone to pass legislation. It would also prevent any major party from acting alone to stop laws from passing.

Many other powers of the National Assembly require the more difficult two-thirds threshold of votes in order to be enacted. Voting as unified blocs, neither the Shiites nor the Kurds, acting on their own, have the votes necessary to make decisions requiring a two-thirds threshold. Both, however, have sufficient votes to prevent decisions requiring a two-thirds threshold. Passage of “two-thirds” decisions, then, would require the formation of alliances that cross sectarian boundaries.

Selection of the legislative branch’s leadership is one of the Assembly’s first orders of business. The selection process, a onetime vote in which votes for each candidate are “used up” and do not count toward the selection of later candidates, helps ensure the positions are not dominated by any particular group. The results will depend strongly on the degree of cohesion among parties and their organization and discipline in voting.

Factionalism will make it difficult for any candidate to achieve a leadership position within the Assembly. The Shiite “bloc,” although the largest, has many factions within it. If all the legislators voted along party lines, the Kurds would win the first two Assembly leadership seats (19 percent and 17 percent of the vote), followed by a Dawa Party legislative leader (13 percent).

But even a high degree of unity will not put a candidate into the legislative leadership unless factions are sufficiently disciplined to limit the number of candidates and manage the voting process. For instance, if both the Shiite and Kurd “blocs” enjoyed complete internal unity, the Shiites could select two of the Assembly’s leaders if they were careful in their voting. If the Shiites selected two leaders, and divided their bloc’s votes equally between those leaders, then their candidates would each receive 21.9 percent of the vote. The Kurds, the Shiites’ only real challenge, could at best combine and vote for a single candidate to achieve the highest vote margin (36.4 percent) to become the Assembly

The Washington Institute for Near East Policy

leader. In either case, however, the Shiites would hold two of the National Assembly leadership positions.

Formation of the executive branch will be one of the first major tasks of the legislature. The National Assembly will establish a list of the presidency's proposed members—the president and the two deputy president candidates (although the TAL is not explicit in the details)—and will then vote on the list as a “package deal,” approval requiring a two-thirds vote. The presidency is designed in such a way that it must always act unanimously in exercising any of its powers; therefore, there is little practical advantage in being president versus being one of the two deputy presidents. So the competition is primarily to secure a seat rather than to compete for a particular spot in the presidency. There are several possible scenarios for forming the executive branch:

- **Shiite/Kurd coalition:** The two primary sectarian blocs could unite and easily decide the issue between themselves, denying any representation to Sunni Arabs, independents, and other smaller sectarian groups. Having a larger percentage of the coalition, and likely better positioned to form a non-Kurd coalition, the Shiites might have the leverage to take two seats in the presidency, with the Kurd taking the third.
- **Shiites:** Alternatively, the Shiites could attract enough of the smaller “swing parties” to form a coalition that nears the two-thirds threshold, and then “wait out” the Kurds, seeking their official acquiescence or even “defectors” who would cross the sectarian divide and provide the few critical votes to pass a Shiite-dominated list. The Shiites would find it difficult to attract the support of “swing parties” since there are only three presidential positions, but they could make informal promises to award ministry positions to parties for supporting their list for the Presidency Council. Shiites would likely have at least two seats in the presidency in this scenario; the allocation of the third might depend on which parties were lured across the divide.

In either event, the presidency in this scenario would likely have two Shiites, with the third member most probably a Kurd. One of the presidency's first duties is the selection of the prime minister, probably the most powerful single position in the ITG. As with all presidency actions, the choice of prime minister must be unanimous among the three members of the Presidency Council. If two of the presidency members were Shiites, then this would give them leverage in sponsoring Shiite candidates for the job. The third, non-Shiite member of the presidency could not hold out indefinitely. A provision of the TAL dictates that the presidency has only two weeks to select the prime minister, or else that duty would be transferred to the National Assembly—where the Shiite parties would still hold a dominant position. In selecting the prime minister, the Shiite presidency members could offer the non-Shiite presidency member important incentives. For example, the prime minister's first duty is to select the ministry heads, and these jobs could be earmarked in advance to satisfy the Kurds, in coordination with the prime minister pick, to secure the Kurd's vote.

The Washington Institute for Near East Policy

The TAL specifies a sequential process for establishing the executive branch: the Assembly picks the presidency, the presidency picks the prime minister, and the prime minister picks the cabinet ministers. But the eventual reality may differ somewhat from this model. The National Assembly—or a two-thirds majority coalition thereof—could attempt to subvert the TAL’s intent by informally colluding with executive branch nominees in order to negotiate the entire executive branch as a single package. An Assembly coalition could condition its votes for the presidency nominees on those nominees’ willingness to vote for a specific prime minister; and then condition support of a prime minister candidate on his or her guarantee of filling the cabinet with certain candidates.

An important assumption underlies this entire scenario: that the groups represented in the National Assembly will seek to maximize their power in their competition to secure jobs in the executive branch. It is possible, however, that the leadership of the National Assembly could actively seek groups that were marginalized and offer them legislative or executive roles that these groups could not otherwise secure through political competition. This scenario is especially relevant with regard to Sunni Arabs, who will probably have limited electoral success. By elevating Sunni Arabs, other parties may hope to increase the government’s legitimacy by broadening its leadership. They might also do so to stem the general slide toward political alienation among Sunnis which fuels Sunni Arab violence as a path to power.

All of this discussion about formation of the executive branch makes another critical assumption: that sectarian parties will demonstrate a high degree of cohesion (forming blocs) in their initial work to fill executive positions. In this process, sectarian blocs will feel considerable pressure to show unity. Of the two major blocs, both have a history of infighting. For the Shiites, this may reflect rivalries among clerics and their competing schools of thought. Competing interpretations of Islam also establish competitive ideological foundations for Shiite parties. Iranian influence—with political, financial, and religious components—also fuels divisions and rivalry. As for the Kurdish bloc, its parties have their own long history of divisiveness, including extended periods of open warfare. In recent times, the Kurds have established a degree of political unity, honed by several years of actual governance in the north. But the potential for friction remains.

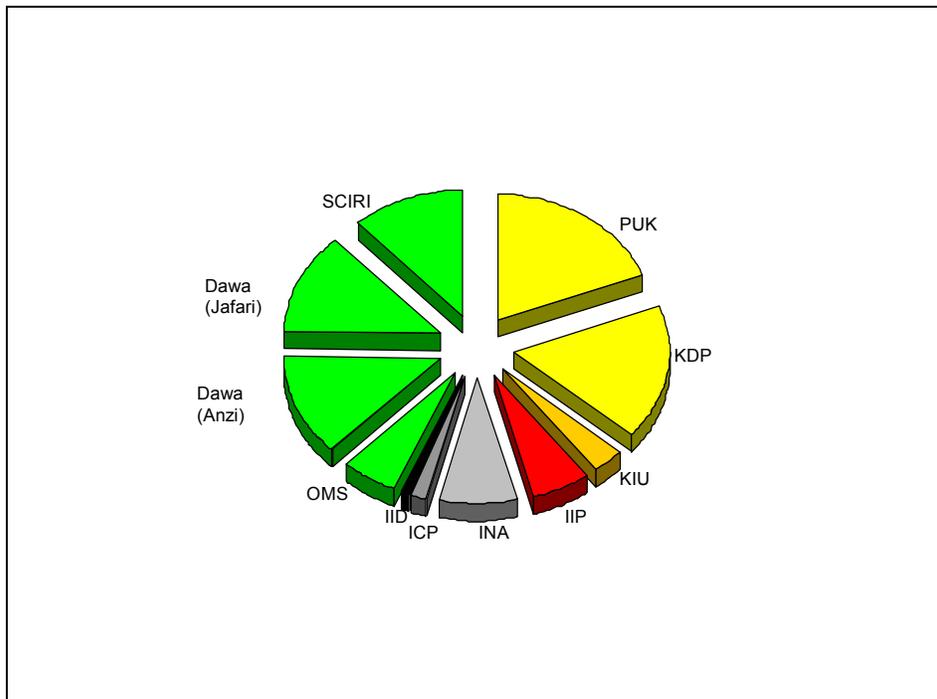
In addition to internal sectarian tensions, there are other reasons to believe sects may not show unity. It is possible that instead of showing a “sectarian-identity” orientation in working relationships and voting patterns within the National Assembly, blocs will follow a “party-political” dynamic. In this model, political parties would focus narrowly on their agendas and form fleeting political alliances, depending on a specific issue or tactical incentive. For instance, the leader of the Kurdish Islamist Union, the smallest of the Kurdish parties in the IRI poll, has publicly suggested that he understands his power as a swing vote within the Kurdish community, in which the two much larger Kurdish parties share the bulk of power.

There is a rational incentive for the blocs to remain together. In the case of the Shiites, the defection of any single party could place the Shiite bloc at parity with (or even

behind) a unified Kurdish bloc. If *all* Shiite groups acted independently, Shiite dominance in the Assembly would be lost entirely. The two Kurdish groups would place first and second in size, with the largest Shiite party a distant third. (See Figure 5.) For the executive branch, a breakdown in bloc cohesion could have the following effects:

- If both major voting blocs were to break down, the Shiites would not be able to hold a majority—two or three posts—in the presidency. This would prompt a more ethnically balanced presidency, but one that would face added complications in selecting a prime minister.
- If the Shiite bloc were to break down and the Kurds remained together, the Kurds might still win two posts in the presidency, setting up the possibility of a Kurdish prime minister.

Figure 5: Simulation of party representation in hypothetical National Assembly, in which sectarian parties do not show unity



Hypothetical results from polling data with a Shiite combined slate

The IRI poll data could be modified to consider another possible electoral outcome. Ayatollah Sistani has worked to build a Shiite consensus that would combine many of the most prominent Shiite parties into a single slate. This slate has Sistani's informal backing and will certainly attract a high percentage of Shiite votes. In forming this combined slate, he tried to limit the role of the organized Shiite political parties. Only about half of the Sistani slate would go to organized political parties; the other half, reserved for "independents," would probably be composed of Shiites with little or no power base, their primary reason for selection being their personal loyalty to Sistani. Small numbers of non-Shiites could also be included on the combined list.

The Washington Institute for Near East Policy

To modify the data, it will be assumed:

- that everyone in the original poll who voted for a Shiite party or for the INC would also vote for Sistani's combined Shiite slate;
- that for other parties in the poll, the results reflect the eventual electoral result, except that those who could not choose a party either will not cast votes, or their votes will reflect the proportions of those who did express a preference in the poll;
- that the internal allocation of percentages within the Shiite combined slate will be as follows (this is an approximation based on descriptions in the press by participants in the negotiations for the Shiite combined slate):
 - 12% SCIRI
 - 10% OMS
 - 10% Shiite Political Council
 - 10% Dawa (Jafari)
 - 8% Dawa (Anzi)
 - 50% Independents
- that the Shiite slate's listing of candidates would generally reflect internal allocation of seats;
- and that no Shiite party running outside the combined slate will achieve any degree of electoral success.

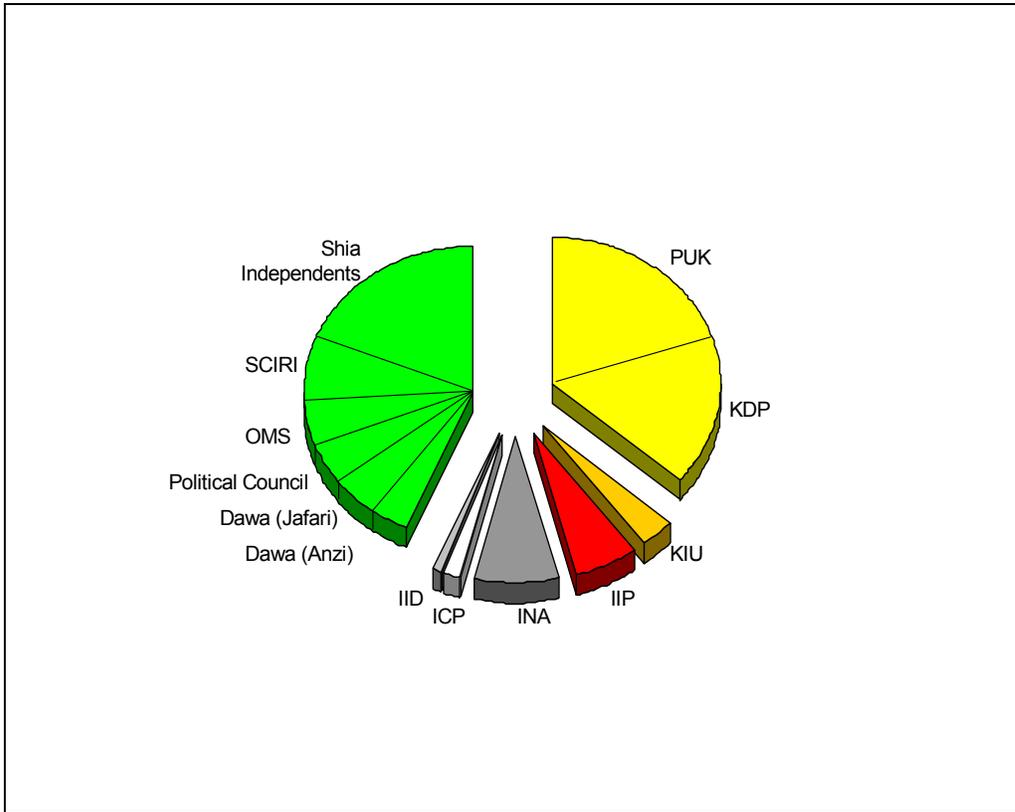
In this scenario, the election would result in the same percentage of votes for each major bloc, but a preelection "imposition" of quotas within the Shiite combined slate would lead to the following distribution of seats:

Rank	Party	Vote % (adjusted to remove voters with no preference)	# of National Assembly Seats
1	Shiite combined slate	43.8	120
	Dawa (Jafari)	(4.38)	(12)
	Dawa (Anzi)	(3.50)	(10)
	SCIRI	(5.25)	(14)
	OMS	(4.38)	(12)
	Shiite Political Council	(4.38)	(12)
	Independents	(21.90)	(60)
2	PUK	19.4	53
3	KDP	17.0	47
4	INA	8.1	22
5	IIP	6.1	17
6	KIU	3.3	9
7	ICP	1.6	5
8	IID	.7	2

The Washington Institute for Near East Policy

These results would affect the work of the National Assembly in several ways. The most immediate result would be an increase in the number of factions within the Shiite bloc. (See Figure 6.) This could make the Shiite voting bloc less cohesive, thereby decreasing its power relative to the Kurds. If Sistani enforced the discipline necessary to maintain cohesion—or appointed an effective “party whip” with authority to act as his proxy—this factor could be offset. Sistani’s leadership from Najaf was successful in eventually forging the combined slate, but that process had the benefit of long lead times. The more rapid pace of legislative deals and decisionmaking in Baghdad would probably necessitate an on-scene “party whip.” Hussein Shahrastani, a key political operative for Sistani, could potentially serve in such a role, but it is unclear how successful any leader would be in holding together the disparate Shiite elements. Shiite cohesion will be challenged by several highly competitive factions (e.g., Dawa vs. Dawa, SCIRI vs. OMS). In addition, politically volatile actors such as OMS loyalists, at times unpopular and divisive both inside and outside the Shiite community, could detract from the overall strength of a combined Shiite slate.

Figure 6: Simulation of “Shiite slate” representation in hypothetical National Assembly, with sectarian blocs grouped together



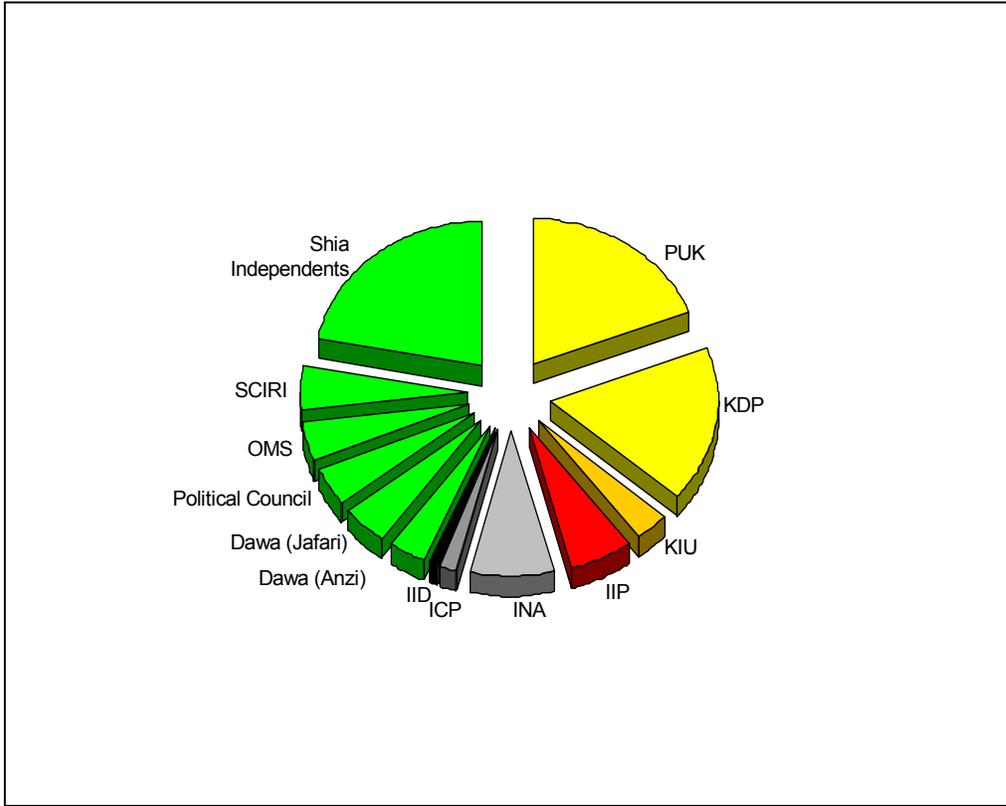
As a result of a combined slate, major parties could be weakened at the expense of politically non-competitive groups and individuals who were promoted by Sistani’s list. (See Figure 7.) Compared against straight voter preferences in the IRI poll, the loss of seats by organized Shiite parties under the Sistani allocation is dramatic.

Party	# of National Assembly Seats, Voter Preference	# of National Assembly Seats, Sistani Allocation
Dawa (Jafari)	36	12
Dawa (Anzi)	36	10
SCIRI	32	14
OMS	18	12
Shiite Political Council	0	12
Independents	0	60

The combined slate emphasizes “diversity” at the expense of representative processes. Its influence on the National Assembly could be great. One effect might be that many

legislators in the ITG will not possess a high level of political skill for forging consensus and compromise, for campaigning, and for building or servicing constituencies.

Figure 7: Simulation of “Shiite slate” representation in hypothetical National Assembly, in which sectarian blocs do not show unity



Formation of the executive branch might be more challenging for the Shiites under the combined slate scenario. If factional dissent within the Shiite slate were to lead to its dissolution as a cohesive bloc, a unified Kurdish bloc could, with relative ease, “cherry pick” votes and lure specific Shiite slate parties and individual Shiite parliamentarians across the aisle to vote for a Kurd-favorable Presidency Council. The largest established party in the Shiite bloc, the SCIRI, with fewer than one-third the seats (14) of either Kurdish party (53 and 47 seats) in this scenario, would have a relatively weak hand with which to negotiate on its own. A divide-and-conquer strategy by the Kurds to achieve two-thirds National Assembly majority for a Kurd-proposed presidency list might succeed. If the Kurds were to take two of the three seats on the Presidency Council, this would set up the potential for a Kurdish prime minister.

As noted before, under the combined Shiite slate, dominant Shiite and Kurd blocs might not act simply to maximize their own power; they might also bring Sunni Arabs into leadership positions to decrease Sunni political alienation.

5. Post-election milestones in the transition

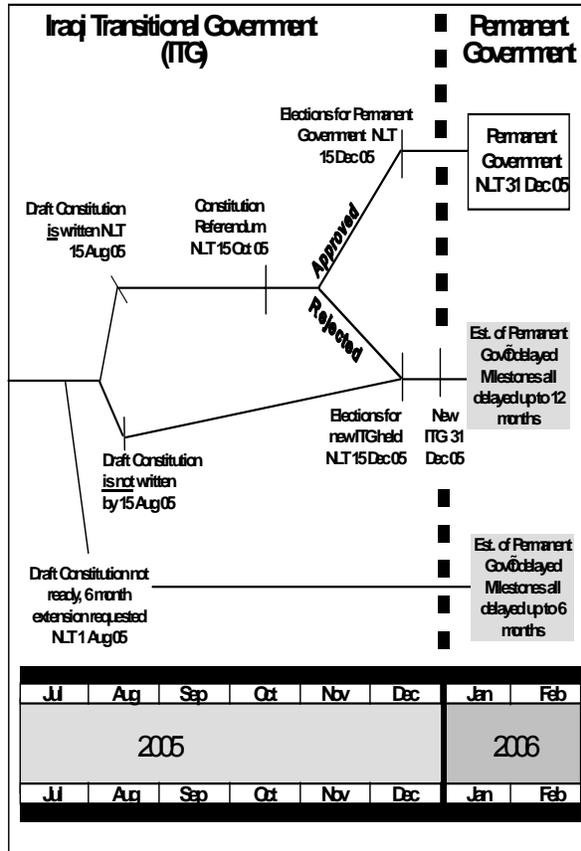
Process

Following the assumption of power by the ITG (probably before the end of March 2005), the next major milestone specified in the TAL is the preparation of the draft constitution by August 15, 2005. The National Assembly is charged with drafting the constitution, which will replace the TAL in defining the structure and functions of the permanent Iraqi government. Though the process for drafting the constitution is not clearly articulated, the TAL recommends that it involve broad consultation with Iraq's citizens. By October 15, 2005, a referendum on the draft constitution will be held, with passage hinging on two conditions: simple majority approval by Iraq's voters and a tally of no more than three governorates that reject the draft by a two-thirds majority. If the constitution is approved, the elections will be held by December 15, 2005, under the mechanisms specified in the constitution, and the permanent government will take office by December 31, 2005. (See Figure 8.)

Several provisions in the TAL deal with difficulties in reaching consensus on the draft constitution. These generally delay the milestones anywhere from six months to a year, and can involve dissolving the existing ITG and forming a new ITG that would continue to govern under the TAL's provisions pending approval of a permanent constitution.

The Washington Institute for Near East Policy

Figure 8: Branches and sequels to the constitutional drafting and adoption process



Issues

Security and stability: The ITG's most important task in governance will be its efforts to restore security and stability in Iraq. As time goes on, the challenges involved in thwarting the insurgency will only increase. The struggle to establish competent Iraqi security forces will continue to be a critical task for the government. Within the ITG, the potential use of these forces could become controversial. Considering its dispersal of power and its checks and balances between various branches, the ITG will likely not be as decisive as the IIG has been.

The role of Coalition forces in fighting the insurgency will be another key component of ITG debate. Many in Iraq's political elite are probably uncomfortable with the Coalition's strength and pervasive presence, despite the central role that Coalition forces play in maintaining security. Some of Iraq's emerging political class may be vocal in advocating limits on Coalition activity or continued deployments inside Iraq—either as a matter of policy or as populist political theater.

Overwhelmingly comprised of Sunni Arabs, the insurgency may be fueled by the elections results. Sunni Arab alienation is likely to be spurred if that population is represented only marginally in the ITG. This would further reinforce the strategy of many Sunnis who are relying on violence as their primary means to acquire power and influence in Iraq.

Everything's on the table: In drafting the permanent constitution, the ITG will have the opportunity to re-create the Iraqi government in whatever image it desires. That means the permanent government might bear no resemblance in form to the ITG. Because the TAL establishes a system of government superficially similar to that in the United States, there may be a backlash against it among some members of the ITG, driven by pride, xenophobia, or a general distrust of the Coalition. This could motivate a desire to change the government's structure for the purpose of creating a conscious break with the past and establishing an Iraqi state independent of obvious foreign influences.

On the other hand, as a temporary constitution, the TAL may establish an influential precedent. Some parties engaged in the drafting of the new constitution may view the TAL as a starting point or a useful reference. When negotiations over government structure bog down or reach an impasse on a particular issue, the existing system may serve as the basis for compromise. Eventually the constitution will have to be approved by the populace, so its broad appeal will be a critical factor. The TAL may have the advantage of being a "tested" plan, as opposed to a purely conceptual scheme.

Church and state: This is a significant issue in Iraq's politics. The argument will likely be manifested in the constitutional debate in the form of deciding whether to recognize Islam as "the source" or "a source" of legislation. A factor in the negotiations over the TAL, this issue also figured in oppositionist debates and declarations during the years of

The Washington Institute for Near East Policy

Saddam's rule. Although Ayatollah Sistani (and Iraqi Shiites in general) rejects the Iranian experiment with theocracy, he and other clerics appear to desire a degree of influence over politics. In particular, judicial matters could be a source of contention, since a secular civil legal system would infringe on the authority of Islamic law.

Federalism: The degree of independence that Iraqis will enjoy from the central government is an issue for all citizens, but it has received particular attention from the Kurds. Their isolation from the rest of Iraq—ethnically, geographically, and more recently in their separate political system—has created high expectations among Kurds that they will remain relatively free of centralized authority.

The TAL strongly advocates a federal system and explicitly acknowledges Kurdish autonomy.

- The special consideration given to Kurds in the TAL may result in a backlash from other ethnic groups during the drafting of the permanent constitution, or it may encourage other groups to press for greater autonomy for themselves.
- In any event, the provisions of the constitution may not be as explicit or generous as the TAL, which has raised Kurds' expectations; this could cause them to harden their negotiating position in an effort to "hold the line" in the constitutional language.

Kirkuk: Control of the northern city of Kirkuk will be hotly contested owing to sharp ethnic rivalries. Although individual property claims can be made in Kirkuk, the city's final disposition, and which governorate it should be incorporated into, has been deliberately deferred in the TAL until after the drafting of the constitution. This measure potentially prevents a thorny issue from delaying the constitution's ratification, but the Kurds may still seek clarity or informal agreements and understandings about the city's disposition prior to agreeing to a constitution.

Resources: The TAL stipulates that the ITG will manage Iraq's natural resources and distribute revenues "in an equitable manner proportional to the distribution of population...with due regard for areas that were unjustly deprived...by the previous regime."

Iraq's abundant oil wealth will likely lead to intense competition over the distribution of profits. In this bargain, the Sunni Arabs stand to lose the most, since Iraq's oilfields are located primarily in the north and south regions of the country. Political parties may seek an explicit arrangement for the distribution of resources in Iraq.

Judicial powers in the political arena: In the ITG, the judiciary will emerge as a prominent player in national politics. This is uncharted territory for the Iraqis. Composed in the main of legal professionals and judges continuing to serve after Saddam's era, the judiciary will be an independent voice with powers to force adherence to the TAL. Little is known about how it will behave in its more overtly political role or how actively and

The Washington Institute for Near East Policy

ambitiously the judges will exercise their powers with regard to the other government branches.

As the interpreter of the TAL, the judiciary occupies a potentially powerful position to intervene in the transition process. The supreme court, in particular, has the power to challenge virtually any decision that it believes to contravene the TAL. In deciding what legal questions it will examine, the court largely formulates its own rules. Rather than wait for formal legal complaints to wind their way through a hierarchical court system, the supreme court theoretically has broad authority to identify and act upon issues it deems relevant to the interpretation of the TAL.

This sort of independence, and the ability to block legislative and executive actions, represents a new and unusual feature of Iraqi politics in general, and specifically for judges. An example of a potentially significant intervention is the court's authority to "force" forward a failing constitutional drafting or ratification process. Such an independent authority did not exist during the negotiation and signing of the TAL, which was delayed for several days past its deadline when last-minute objections were raised and debated. The informality of the 15 November Agreement established no authorities and named no penalties for this delay. Under the TAL, however, supreme court judges faced with similar delays in drafting the permanent constitution would be duty-bound to trigger the painful provisions of dissolving the government and starting again.

References

The rules governing this transition are largely derived from the following sources:

- The Transitional Administrative Law (TAL) (Appendix 1)
- The Transitional Administrative Law Annex (Appendix 2)
- Three directives of the Coalition Provisional Authority (CPA):
 - Order 92 (Appendix 3)
 - Order 96 (Appendix 4)
 - Order 97 (Appendix 5)
- The Independent Electoral Commission of Iraq Regulations:
 - Regulation 1: IECI Rules of Procedure (Appendix 6)
 - Regulation 2: Voter Registration (Appendix 7)
 - Regulation 3: Certification of Political Entities (Appendix 8)
 - Regulation 4: Certification of Candidates (Appendix 9)
 - Regulation 5: Electoral Observers (Appendix 10)
 - Regulation 6: Political Entity Agents (Appendix 11)
 - Regulation 7: Exhibition and Challenges Period (Appendix 12)
 - Regulation 8: Governorate Council Elections (Appendix 13)
 - Regulation 9: Electoral Campaign (Appendix 14)
 - Regulation 10: Out-of-Country Registration and Voting (Appendix 15)

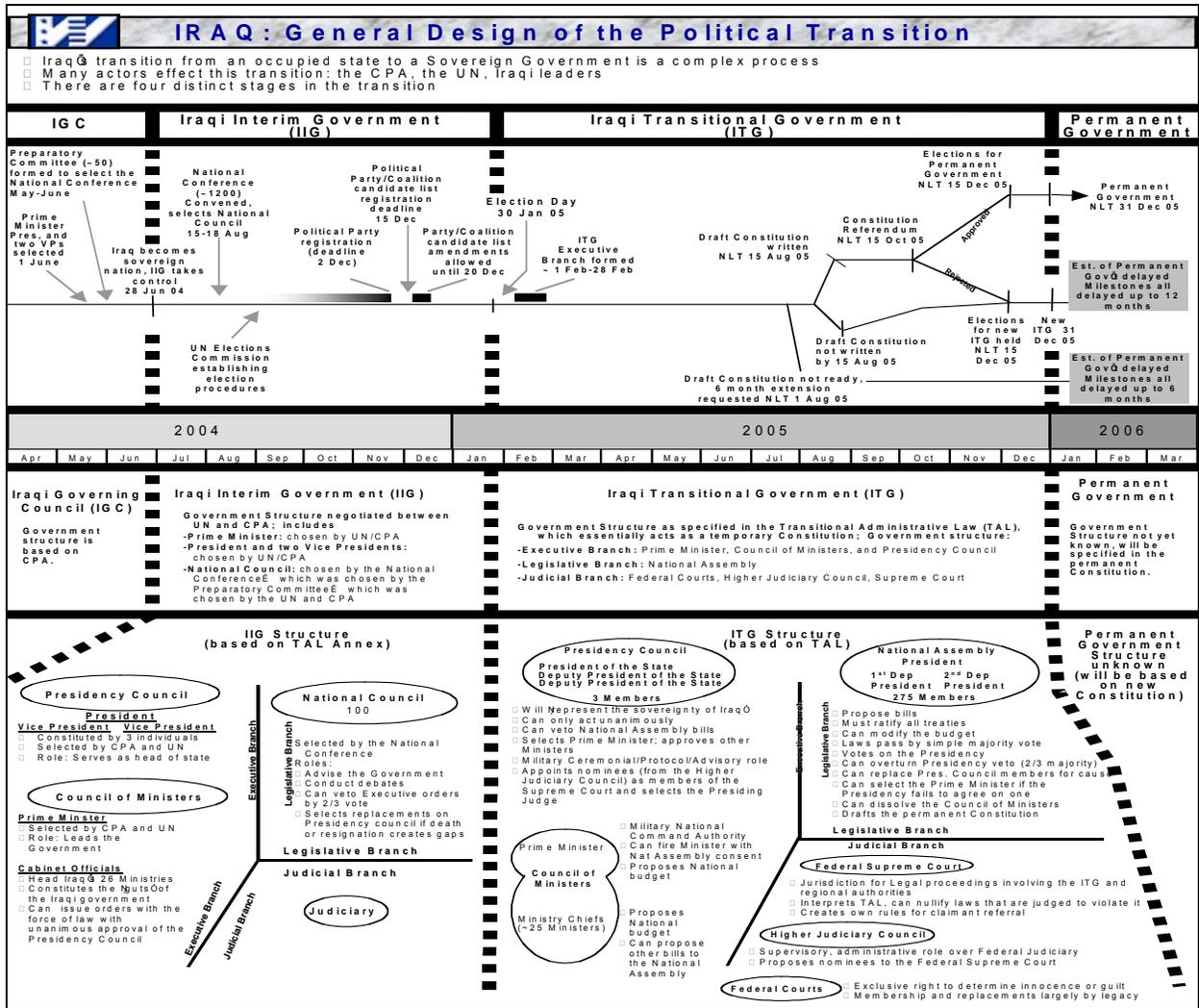
Additionally, several sources for public polls conducted in Iraq are available:

- International Republican Institute Poll, [Sept–Oct 2004](#)

The Washington Institute for Near East Policy

- Oxford Research International Polls
 - [Feb 2004](#)
 - [Mar 2004](#)
 - [Jun 2004](#)

Figure 9: General design of the political transition in Iraq



Appendix 1

**LAW OF ADMINISTRATION FOR THE STATE OF IRAQ
FOR THE TRANSITIONAL PERIOD**

8 March 2004

PREAMBLE

The people of Iraq, striving to reclaim their freedom, which was usurped by the previous tyrannical regime, rejecting violence and coercion in all their forms, and particularly when used as instruments of governance, have determined that they shall hereafter remain a free people governed under the rule of law.

These people, affirming today their respect for international law, especially having been amongst the founders of the United Nations, working to reclaim their legitimate place among nations, have endeavoured at the same time to preserve the unity of their homeland in a spirit of fraternity and solidarity in order to draw the features of the future new Iraq, and to establish the mechanisms aiming, amongst other aims, to erase the effects of racist and sectarian policies and practices.

This Law is now established to govern the affairs of Iraq during the transitional period until a duly elected government, operating under a permanent and legitimate constitution achieving full democracy, shall come into being.

CHAPTER ONE – FUNDAMENTAL PRINCIPLES

Article 1.

- (A) This Law shall be called the “Law of Administration for the State of Iraq for the Transitional Period,” and the phrase “this Law” wherever it appears in this legislation shall mean the “Law of Administration for the State of Iraq for the Transitional Period.”
- (B) Gender-specific language shall apply equally to male and female.
- (C) The Preamble to this Law is an integral part of this Law.

Article 2.

- (A) The term “transitional period” shall refer to the period beginning on 30 June 2004 and lasting until the formation of an elected Iraqi government

The Washington Institute for Near East Policy

pursuant to a permanent constitution as set forth in this Law, which in any case shall be no later than 31 December 2005, unless the provisions of Article 61 are applied.

- (B) The transitional period shall consist of two phases.
 - (1) The first phase shall begin with the formation of a fully sovereign Iraqi Interim Government that takes power on 30 June 2004. This government shall be constituted in accordance with a process of extensive deliberations and consultations with cross-sections of the Iraqi people conducted by the Governing Council and the Coalition Provisional Authority and possibly in consultation with the United Nations. This government shall exercise authority in accordance with this Law, including the fundamental principles and rights specified herein, and with an annex that shall be agreed upon and issued before the beginning of the transitional period and that shall be an integral part of this Law.
 - (2) The second phase shall begin after the formation of the Iraqi Transitional Government, which will take place after elections for the National Assembly have been held as stipulated in this Law, provided that, if possible, these elections are not delayed beyond 31 December 2004, and, in any event, beyond 31 January 2005. This second phase shall end upon the formation of an Iraqi government pursuant to a permanent constitution.

Article 3.

- (A) This Law is the Supreme Law of the land and shall be binding in all parts of Iraq without exception. No amendment to this Law may be made except by a three-fourths majority of the members of the National Assembly and the unanimous approval of the Presidency Council. Likewise, no amendment may be made that could abridge in any way the rights of the Iraqi people cited in Chapter Two; extend the transitional period beyond the timeframe cited in this Law; delay the holding of elections to a new assembly; reduce the powers of the regions or governorates; or affect Islam, or any other religions or sects and their rites.
- (B) Any legal provision that conflicts with this Law is null and void.
- (C) This Law shall cease to have effect upon the formation of an elected government pursuant to a permanent constitution.

Article 4.

The system of government in Iraq shall be republican, federal, democratic, and

The Washington Institute for Near East Policy

pluralistic, and powers shall be shared between the federal government and the regional governments, governorates, municipalities, and local administrations. The federal system shall be based upon geographic and historical realities and the separation of powers, and not upon origin, race, ethnicity, nationality, or confession.

Article 5.

The Iraqi Armed Forces shall be subject to the civilian control of the Iraqi Transitional Government, in accordance with the contents of Chapters Three and Five of this Law.

Article 6.

The Iraqi Transitional Government shall take effective steps to end the vestiges of the oppressive acts of the previous regime arising from forced displacement, deprivation of citizenship, expropriation of financial assets and property, and dismissal from government employment for political, racial, or sectarian reasons.

Article 7.

- (A) Islam is the official religion of the State and is to be considered a source of legislation. No law that contradicts the universally agreed tenets of Islam, the principles of democracy, or the rights cited in Chapter Two of this Law may be enacted during the transitional period. This Law respects the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice.
- (B) Iraq is a country of many nationalities, and the Arab people in Iraq are an inseparable part of the Arab nation.

Article 8.

The flag, anthem, and emblem of the State shall be fixed by law.

Article 9.

The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turcoman, Syriac, or Armenian, in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions, shall be guaranteed. The scope of the term “official language” and the means of applying the provisions of this Article shall be defined by law and shall include:

- (1) Publication of the official gazette, in the two languages;

The Washington Institute for Near East Policy

- (2) Speech and expression in official settings, such as the National Assembly, the Council of Ministers, courts, and official conferences, in either of the two languages;
- (3) Recognition and publication of official documents and correspondence in the two languages;
- (4) Opening schools that teach in the two languages, in accordance with educational guidelines;
- (5) Use of both languages in any other settings enjoined by the principle of equality (such as bank notes, passports, and stamps);
- (6) Use of both languages in the federal institutions and agencies in the Kurdistan region.

CHAPTER TWO – FUNDAMENTAL RIGHTS

Article 10.

As an expression of the free will and sovereignty of the Iraqi people, their representatives shall form the governmental structures of the State of Iraq. The Iraqi Transitional Government and the governments of the regions, governorates, municipalities, and local administrations shall respect the rights of the Iraqi people, including those rights cited in this Chapter.

Article 11.

- (A) Anyone who carries Iraqi nationality shall be deemed an Iraqi citizen. His citizenship shall grant him all the rights and duties stipulated in this Law and shall be the basis of his relation to the homeland and the State.
- (B) No Iraqi may have his Iraqi citizenship withdrawn or be exiled unless he is a naturalized citizen who, in his application for citizenship, as established in a court of law, made material falsifications on the basis of which citizenship was granted.
- (C) Each Iraqi shall have the right to carry more than one citizenship. Any Iraqi whose citizenship was withdrawn because he acquired another citizenship shall be deemed an Iraqi.
- (D) Any Iraqi whose Iraqi citizenship was withdrawn for political, religious, racial, or sectarian reasons has the right to reclaim his Iraqi citizenship.

The Washington Institute for Near East Policy

- (E) Decision Number 666 (1980) of the dissolved Revolutionary Command Council is annulled, and anyone whose citizenship was withdrawn on the basis of this decree shall be deemed an Iraqi.
- (F) The National Assembly must issue laws pertaining to citizenship and naturalization consistent with the provisions of this Law
- (G) The Courts shall examine all disputes arising from the application of the provisions relating to citizenship.

Article 12.

All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited. Everyone has the right to life, liberty, and the security of his person. No one may be deprived of his life or liberty, except in accordance with legal procedures. All are equal before the courts.

Article 13.

- (A) Public and private freedoms shall be protected.
- (B) The right of free expression shall be protected.
- (C) The right of free peaceable assembly and the right to join associations freely, as well as the right to form and join unions and political parties freely, in accordance with the law, shall be guaranteed.
- (D) Each Iraqi has the right of free movement in all parts of Iraq and the right to travel abroad and return freely.
- (E) Each Iraqi has the right to demonstrate and strike peaceably in accordance with the law.
- (F) Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited.
- (G) Slavery, the slave trade, forced labor, and involuntary servitude with or without pay, shall be forbidden.
- (H) Each Iraqi has the right to privacy.

Article 14.

The Washington Institute for Near East Policy

The individual has the right to security, education, health care, and social security. The Iraqi State and its governmental units, including the federal government, the regions, governorates, municipalities, and local administrations, within the limits of their resources and with due regard to other vital needs, shall strive to provide prosperity and employment opportunities to the people.

Article 15.

- (A) No civil law shall have retroactive effect unless the law so stipulates. There shall be neither a crime, nor punishment, except by law in effect at the time the crime is committed.
- (B) Police, investigators, or other governmental authorities may not violate the sanctity of private residences, whether these authorities belong to the federal or regional governments, governorates, municipalities, or local administrations, unless a judge or investigating magistrate has issued a search warrant in accordance with applicable law on the basis of information provided by a sworn individual who knew that bearing false witness would render him liable to punishment. Extreme exigent circumstances, as determined by a court of competent jurisdiction, may justify a warrantless search, but such exigencies shall be narrowly construed. In the event that a warrantless search is carried out in the absence of an extreme exigent circumstance, the evidence so seized, and any other evidence found derivatively from such search, shall be inadmissible in connection with a criminal charge, unless the court determines that the person who carried out the warrantless search believed reasonably and in good faith that the search was in accordance with the law.
- (C) No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs.
- (D) All persons shall be guaranteed the right to a fair and public hearing by an independent and impartial tribunal, regardless of whether the proceeding is civil or criminal. Notice of the proceeding and its legal basis must be provided to the accused without delay.
- (E) The accused is innocent until proven guilty pursuant to law, and he likewise has the right to engage independent and competent counsel, to remain silent in response to questions addressed to him with no compulsion to testify for any reason, to participate in preparing his defense, and to summon and examine witnesses or to ask the judge to do so. At the time a person is arrested, he must be notified of these rights.
- (F) The right to a fair, speedy, and open trial shall be guaranteed.

The Washington Institute for Near East Policy

- (G) Every person deprived of his liberty by arrest or detention shall have the right of recourse to a court to determine the legality of his arrest or detention without delay and to order his release if this occurred in an illegal manner.
- (H) After being found innocent of a charge, an accused may not be tried once again on the same charge.
- (I) Civilians may not be tried before a military tribunal. Special or exceptional courts may not be established.
- (J) Torture in all its forms, physical or mental, shall be prohibited under all circumstances, as shall be cruel, inhuman, or degrading treatment. No confession made under compulsion, torture, or threat thereof shall be relied upon or admitted into evidence for any reason in any proceeding, whether criminal or otherwise.

Article 16.

- (A) Public property is sacrosanct, and its protection is the duty of every citizen.
- (B) The right to private property shall be protected, and no one may be prevented from disposing of his property except within the limits of law. No one shall be deprived of his property except by eminent domain, in circumstances and in the manner set forth in law, and on condition that he is paid just and timely compensation.
- (C) Each Iraqi citizen shall have the full and unfettered right to own real property in all parts of Iraq without restriction.

Article 17.

It shall not be permitted to possess, bear, buy, or sell arms except on licensure issued in accordance with the law.

Article 18.

There shall be no taxation or fee except by law.

Article 19.

No political refugee who has been granted asylum pursuant to applicable law may be surrendered or returned forcibly to the country from which he fled.

Article 20.

The Washington Institute for Near East Policy

- (A) Every Iraqi who fulfills the conditions stipulated in the electoral law has the right to stand for election and cast his ballot secretly in free, open, fair, competitive, and periodic elections.
- (B) No Iraqi may be discriminated against for purposes of voting in elections on the basis of gender, religion, sect, race, belief, ethnic origin, language, wealth, or literacy.

Article 21.

Neither the Iraqi Transitional Government nor the governments and administrations of the regions, governorates, and municipalities, nor local administrations may interfere with the right of the Iraqi people to develop the institutions of civil society, whether in cooperation with international civil society organizations or otherwise.

Article 22.

If, in the course of his work, an official of any government office, whether in the federal government, the regional governments, the governorate and municipal administrations, or the local administrations, deprives an individual or a group of the rights guaranteed by this Law or any other Iraqi laws in force, this individual or group shall have the right to maintain a cause of action against that employee to seek compensation for the damages caused by such deprivation, to vindicate his rights, and to seek any other legal measure. If the court decides that the official had acted with a sufficient degree of good faith and in the belief that his actions were consistent with the law, then he is not required to pay compensation.

Article 23.

The enumeration of the foregoing rights must not be interpreted to mean that they are the only rights enjoyed by the Iraqi people. They enjoy all the rights that befit a free people possessed of their human dignity, including the rights stipulated in international treaties and agreements, other instruments of international law that Iraq has signed and to which it has acceded, and others that are deemed binding upon it, and in the law of nations. Non-Iraqis within Iraq shall enjoy all human rights not inconsistent with their status as non-citizens.

CHAPTER THREE – THE IRAQI TRANSITIONAL GOVERNMENT

Article 24.

- (A) The Iraqi Transitional Government, which is also referred to in this Law as the federal government, shall consist of the National Assembly; the

The Washington Institute for Near East Policy

Presidency Council; the Council of Ministers, including the Prime Minister; and the judicial authority.

- (B) The three authorities, legislative, executive, and judicial, shall be separate and independent of one another.
- (C) No official or employee of the Iraqi Transitional Government shall enjoy immunity for criminal acts committed while in office.

Article 25.

The Iraqi Transitional Government shall have exclusive competence in the following matters:

- (A) Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; formulating foreign economic and trade policy and sovereign debt policies;
- (B) Formulating and executing national security policy, including creating and maintaining armed forces to secure, protect, and guarantee the security of the country's borders and to defend Iraq;
- (C) Formulating fiscal policy, issuing currency, regulating customs, regulating commercial policy across regional and governorate boundaries in Iraq, drawing up the national budget of the State, formulating monetary policy, and establishing and administering a central bank;
- (D) Regulating weights and measures and formulating a general policy on wages;
- (E) Managing the natural resources of Iraq, which belongs to all the people of all the regions and governorates of Iraq, in consultation with the governments of the regions and the administrations of the governorates, and distributing the revenues resulting from their sale through the national budget in an equitable manner proportional to the distribution of population throughout the country, and with due regard for areas that were unjustly deprived of these revenues by the previous regime, for dealing with their situations in a positive way, for their needs, and for the degree of development of the different areas of the country;
- (F) Regulating Iraqi citizenship, immigration, and asylum; and
- (G) Regulating telecommunications policy.

Article 26.

The Washington Institute for Near East Policy

- (A) Except as otherwise provided in this Law, the laws in force in Iraq on 30 June 2004 shall remain in effect unless and until rescinded or amended by the Iraqi Transitional Government in accordance with this Law.
- (B) Legislation issued by the federal legislative authority shall supersede any other legislation issued by any other legislative authority in the event that they contradict each other, except as provided in Article 54(B).
- (C) The laws, regulations, orders, and directives issued by the Coalition Provisional Authority pursuant to its authority under international law shall remain in force until rescinded or amended by legislation duly enacted and having the force of law.

Article 27.

- (A) The Iraqi Armed Forces shall consist of the active and reserve units, and elements thereof. The purpose of these forces is the defense of Iraq.
- (B) Armed forces and militias not under the command structure of the Iraqi Transitional Government are prohibited, except as provided by federal law.
- (C) The Iraqi Armed Forces and its personnel, including military personnel working in the Ministry of Defense or any offices or organizations subordinate to it, may not stand for election to political office, campaign for candidates, or participate in other activities forbidden by Ministry of Defense regulations. This ban encompasses the activities of the personnel mentioned above acting in their personal or official capacities. Nothing in this Article shall infringe upon the right of these personnel to vote in elections.
- (D) The Iraqi Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government. This Service shall be under civilian control, shall be subject to legislative oversight, and shall operate pursuant to law and in accordance with recognized principles of human rights.
- (E) The Iraqi Transitional Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, non-production, and non-use of nuclear, chemical, and biological weapons, and associated equipment, materiel, technologies, and delivery systems for use in the development, manufacture, production, and use of such weapons.

Article 28.

The Washington Institute for Near East Policy

- (A) Members of the National Assembly; the Presidency Council; the Council of Ministers, including the Prime Minister; and judges and justices of the courts may not be appointed to any other position in or out of government. Any member of the National Assembly who becomes a member of the Presidency Council or Council of Ministers shall be deemed to have resigned his membership in the National Assembly.
- (B) In no event may a member of the armed forces be a member of the National Assembly, minister, Prime Minister, or member of the Presidency Council unless the individual has resigned his commission or rank, or retired from duty at least eighteen months prior to serving.

Article 29.

Upon the assumption of full authority by the Iraqi Interim Government in accordance with Article 2(B)(1), above, the Coalition Provisional Authority shall be dissolved and the work of the Governing Council shall come to an end.

CHAPTER FOUR – THE TRANSITIONAL LEGISLATIVE AUTHORITY

Article 30.

- (A)(A) During the transitional period, the State of Iraq shall have a legislative authority known as the National Assembly. Its principal mission shall be to legislate and exercise oversight over the work of the executive authority.
- (B)(B) Laws shall be issued in the name of the people of Iraq. Laws, regulations, and directives related to them shall be published in the official gazette and shall take effect as of the date of their publication, unless they stipulate otherwise.
- (C)(C) The National Assembly shall be elected in accordance with an electoral law and a political parties law. The electoral law shall aim to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, ChaldoAssyrians, and others.
- (D)(D) Elections for the National Assembly shall take place by 31 December 2004 if possible, and in any case no later than by 31 January 2005.

Article 31.

The Washington Institute for Near East Policy

- (A) The National Assembly shall consist of 275 members. It shall enact a law dealing with the replacement of its members in the event of resignation, removal, or death.
- (B) A nominee to the National Assembly must fulfill the following conditions:
 - (1) He shall be an Iraqi no less than 30 years of age.
 - (2) He shall not have been a member of the dissolved Ba'ath Party with the rank of Division Member or higher, unless exempted pursuant to the applicable legal rules.
 - (3) If he was once a member of the dissolved Ba'ath Party with the rank of Full Member, he shall be required to sign a document renouncing the Ba'ath Party and disavowing all of his past links with it before becoming eligible to be a candidate, as well as to swear that he no longer has any dealings or connection with Ba'ath Party organizations. If it is established in court that he lied or fabricated on this score, he shall lose his seat in the National Assembly.
 - (4) He shall not have been a member of the former agencies of repression and shall not have contributed to or participated in the persecution of citizens.
 - (5) He shall not have enriched himself in an illegitimate manner at the expense of the homeland and public finance.
 - (6) He shall not have been convicted of a crime involving moral turpitude and shall have a good reputation.
 - (7) He shall have at least a secondary school diploma, or equivalent
 - (8) He shall not be a member of the armed forces at the time of his nomination.

Article 32.

- (A) The National Assembly shall draw up its own internal procedures, and it shall sit in public session unless circumstances require otherwise, consistent with its internal procedures. The first session of the Assembly shall be chaired by its oldest member.
- (B) The National Assembly shall elect, from its own members, a president and two deputy presidents of the National Assembly. The president of the National Assembly shall be the individual who receives the greatest

The Washington Institute for Near East Policy

number of votes for that office; the first deputy president the next highest; and the second deputy president the next. The president of the National Assembly may vote on an issue, but may not participate in the debates, unless he temporarily steps out of the chair immediately prior to addressing the issue.

- (C) A bill shall not be voted upon by the National Assembly unless it has been read twice at a regular session of the Assembly, on condition that at least two days intervene between the two readings, and after the bill has been placed on the agenda of the session at least four days prior to the vote.

Article 33.

- (A) Meetings of the National Assembly shall be public, and transcripts of its meetings shall be recorded and published. The vote of every member of the National Assembly shall be recorded and made public. Decisions in the National Assembly shall be taken by simple majority unless this Law stipulates otherwise.
- (B) The National Assembly must examine bills proposed by the Council of Ministers, including budget bills.
- (C) Only the Council of Ministers shall have the right to present a proposed national budget. The National Assembly has the right to reallocate proposed spending and to reduce the total amounts in the general budget. It also has the right to propose an increase in the overall amount of expenditures to the Council of Ministers if necessary.
- (D) Members of the National Assembly shall have the right to propose bills, consistent with the internal procedures that drawn up by the Assembly.
- (E) The Iraqi Armed Forces may not be dispatched outside Iraq even for the purpose of defending against foreign aggression except with the approval of the National Assembly and upon the request of the Presidency Council.
- (F) Only the National Assembly shall have the power to ratify international treaties and agreements.
- (G) The oversight function performed by the National Assembly and its committees shall include the right of interpellation of executive officials, including members of the Presidency Council, the Council of Ministers, including the Prime Minister, and any less senior official of the executive authority. This shall encompass the right to investigate, request information, and issue subpoenas for persons to appear before them.

Article 34.

The Washington Institute for Near East Policy

Each member of the National Assembly shall enjoy immunity for statements made while the Assembly is in session, and the member may not be sued before the courts for such. A member may not be placed under arrest during a session of the National Assembly, unless the member is accused of a crime and the National Assembly agrees to lift his immunity or if he is caught *in flagrante delicto* in the commission of a felony.

CHAPTER FIVE – THE TRANSITIONAL EXECUTIVE AUTHORITY

Article 35.

The executive authority during the transitional period shall consist of the Presidency Council, the Council of Ministers, and its presiding Prime Minister.

Article 36.

- (A) The National Assembly shall elect a President of the State and two Deputies. They shall form the Presidency Council, the function of which will be to represent the sovereignty of Iraq and oversee the higher affairs of the country. The election of the Presidency Council shall take place on the basis of a single list and by a two-thirds majority of the members' votes. The National Assembly has the power to remove any member of the Presidency Council of the State for incompetence or lack of integrity by a three-fourths majority of its members' votes. In the event of a vacancy in the Presidency Council, the National Assembly shall, by a vote of two-thirds of its members, elect a replacement to fill the vacancy.
- (B) It is a prerequisite for a member of the Presidency Council to fulfill the same conditions as the members of the National Assembly, with the following observations:
 - (1) He must be at least forty years of age.
 - (2) He must possess a good reputation, integrity, and rectitude.
 - (3) If he was a member of the dissolved Ba'ath Party, he must have left the dissolved Party at least ten years before its fall.
 - (4) He must not have participated in repressing the *intifada* of 1991 or the Anfal campaign and must not have committed a crime against the Iraqi people.
- (C) The Presidency Council shall take its decisions unanimously, and its members may not deputize others as proxies.

The Washington Institute for Near East Policy

Article 37.

The Presidency Council may veto any legislation passed by the National Assembly, on condition that this be done within fifteen days after the Presidency Council is notified by the president of the National Assembly of the passage of such legislation. In the event of a veto, the legislation shall be returned to the National Assembly, which has the right to pass the legislation again by a two-thirds majority not subject to veto within a period not to exceed thirty days.

Article 38.

- (A) The Presidency Council shall name a Prime Minister unanimously, as well as the members of the Council of Ministers upon the recommendation of the Prime Minister. The Prime Minister and Council of Ministers shall then seek to obtain a vote of confidence by simple majority from the National Assembly prior to commencing their work as a government. The Presidency Council must agree on a candidate for the post of Prime Minister within two weeks. In the event that it fails to do so, the responsibility of naming the Prime Minister reverts to the National Assembly. In that event, the National Assembly must confirm the nomination by a two-thirds majority. If the Prime Minister is unable to nominate his Council of Ministers within one month, the Presidency Council shall name another Prime Minister.
- (B) The qualifications for Prime Minister must be the same as for the members of the Presidency Council except that his age must not be less than 35 years upon his taking office.

Article 39.

- (A) The Council of Ministers shall, with the approval of the Presidency Council, appoint representatives to negotiate the conclusion of international treaties and agreements. The Presidency Council shall recommend passage of a law by the National Assembly to ratify such treaties and agreements.
- (B) The Presidency Council shall carry out the function of commander-in-chief of the Iraqi Armed Forces only for ceremonial and protocol purposes. It shall have no command authority. It shall have the right to be briefed, to inquire, and to advise. Operationally, national command authority on military matters shall flow from the Prime Minister to the Minister of Defense to the military chain of command of the Iraqi Armed Forces.

The Washington Institute for Near East Policy

- (C) The Presidency Council shall, as more fully set forth in Chapter Six, below, appoint, upon recommendation of the Higher Juridical Council, the Presiding Judge and members of the Federal Supreme Court.
- (D) The Council of Ministers shall appoint the Director-General of the Iraqi National Intelligence Service, as well as officers of the Iraqi Armed Forces at the rank of general or above. Such appointments shall be subject to confirmation by the National Assembly by simple majority of those of its members present.

Article 40.

- (A) The Prime Minister and the ministers shall be responsible before the National Assembly, and this Assembly shall have the right to withdraw its confidence either in the Prime Minister or in the ministers collectively or individually. In the event that confidence in the Prime Minister is withdrawn, the entire Council of Ministers shall be dissolved, and Article 40(B), below, shall become operative.
- (B) In the event of a vote of no confidence with respect to the entire Council of Ministers, the Prime Minister and Council of Ministers shall remain in office to carry out their functions for a period not to exceed thirty days, until the formation of a new Council of Ministers, consistent with Article 38, above.

Article 41.

The Prime Minister shall have day-to-day responsibility for the management of the government, and he may dismiss ministers with the approval of a simple majority of the National Assembly. The Presidency Council may, upon the recommendation of the Commission on Public Integrity after the exercise of due process, dismiss the Prime Minister or the ministers.

Article 42.

The Council of Ministers shall draw up rules of procedure for its work and issue the regulations and directives necessary to enforce the laws. It also has the right to propose bills to the National Assembly. Each ministry has the right, within its competence, to nominate deputy ministers, ambassadors, and other employees of special grade. After the Council of Ministers approves these nominations, they shall be submitted to the Presidency Council for ratification. All decisions of the Council of Ministers shall be taken by simple majority of those of its members present.

CHAPTER SIX – THE FEDERAL JUDICIAL AUTHORITY

The Washington Institute for Near East Policy

Article 43.

- (A) The judiciary is independent, and it shall in no way be administered by the executive authority, including the Ministry of Justice. The judiciary shall enjoy exclusive competence to determine the innocence or guilt of the accused pursuant to law, without interference from the legislative or executive authorities.
- (B) All judges sitting in their respective courts as of 1 July 2004 will continue in office thereafter, unless removed from office pursuant to this Law.
- (C) The National Assembly shall establish an independent and adequate budget for the judiciary.
- (D) Federal courts shall adjudicate matters that arise from the application of federal laws. The establishment of these courts shall be within the exclusive competence of the federal government. The establishment of these courts in the regions shall be in consultation with the presidents of the judicial councils in the regions, and priority in appointing or transferring judges to these courts shall be given to judges resident in the region.

Article 44.

- (A) A court called the Federal Supreme Court shall be constituted by law in Iraq.
- (B) The jurisdiction of the Federal Supreme Court shall be as follows:
 - (1) Original and exclusive jurisdiction in legal proceedings between the Iraqi Transitional Government and the regional governments, governorate and municipal administrations, and local administrations.
 - (2) Original and exclusive jurisdiction, on the basis of a complaint from a claimant or a referral from another court, to review claims that a law, regulation, or directive issued by the federal or regional governments, the governorate or municipal administrations, or local administrations is inconsistent with this Law.
 - (3) Ordinary appellate jurisdiction of the Federal Supreme Court shall be defined by federal law.
- (C) Should the Federal Supreme Court rule that a challenged law, regulation, directive, or measure is inconsistent with this Law, it shall be deemed null and void.

The Washington Institute for Near East Policy

- (D) The Federal Supreme Court shall create and publish regulations regarding the procedures required to bring claims and to permit attorneys to practice before it. It shall take its decisions by simple majority, except decisions with regard to the proceedings stipulated in Article 44(B)(1), which must be by a two-thirds majority. Decisions shall be binding. The Court shall have full powers to enforce its decisions, including the power to issue citations for contempt of court and the measures that flow from this.
- (E) The Federal Supreme Court shall consist of nine members. The Higher Juridical Council shall, in consultation with the regional judicial councils, initially nominate no less than eighteen and up to twenty-seven individuals to fill the initial vacancies in the aforementioned Court. It will follow the same procedure thereafter, nominating three members for each subsequent vacancy that occurs by reason of death, resignation, or removal. The Presidency Council shall appoint the members of this Court and name one of them as its Presiding Judge. In the event an appointment is rejected, the Higher Juridical Council shall nominate a new group of three candidates.

Article 45.

A Higher Juridical Council shall be established and assume the role of the Council of Judges. The Higher Juridical Council shall supervise the federal judiciary and shall administer its budget. This Council shall be composed of the Presiding Judge of the Federal Supreme Court, the presiding judge and deputy presiding judges of the federal Court of Cassation, the presiding judges of the federal Courts of Appeal, and the presiding judge and two deputy presiding judges of each regional court of cassation. The Presiding Judge of the Federal Supreme Court shall preside over the Higher Juridical Council. In his absence, the presiding judge of the federal Court of Cassation shall preside over the Council.

Article 46.

- (A) The federal judicial branch shall include existing courts outside the Kurdistan region, including courts of first instance; the Central Criminal Court of Iraq; Courts of Appeal; and the Court of Cassation, which shall be the court of last resort except as provided in Article 44 of this Law. Additional federal courts may be established by law. The appointment of judges for these courts shall be made by the Higher Juridical Council. This Law preserves the qualifications necessary for the appointment of judges, as defined by law.
- (B) The decisions of regional and local courts, including the courts of the Kurdistan region, shall be final, but shall be subject to review by the federal judiciary if they conflict with this Law or any federal law. Procedures for such review shall be defined by law.

Article 47.

No judge or member of the Higher Juridical Council may be removed unless he is convicted of a crime involving moral turpitude or corruption or suffers permanent incapacity. Removal shall be on the recommendation of the Higher Juridical Council, by a decision of the Council of Ministers, and with the approval of the Presidency Council. Removal shall be executed immediately after issuance of this approval. A judge who has been accused of such a crime as cited above shall be suspended from his work in the judiciary until such time as the case arising from what is cited in this Article is adjudicated. No judge may have his salary reduced or suspended for any reason during his period of service.

CHAPTER SEVEN – THE SPECIAL TRIBUNAL AND NATIONAL COMMISSIONS

Article 48.

- (A) The statute establishing the Iraqi Special Tribunal issued on 10 December 2003 is confirmed. That statute exclusively defines its jurisdiction and procedures, notwithstanding the provisions of this Law.
- (B) No other court shall have jurisdiction to examine cases within the competence of the Iraqi Special Tribunal, except to the extent provided by its founding statute.
- (C) The judges of the Iraqi Special Tribunal shall be appointed in accordance with the provisions of its founding statute.

Article 49.

- (A) The establishment of national commissions such as the Commission on Public Integrity, the Iraqi Property Claims Commission, and the Higher National De-Ba'athification Commission is confirmed, as is the establishment of commissions formed after this Law has gone into effect. The members of these national commissions shall continue to serve after this Law has gone into effect, taking into account the contents of Article 51, below.
- (B) The method of appointment to the national commissions shall be in accordance with law.

Article 50.

The Washington Institute for Near East Policy

The Iraqi Transitional Government shall establish a National Commission for Human Rights for the purpose of executing the commitments relative to the rights set forth in this Law and to examine complaints pertaining to violations of human rights. The Commission shall be established in accordance with the Paris Principles issued by the United Nations on the responsibilities of national institutions. This Commission shall include an Office of the Ombudsman to inquire into complaints. This office shall have the power to investigate, on its own initiative or on the basis of a complaint submitted to it, any allegation that the conduct of the governmental authorities is arbitrary or contrary to law.

Article 51.

No member of the Iraqi Special Tribunal or of any commission established by the federal government may be employed in any other capacity in or out of government. This prohibition is valid without limitation, whether it be within the executive, legislative, or judicial authority of the Iraqi Transitional Government. Members of the Special Tribunal may, however, suspend their employment in other agencies while they serve on the aforementioned Tribunal.

CHAPTER EIGHT – REGIONS, GOVERNORATES, AND MUNICIPALITIES

Article 52.

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

Article 53.

- (A) The Kurdistan Regional Government is recognized as the official government of the territories that were administered by the that government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term “Kurdistan Regional Government” shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region.
- (B) The boundaries of the eighteen governorates shall remain without change during the transitional period.
- (C) Any group of no more than three governorates outside the Kurdistan region, with the exception of Baghdad and Kirkuk, shall have the right to

The Washington Institute for Near East Policy

form regions from amongst themselves. The mechanisms for forming such regions may be proposed by the Iraqi Interim Government, and shall be presented and considered by the elected National Assembly for enactment into law. In addition to being approved by the National Assembly, any legislation proposing the formation of a particular region must be approved in a referendum of the people of the relevant governorates.

- (D) This Law shall guarantee the administrative, cultural, and political rights of the Turcomans, ChaldoAssyrians, and all other citizens.

Article 54.

- (A) The Kurdistan Regional Government shall continue to perform its current functions throughout the transitional period, except with regard to those issues which fall within the exclusive competence of the federal government as specified in this Law. Financing for these functions shall come from the federal government, consistent with current practice and in accordance with Article 25(E) of this Law. The Kurdistan Regional Government shall retain regional control over police forces and internal security, and it will have the right to impose taxes and fees within the Kurdistan region.
- (B) With regard to the application of federal laws in the Kurdistan region, the Kurdistan National Assembly shall be permitted to amend the application of any such law within the Kurdistan region, but only to the extent that this relates to matters that are not within the provisions of Articles 25 and 43(D) of this Law and that fall within the exclusive competence of the federal government.

Article 55.

- (A) Each governorate shall have the right to form a Governorate Council, name a Governor, and form municipal and local councils. No member of any regional government, governor, or member of any governorate, municipal, or local council may be dismissed by the federal government or any official thereof, except upon conviction of a crime by a court of competent jurisdiction as provided by law. No regional government may dismiss a Governor or member or members of any governorate, municipal, or local council. No Governor or member of any Governorate, municipal, or local council shall be subject to the control of the federal government except to the extent that the matter relates to the competences set forth in Article 25 and 43(D), above.
- (B) Each Governor and member of each Governorate Council who holds office as of 1 July 2004, in accordance with the law on local government

The Washington Institute for Near East Policy

that shall be issued, shall remain in place until such time as free, direct, and full elections, conducted pursuant to law, are held, or, unless, prior to that time, he voluntarily gives up his position, is removed upon his conviction for a crime involving moral turpitude or related to corruption, or upon being stricken with permanent incapacity, or is dismissed in accordance with the law cited above. When a governor, mayor, or member of a council is dismissed, the relevant council may receive applications from any eligible resident of the governorate to fill the position. Eligibility requirements shall be the same as those set forth in Article 31 for membership in the National Assembly. The new candidate must receive a majority vote of the council to assume the vacant seat.

Article 56.

- (A) The Governorate Councils shall assist the federal government in the coordination of federal ministry operations within the governorate, including the review of annual ministry plans and budgets with regard to activities in the governorate. Governorate Councils shall be funded from the general budget of the State, and these Councils shall also have the authority to increase their revenues independently by imposing taxes and fees; to organize the operations of the Governorate administration; to initiate and implement province-level projects alone or in partnership with international, and non-governmental organizations; and to conduct other activities insofar as is consistent with federal laws.
- (B) The *Qada'* and *Nahiya* councils and other relevant councils shall assist in the performance of federal responsibilities and the delivery of public services by reviewing local ministry plans in the afore-mentioned places; ensuring that they respond properly to local needs and interests; identifying local budgetary requirements through the national budgeting procedures; and collecting and retaining local revenues, taxes, and fees; organizing the operations of the local administration; initiating and implementing local projects alone or in conjunction with international, and non-governmental organizations; and conducting other activities consistent with applicable law.
- (C) Where practicable, the federal government shall take measures to devolve additional functions to local, governorate, and regional administrations, in a methodical way. Regional units and governorate administrations, including the Kurdistan Regional Government, shall be organized on the basis of the principle of de-centralization and the devolution of authorities to municipal and local governments.

Article 57.

The Washington Institute for Near East Policy

- (A) All authorities not exclusively reserved to the Iraqi Transitional Government may be exercised by the regional governments and governorates as soon as possible following the establishment of appropriate governmental institutions.
- (B) Elections for governorate councils throughout Iraq and for the Kurdistan National Assembly shall be held at the same time as the elections for the National Assembly, no later than 31 January 2005.

Article 58.

- (A) The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:
 - (1) With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.
 - (2) With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.
 - (3) With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.
 - (4) With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

The Washington Institute for Near East Policy

- (B) The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.
- (C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

CHAPTER NINE – THE TRANSITIONAL PERIOD

Article 59.

- (A)
 - A) The permanent constitution shall contain guarantees to ensure that the Iraqi Armed Forces are never again used to terrorize or oppress the people of Iraq.
- (B)
 - B) Consistent with Iraq's status as a sovereign state, and with its desire to join other nations in helping to maintain peace and security and fight terrorism during the transitional period, the Iraqi Armed Forces will be a principal partner in the multi-national force operating in Iraq under unified command pursuant to the provisions of United Nations Security Council Resolution 1511 (2003) and any subsequent relevant resolutions. This arrangement shall last until the ratification of a permanent constitution and the election of a new government pursuant to that new constitution.
- (C)
 - C) Upon its assumption of authority, and consistent with Iraq's status as a sovereign state, the elected Iraqi Transitional Government shall have the authority to conclude binding international agreements regarding the activities of the multi-national force operating in Iraq under unified command pursuant to the terms of United Nations Security Council Resolution 1511 (2003), and any subsequent relevant United Nations Security Council resolutions. Nothing in this Law shall affect rights and obligations under these agreements, or under United Nations Security

The Washington Institute for Near East Policy

Council Resolution 1511 (2003), and any subsequent relevant United Nations Security Council resolutions, which will govern the multi-national force's activities pending the entry into force of these agreements.

Article 60.

The National Assembly shall write a draft of the permanent constitution of Iraq. This Assembly shall carry out this responsibility in part by encouraging debate on the constitution through regular general public meetings in all parts of Iraq and through the media, and receiving proposals from the citizens of Iraq as it writes the constitution.

Article 61.

- (A) The National Assembly shall write the draft of the permanent constitution by no later than 15 August 2005.
- (B) The draft permanent constitution shall be presented to the Iraqi people for approval in a general referendum to be held no later than 15 October 2005. In the period leading up to the referendum, the draft constitution shall be published and widely distributed to encourage a public debate about it among the people.
- (C) The general referendum will be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it.
- (D) If the permanent constitution is approved in the referendum, elections for a permanent government shall be held no later than 15 December 2005 and the new government shall assume office no later than 31 December 2005.
- (E) If the referendum rejects the draft permanent constitution, the National Assembly shall be dissolved. Elections for a new National Assembly shall be held no later than 15 December 2005. The new National Assembly and new Iraqi Transitional Government shall then assume office no later than 31 December 2005, and shall continue to operate under this Law, except that the final deadlines for preparing a new draft may be changed to make it possible to draft a permanent constitution within a period not to exceed one year. The new National Assembly shall be entrusted with writing another draft permanent constitution.
- (F) If necessary, the president of the National Assembly, with the agreement of a majority of the members' votes, may certify to the Presidency Council no later than 1 August 2005 that there is a need for additional time to complete the writing of the draft constitution. The Presidency Council shall then extend the deadline for writing the draft constitution for only six months. This deadline may not be extended again.

The Washington Institute for Near East Policy

- (G) If the National Assembly does not complete writing the draft permanent constitution by 15 August 2005 and does not request extension of the deadline in Article 61(D) above, the provisions of Article 61(E), above, shall be applied.

Article 62.

This law shall remain in effect until the permanent constitution is issued and the new Iraqi government is formed in accordance with it.

Appendix 2

COALITION PROVISIONAL AUTHORITY ANNEX TO THE LAW FOR THE ADMINISTRATION OF IRAQ IN THE TRANSITIONAL PERIOD June 1, 2004

On the basis of Article 2(1)B of the Law of Administration for the State of Iraq in the Transitional Period, the Governing Council decided in its session of 1/6/2004 to issue this Annex.

Section 1: Formation of the Iraqi Interim Government

The Iraqi Interim Government, formed on the basis of wide-scale consultations with all segments of Iraqi society, and consisting of individuals known for their ability and integrity, will assume sovereign authority for governing Iraq no later than 30 June 2004. The Interim Government will administer Iraq's affairs, in particular by providing for the welfare and security of the Iraqi people, promoting reconstruction and economic development, and preparing for and holding national elections by 31 December 2004, if possible, and, in any case, no later than 31 January 2005. The Government, as an interim government, will refrain from taking any actions affecting Iraq's destiny beyond the limited interim period. Such actions should be reserved to future governments democratically elected by the Iraqi people. The members of the Interim Government will swear a legal oath in front of the Head of the highest judicial authority in Iraq. The Interim Government will dissolve upon the formation of the Iraqi Transitional Government following national elections.

Section 2: Institutions and Powers of the Iraqi Interim Government

The Interim Government will operate under the Law of Administration for the State of Iraq for the Transitional Period. It will consist of the Presidency of the State (comprised

The Washington Institute for Near East Policy

of a President and two Deputy Presidents); a Council of Ministers, including a Prime Minister; an Interim National Council and the Judicial Authority. Except for the purposes of Chapter Nine of this Law or as otherwise specified herein, references to the Iraqi Transitional Government and its institutions and officials in this Law will apply to the Interim Government and its institutions and officials. The Interim Government will at all times respect obligations related to the transitional period and the fundamental principles and rights of the Iraqi people as set forth in this Law. The institutions of the Kurdistan Regional Government, the governorates and the municipalities will function in accordance with this Law.

The Council of Ministers with the unanimous approval of the Presidency, may issue orders with the force of law that will remain in effect until rescinded or amended by future Iraqi governments. The Council of Ministers will have the authorities granted to the National Assembly in this Law related to appointments, the use of the Iraqi Armed Forces, and approval of international agreements. The Interim Government will represent Iraq in its external relations, but its powers in concluding international agreements will not extend beyond Iraq's diplomatic relations, international loans and assistance, and Iraq's sovereign debt. The appointment of Supreme Court members must be unanimously confirmed by the Presidency Council of the Iraqi Transitional Government within ninety days after its assumption of authority.

Section 3: The Interim National Council

Members of the Interim National Council will be chosen by a National Conference that will meet in Baghdad during the month of July 2004. The Conference will be organized by a High Commission, which will include members of the Governing Council without other governmental positions, representatives from the regions and governorates, and other distinguished Iraqis known for their capability and integrity. The Interim National Council itself will be comprised of 100 members, and will include members of the Governing Council mentioned above.

The Interim National Council will meet periodically to promote constructive dialogue and create national consensus, and to advise the Presidency Council and Council of Ministers. It will have the authority to monitor the implementation of laws, to follow up the work of the executive bodies, to appoint replacements to the Presidency Council in cases of resignation or death, to interpellate the Prime Minister and Council of Ministers, and to veto executive orders by a 2/3 majority vote of its members within 10 days of being informed of such orders which have been approved by the Presidency Council. The Interim National Council will also have the right to approve the 2005 Iraqi national budget proposed by the Council of Ministers, and to set its Internal Regulations.

Appendix 3

CPA/ORD/31 May 04/92

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 92

THE INDEPENDENT ELECTORAL COMMISSION OF IRAQ

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and Resolution 1511 (2003);

Reaffirming the right of the Iraqi people, as recognized in Resolutions 1483 and 1511, to freely determine their own political future;

Noting that the Law of Administration for the State of Iraq for the Transitional Period (the “TAL”) provides for the Iraqi people to choose their government through genuine and credible elections to be held no later than 31 January 2005;

Determined to achieve the transitional goals of the TAL, including the drafting and ratification of a permanent constitution, and the establishment of an elected government under that constitution;

Underscoring the need for international cooperation to achieve these goals and the essential role to be played by the United Nations and other internationally recognized experts in electoral administration;

Committed to establishing an impartial and internationally recognized body of Iraqi professionals and expert advisors to coordinate and oversee genuine and credible elections in Iraq;

Having consulted extensively with the Iraqi Governing Council and representatives of the United Nations, I hereby promulgate the following:

**Section 1
Purpose**

This Order establishes the Independent Electoral Commission of Iraq (the “Commission”) and empowers the Commission to organize, oversee, conduct, and implement all elections set forth in the TAL. The Commission is structured to ensure complete independence from political influence and to benefit from close consultation with international entities, such as the United Nations, that have impartially and effectively administered genuine and credible elections in nations emerging from periods of tyranny, conflict, and violent strife.

**Section 2
Definitions**

The Washington Institute for Near East Policy

For purposes of this Order, the following definitions shall apply. Words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular; and words importing the masculine gender include the feminine:

- 1) "Transfer of Authority" means the formal transfer of governmental authority from the Coalition Provisional Authority to the Iraqi Interim Government.
- 2) "Transitional Period" means the period commencing with the Transfer of Authority and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution.
- 3) "Iraqi Interim Government" means the government that will assume governmental authority on 30 June 2004 and retain such authority until the formation of the Iraqi Transitional Government.
- 4) "Iraqi Transitional Government" means the government that is to be established after nationwide elections occurring no later than 31 January 2005.
- 5) "Elections Law" means the law that will govern elections during the transitional period.
- 6) "Political Parties Law" means the law that will govern the recognition of political entities in Iraq during the Transitional Period.
- 7) "Council of Judges" means the independent body of judges and other impartial officers that was re-established in CPA Order No. 35.
- 8) "Higher Juridical Council" means the independent body that will assume the role of the Council of Judges upon the Transfer of Authority, as set forth in Article 45 of the TAL.
- 9) "Disqualifying Crime" means a crime committed with intent to cause bodily harm to an individual or group of individuals.

Section 3 Establishment of the Commission

1) The Independent Electoral Commission of Iraq is hereby established as an independent and autonomous, non-partisan, neutral and professional government office that shall have authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and it shall be the exclusive electoral authority throughout Iraq during the Transitional Period. The Commission shall be made up of the Board of Commissioners (the "Board") and the Electoral Administration.

2) The principal duty of the Commission is to ensure the successful administration of elections in accordance with the TAL. To that end, the Commission is empowered to take all necessary measures consistent with Chapter Two of the TAL to oversee and administer genuine and credible elections throughout Iraq. The Commission will benefit from the experience of international electoral experts, including, especially, the United Nations.

The Washington Institute for Near East Policy

3) The Commission shall have the following principal functions, in addition to any other function the Board finds appropriate for carrying out the Commission's electoral functions:

- a) Determine, establish, develop, certify, subdivide, and maintain the voter roll;
- b) Help build societal support for and confidence in the electoral process throughout Iraq;
- c) Regulate and conduct the registration and certification of political parties;
- d) Regulate and conduct the registration and certification of candidates for office;
- e) Accredite election observers and other officers engaged in monitoring and/or observing elections in Iraq;
- f) Manage the polling and ballot tabulation activities;
- g) Adjudicate electoral grievances and disputes; and
- h) Certify election results.

Section 4 The Board of Commissioners

A Board of Commissioners ("Board") shall head the Commission. The Board shall have the exclusive authority to promulgate, implement, and enforce regulations, rules, procedures and decisions, and take any other action consistent with Chapter Two of the TAL to ensure the successful organization, planning, implementation and oversight of nationwide and local elections throughout Iraq. The Board shall act strictly within its mandate under this Order and shall not attempt to regulate or exert influence over activities that are not fairly related to the administration of elections during the Transitional Period.

Section 5 Board of Commissioners Organization

1) The Board shall consist of nine members, including seven voting members who shall be Iraqi citizens, and two non-voting members. The two non-voting members shall be the Chief Electoral Officer ("CEO") as described in Section 6(2) of this Order and an international electoral expert to be chosen by the United Nations. The Board's seven voting members shall serve until a new Commission is formed after the end of the Transitional Period, or until three months after the certification of the first election conducted under a permanent constitution, whichever is shorter. Board decisions shall, wherever possible, be taken on consensus. Where consensus cannot be reached, a simple majority of the voting members present – provided that a quorum is present – shall prevail unless this Order stipulates otherwise.

2) Iraqi nationals and Iraqi organizations may propose nominees for the Board's seven voting members to the United Nations. Drawing from these nominations, the United Nations will create a list of qualified candidates and present it to the Governing Council, which will rank candidates from the list for appointment by the Administrator. Thereafter, the Administrator shall appoint the Board's seven voting members. The

The Washington Institute for Near East Policy

Secretary General of the United Nations shall appoint the international electoral expert to serve as a non-voting member of the Board.

3) All voting members of the Board shall be Iraqi citizens and shall be chosen based on their reputation for impartiality, integrity, rectitude, professionalism and good judgment and must meet the criteria in Article 31(B) of the TAL. Persons who will be deemed an Iraqi citizen pursuant to Article 11 of the TAL, or who will be entitled to reclaim Iraqi citizenship pursuant to Article 11 of the TAL, shall fulfill the citizenship requirement for Board membership. Preferred qualifications for Board membership include demonstrated skills in administration, justice, education, commerce, social advocacy, and other forms of civil leadership.

4) The seven voting Board members and the CEO shall receive compensation equivalent to the Head of a Ministry and no Board member shall hold paid employment while serving out his or her term, except as permitted by regulations to be promulgated by the Board. In addition, no Board member may hold or run for public office in any capacity with any government agency at any government level while serving out his or her term.

5) Each Board member shall take an oath of office pledging to perform the duties of the office in an independent, non-partisan, neutral and professional manner. The actions of Board members shall be governed by this oath, as well as by rules of ethics to be developed by the Board shortly after its formation. If a Board member is convicted of a Disqualifying Crime, that member can be removed from office by a two-thirds majority vote of the Board. If a Board member knowingly violates the Board's rules of ethics, or suffers permanent incapacitation, that member can be removed from office by a two-thirds majority vote of the disinterested members of the Board, provided that this vote is accompanied by the assent of the Board's international electoral expert.

6) In the event of a vacancy before the Transfer of Authority by reason of death, resignation, or removal of any Board member, a new Board member will be appointed pursuant to the procedure in Section 5(2) above. Should such a vacancy arise after the Transfer of Authority but before the election of a National Assembly pursuant to the TAL, the United Nations will present a list of not less than three qualified candidates to the Iraqi head of government, who will appoint a new Board member. Should such a vacancy arise upon or after the election of a National Assembly pursuant to the TAL, the United Nations will present a list of not less than three qualified candidates to the President of the National Assembly, who will appoint a new Board member.

7) As the first point of order at the Board's inaugural meeting, the Board shall select a President and Vice President from among its voting members. The President shall manage the Board's regulatory activities and policy discussions; regularly schedule, convene and chair all Board meetings, including any meeting requested by at least four members of the Board; and report on electoral progress to other branches of the Iraqi government, the Iraqi people, and the international community. When the President is unavailable, the Vice President shall assume these duties.

The Washington Institute for Near East Policy

8) The Board shall begin hiring staff to service its responsibilities immediately after selection of the President and Vice President. Staffing needs shall be evaluated and completed with the assistance of the United Nations and other appropriate organizations. The Board shall appoint a Secretariat to provide such services as recordkeeping, legal research, secretarial services, and other responsibilities specific to the business of the Board.

9) The Iraqi government shall ensure that the Commission receives all of the resources necessary for administering elections throughout the Transitional Period. Notwithstanding the foregoing, the Commission may seek to enlist the international community for appropriate assistance in this regard, including the direct provision of additional funds or resources. All Commission resources shall be solely managed and obligated by the Commission. The CEO shall be responsible for the accounting of these resources.

Section 6 Electoral Administration

1) The Commission shall have an Electoral Administration headed by the CEO and made up of the National Office and Electoral Offices, which shall be established in the governorates and the regions. The Electoral Administration shall answer to the Board and shall be in charge of administering the Board's regulations, rules, procedures, and decisions at the local and regional level throughout Iraq. The structure and precise role of the National Office and the Electoral Offices shall be defined by the Board pursuant to regulations that shall issue promptly after the selection of the Board President and Vice President.

2) The CEO, under direction of and subject to oversight by the Board, shall organize the Electoral Administration, including the National Office and the Electoral Offices throughout the country.

a) Iraqi nationals and Iraqi organizations may propose nominees for the CEO to the United Nations. Drawing from these nominations, the United Nations will create a list of qualified candidates and present it to the Governing Council, which will rank the candidates prior to submission to the Administrator, who shall appoint one of the qualified candidates as the CEO.

b) The CEO shall be an ex-officio non-voting member of the Board and shall serve as the Commission's principal administration and operations officer. The CEO shall provide the link between the Board and the Electoral Administration at the local and regional level throughout Iraq.

c) If the CEO is found to have violated the rules of ethics developed by the Board, is convicted of a Disqualifying Crime, suffers permanent incapacitation or is determined to be unfit to serve, the CEO may be removed from the position by a two-thirds majority vote of the Board.

d) In the event of a vacancy by reason of death, resignation, or removal of the CEO before the Transitional Period, a new CEO will be appointed pursuant to the procedure in paragraph (a) above. In the event of a vacancy by reason of death, resignation, or removal

The Washington Institute for Near East Policy

of the CEO during or after the Transitional Period, the United Nations will present a list of qualified candidates to the Board, which shall select one candidate by a majority vote for appointment as the new CEO.

3) The Electoral Administration is wholly subordinate to the Board but separate from the Board's staff and Secretariat established in Section 5(8) of this Order. Accordingly, the CEO shall ensure that the Electoral Administration is staffed with all appropriate resources and personnel at the local and regional levels as soon as practicable after the selection of the President and Vice President.

Section 7 Dispute Resolution

1) The Board has exclusive jurisdiction with respect to the civil enforcement of its own procedures and regulations. The Board may refer a criminal case to appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of the electoral process.

2) Except as provided herein, and in Section 7(3) of this Order, the Board has exclusive jurisdiction to resolve disputes arising out of the preparation for and execution of national, regional and governorate elections throughout the Transitional Period. The Board shall promulgate necessary procedures for resolving such disputes, including procedures for filing a claim and conducting expedited factual inquiries, and may delegate jurisdiction to resolve disputes in the first instance to the Electoral Administration .

3) Decisions of the Board may be appealed only to a Transitional Electoral Panel (the "Panel") composed of three judges appointed by the Higher Juridical Council. Panel judges are not members of the Commission for the purpose of Article 51 of the TAL and are not required to sit exclusively on the Panel. Any work associated with the panel, however, must take priority over all other matters.

4) Appellate review shall only be permissible for final decisions of the Board, and no Board decision may be overturned unless the Panel determines that the decision was arbitrary, capricious, in excess of jurisdiction, or rendered in bad faith. Administrative and interlocutory decisions may not be appealed. Decisions by the Board are binding until overturned by the Panel. An appeal of any final decision must be submitted by an individual or entity directly implicated in the decision within two days of the publication of the decision. Such appeals may be submitted to the National Office or any Electoral Office.

5) Within two days of submission of any appeal, the Panel must determine if the appeal satisfies the jurisdiction and standing requirements set forth in this Section 7(4).

6) If the Panel determines that the appeal has adequate jurisdiction and standing, such appeal must be decided within ten days of that determination. All decisions of the Panel

The Washington Institute for Near East Policy

shall be final and not subject to review by any other authority, including a judicial authority. If an appeal is not decided by that deadline, the decision of the Board will continue in force and may not be overturned.

7) Upon its formulation, the Panel shall establish general procedures consistent with this Order for resolving appeals. Such procedures must be submitted to the Board for review and approval.

Section 8
Effective Date

This Regulation shall enter into force on the date of signature.

Signed
L. Paul Bremer, Administrator
Coalition Provisional Authority
(signed 5/31/04)

Appendix 4

CPA/ORD/7 June 04/96 COALITION PROVISIONAL AUTHORITY ORDER NUMBER 96 THE ELECTORAL LAW

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and Resolution 1511 (2003);

reaffirming the right of the Iraqi people, as recognized in Resolutions 1483 and 1511, to freely determine their own political future;

Noting that the Law of Administration for the State of Iraq for the Transitional Period (the "TAL") provides for the Iraqi people to choose their government through genuine and credible elections to be held by the end of December 2004 if possible and, in any event, no later than 31 January 2005;

Determined to achieve the transitional goals of the TAL, including the drafting and ratification of a permanent constitution, and the establishment of an elected government under that constitution;

Committed to electing the drafters of the Iraqi constitution by a direct, universal and secret ballot of the Iraqi people;

The Washington Institute for Near East Policy

Noting the Iraqi Governing Council's adoption of Resolution 87 of 2004 endorsing use of a single electoral district and proportional representation in the election of the National Assembly of the Iraqi Transitional Government;

Having consulted extensively with representatives of the United Nations and benefited from their consultations with the Governing Council and a broad cross-section of Iraqis, I hereby promulgate the following:

Section 1 Purpose

This Order forms part of the legal framework for genuine and credible elections to determine the membership of the National Assembly of the Iraqi Transitional Government.

Section 2 Definitions

For purposes of this Order, the following definitions shall apply. Words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular; and words importing the masculine gender include the feminine:

- 1) "Commission" means the Independent Electoral Commission of Iraq, as established by CPA Order No. 92 (CPA/ORD/31 May 2004/92).
- 2) "Iraqi Interim Government" means the government that will assume full governmental authority on 30 June 2004 and retain such authority until the formation of the Iraqi Transitional Government.
- 3) "Iraqi Transitional Government" means the government that is to be established after nationwide elections occurring no later than 31 January 2005.
- 4) "National Assembly" means the National Assembly of the Iraqi Transitional Government, as described in the TAL.
- 5) "Political Parties and Entities Law" means the law that will govern the recognition of Political Entities in Iraq during the Transitional Period.
- 6) "Political Entity" means a political entity as defined in the Political Parties and Entities Law.
- 7) "Threshold" means the minimum number of valid votes necessary to obtain a seat in the National Assembly.

Section 3 System of Representation

- 1) The election for the National Assembly shall be by direct, universal and secret ballot.
- 2) Consistent with Article 31 of the TAL, elections for the National Assembly will choose 275 members. Consistent with Article 31(A) of the TAL, a separate law enacted

The Washington Institute for Near East Policy

after such elections will govern the replacement of members of the National Assembly in the event of resignation, removal or death.

3) Iraq will be a single electoral constituency. All seats in the National Assembly will be allocated among Political Entities through a system of proportional representation.

4) The formula for the allocation of seats in the National Assembly will be based on a first calculation employing a simple quota (Hare quota) and subsequent calculations employing the largest remainders. The Threshold shall be the natural threshold, which is calculated by dividing the total number of valid votes by 275. The procedure for use of this formula shall be set forth in such regulations promulgated pursuant to Section 6.

Section 4 Electoral Candidates

1) Any Political Entity may present a list of candidates for election to the National Assembly to the Commission so long as the candidates on the list meet the applicable legal criteria.

2) The lists presented to the Commission must have the candidates in a ranked order. Seats in the National Assembly shall be allocated to candidates according to the ranked order on the list. The candidates on the lists may not be reordered or otherwise changed after a date to be established by the Commission.

3) No fewer than one out of the first three candidates on the list must be woman; no fewer than two out of the first six candidates on the list must be woman; and so forth until the end of the list.

4) No list shall contain fewer than twelve or more than 275 candidates, except that individual persons certified as Political Entities by the Commission may present themselves on a list as a single candidate. The requirement of Section 4(3) does not apply where a list contains an individual person certified as a Political Entity.

5) Seats shall be allocated to candidates, not Political Entities. At no time may a Political Entity withdraw a seat in the National Assembly from the candidate to whom it was allocated.

Section 5 Entitlement to Vote

1) To be eligible to vote in the election of the National Assembly, a person must:

- a) according to Article 11 of the TAL, be deemed an Iraqi citizen, be entitled to reclaim Iraqi citizenship or be eligible for Iraqi citizenship;
- b) Have been born on or before 31 December 1986; and,
- c) Be registered to vote according to procedures issued by the Commission.

2) The Commission shall interpret Article 11 of the TAL in an inclusive manner. The Commission shall not be dependent on the conclusion of any administrative or legal processes undertaken by the Iraqi Interim Government in order to implement Article 11 of the TAL.

The Washington Institute for Near East Policy

3) The decisions of the Commission shall not prejudice future administrative or legal processes undertaken by the Iraqi Transitional Government in order to implement Article 11 of the TAL.

Section 6 Implementation

The Commission may issue regulations, rules, procedures and decisions to implement this Order.

Section 7 Effective Date

Any provision of Iraqi law that is inconsistent with this Order is hereby suspended to the extent of such inconsistency.

Section 8 Effective Date

This Order shall enter into force on the date of signature.

Signed,
L. Paul Bremer, Administrator
Coalition Provisional Authority
(signed 6/15/04)

Appendix 5

CPA/ORD/7 June 2004/97 COALITION PROVISIONAL AUTHORITY ORDER NUMBER 97 POLITICAL PARTIES AND ENTITIES LAW

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), and Resolution 1511 (2003);

Reaffirming the right of the Iraqi people, as recognized in Resolutions 1483 and 1511, to freely determine their own political future;

Noting that the Law of Administration for the State of Iraq for the Transitional Period (the "TAL") provides for the Iraqi people to choose their government through genuine and credible elections to be held by the end of December 2004 if possible and, in any event, no later than 31 January 2005;

The Washington Institute for Near East Policy

Determined to achieve the transitional goals of the TAL, including the drafting and ratification of a permanent constitution, and the establishment of an elected government under that constitution;

Underscoring the need for international cooperation to achieve these goals and the essential role to be played by the United Nations and other internationally recognized experts in electoral administration;

Committed to establishing an impartial and internationally recognized body of Iraqi professionals and expert advisors to coordinate and oversee genuine and credible elections in Iraq;

Having consulted extensively with the representatives of the United Nations and benefited from their consultations with the Governing Council and a broad crosssection of Iraqis, I hereby promulgate the following:

Section 1 Purpose

This Order forms part of the legal framework for genuine and credible elections that fairly reflects Iraq's rich diversity of political thought by encouraging and impartially regulating the development of vibrant political entities across Iraq.

Section 2 Recognition of Political Entities

- 1) A "political entity" means an organization, including a political party, of eligible voters who voluntarily associate on the basis of common ideas, interests or views, for the purpose of articulating interests, obtaining influence and having their representatives elected to public office, so long as that organization of eligible voters is officially certified as a political entity by the Independent Electoral Commission of Iraq ("Commission"). A "political entity" also means an individual person who intends to stand for election to public office, so long as the individual person is officially certified as a political entity by the Commission.
- 2) The Commission shall establish regulations that govern the certification and decertification of political entities. Such regulations shall include the total number of eligible voters – as measured by signatures, personal marks, or other identifiable means – required for certification as a political entity, provided that the total number of eligible voters required for certification of organizations or individual persons shall not exceed 500.

Section 3 Status and Treatment of Political Entities

The Washington Institute for Near East Policy

- 1) Each political entity, except certified individuals, shall become, upon certification, a distinct legal entity in Iraq, unless it already had such status.
- 2) As distinct legal entities, political entities shall be capable of owning, leasing or having legal tenure of property, entering into contracts, and conducting transactions. Political entities shall enjoy any additional legal entitlement or protection provided by the Commission through regulations, rules, procedures, and decisions.
- 3) All political entities, including certified individual persons, are equal before the law, and shall be treated equally at all times by all levels of government in Iraq.
- 4) No organization or group of individuals may offer candidates for elections in Iraq unless certified as a political entity by the Commission. No individual person may stand for election in Iraq unless certified as a political entity by the Commission.

Section 4 **Recognition of Common Principles**

- 1) Political entities will be bound by regulations, rules, procedures, and decisions promulgated by the Commission.
- 2) The Commission will duly establish actions and omissions that are electoral offenses and subject to sanction. Sanction for electoral offenses may include, without limitation, injunction, financial penalty, public notice, certification suspension and decertification. Such offenses and sanctions shall be in addition to criminal offenses set forth in Iraqi law.
- 3) The following principles shall apply to all political entities in Iraq and shall be incorporated into and implemented by the Commission's regulations governing political entities:
 - a) No political entity may have or be associated with an armed force, militia or residual element as defined in CPA Order No. 91, Regulation of Armed Forces and Militias within Iraq (CPA/ORD/June 2004/91);
 - b) No political entity may be directly or indirectly financed by any armed force, militia, or residual element;
 - c) No political entity may put forth any candidate who fails to meet the applicable legal criteria;
 - d) Political entities must abide by all laws and regulations in Iraq, including public meeting ordinances, prohibitions on incitement to violence, hate speech, intimidation, and support for, the practice of and the use of terrorism;
 - e) Political entities must operate pursuant to the code of conduct that will be promulgated by the Commission – such code must include, among other things, the requirements in Section 4(3)(d) of this Order;
 - f) Political entities other than individuals certified as political entities must promulgate a statute to govern their organization and operation, including the method or process for selecting leaders and candidates, and this statute must be available to any member of the public upon request;
 - g) Political entities, to compete freely and openly in an elections, are free to form coalitions to aggregate interests, and to build a campaign for candidates around coalitions of such interests; and

The Washington Institute for Near East Policy

h) Political entities must strive, to the extent possible, to achieve full transparency in all financial dealings. In this regard, the Commission may issue regulations with respect to financial disclosure.

4) The Commission retains full discretion to define mechanisms for enforcing its regulations against any political entity.

Section 5 Modification and Further Regulation

All further matters regarding the regulation and certification of political entities lie with the Commission exclusively.

Section 6 Inconsistent Legislation

Any provision of Iraqi law that is inconsistent with this Order is hereby suspended to the extent of such inconsistency.

Section 7 Effective Date

The present Order shall enter into force upon the date of signature.

Signed

L. Paul Bremer, Administrator
Coalition Provisional Authority
(signed 6/15/04)

Appendix 6

IECI REGULATION 01 / 2004

RULES OF PROCEDURE OF THE BOARD OF COMMISSIONERS

1. Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of

The Washington Institute for Near East Policy

law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and is composed of the Board of Commissioners (the “Board”) and the Electoral Administration.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in the TAL and in CPA Orders 92, 96 and 97.

2. Terminology

- 2.1. “TAL” means Transitional Administrative Law
- 2.2. “Transitional Period” means the period commencing with the Transfer of Authority and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution.
- 2.3. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 2.4. “National Assembly” means the National Assembly of the Iraqi Transitional Government, as described in the TAL
- 2.5. “Board” means the Board of Commissioners of the IECI.
- 2.6. “CEO” means the Chief Electoral Officer of the IECI
- 2.7. “Transitional Electoral Panel” means a panel of three judges appointed by the Higher Juridical Council which may consider appeals against final decisions of the Board, as explained in CPA Order 92 section 7.

3. The Board of Commissioners

- 3.1. The Board shall consist of nine members, including seven voting members who shall be Iraqi citizens, and two non-voting members. The two non-voting members shall be the Chief Electoral Officer (CEO) and an international electoral expert to be chosen by the United Nations.
- 3.2. The Board shall head the IECI. The Board shall have the exclusive authority to promulgate, implement, and enforce regulations, rules, procedures and decisions, and take any other action to ensure the successful organization, planning, implementation and oversight of nationwide and local elections throughout Iraq.
- 3.3. The Board is supported by a Secretariat, which provides such services as record-keeping, legal research, secretarial services, and other responsibilities specific to the business of the Board, as required.
- 3.4. These rules will govern the administrative procedures of the Board. Using the following procedures, the Board shall, *inter alia*:
 - 3.4.1. Issue regulations;
 - 3.4.2. Oversee the work of the CEO and the Electoral Administration;
 - 3.4.3. Exercise fiscal responsibility for the use of IECI resources;
 - 3.4.4. Approve any instructions, guidelines and other administrative instruments to be issued by the CEO; and,
 - 3.4.5. Consider any dispute, complaint, appeal or matter concerning the electoral process, for inquiry, report or adjudication.

The Washington Institute for Near East Policy

3.5. As it deems necessary, the Board shall issue further rules of procedure to amend or supplement the following.

4. Transparency and Accountability

- 4.1. The Board shall conduct its affairs in a transparent and accountable manner.
- 4.2. In general, sessions of the Board shall be closed, but open sessions may be held on any issue at the proposal of four of the voting commissioners.
- 4.3. A written record will be maintained of all meetings of the Board, as described in these procedures. The written record shall include an agenda, minutes, decisions, reasons, and documents considered, and shall be maintained by the secretariat using standard forms. Unless specifically deemed otherwise by the Board, the written record shall be available for public viewing.
- 4.4. The Board will ensure that efforts are made to involve political entities and other stakeholders in consideration of issues of importance to the electoral process.
- 4.5. The secretariat shall maintain a contact list of people and entities which wish to be informed about the activities of the Board and shall make reasonable efforts to inform such people and entities of issues of interest.

5. Meetings, Attendance, and Decisions

- 5.1. The Chairperson of the Board shall determine the time and venue of meetings of the Board. If convenient, the Board may meet according to a regular schedule. Any four commissioners may request a meeting of the Board, which will then be convened by the Chairperson.
- 5.2. The Chairperson shall prepare the agenda for meetings of the Board after consultation with the other commissioners, using a standard form. In general, formal meetings of the Board should consider substantive issues; other issues may be discussed more informally.
- 5.3. In the absence of the Chairperson, the Vice-Chairperson shall act on his or her behalf. In the absence of the Chairperson and Vice-Chairperson, the voting commissioners shall designate an Acting Chairperson.
- 5.4. The quorum for meetings of the Board shall be four voting commissioners. In the event of an emergency precluding the convening of four voting commissioners, a smaller number, with the assent of the Board's international electoral expert, may suffice as a quorum.
- 5.5. Board decisions shall, wherever possible, be taken on consensus. Where consensus cannot be reached, a simple majority of the voting commissioners present, provided that a quorum is present, shall prevail, unless Order no. 92 stipulates otherwise.
- 5.6. If it is necessary to take a vote of commissioners on an issue, such a vote shall be taken openly, unless one voting commissioner requests that the vote be taken by a secret ballot. Ballots shall be tallied by the Chairperson in view of all the commissioners present.
- 5.7. All commissioners shall be expected to attend all meetings of the Board. There shall be no proxy voting. Should a commissioner be unavailable for a meeting, the Chairperson shall, if possible, reschedule the meeting. If this is not possible, the decision will be made by a simple majority, as stated in **Error! Reference source not found.** above

The Washington Institute for Near East Policy

- 5.8. The seven voting members may each designate a deputy, who may attend meetings of the Board on her/his behalf. The deputy is not allowed to vote at Board meetings.
- 5.9. The CEO or the Board's international electoral expert may choose to absent himself or herself from a meeting of the Board if, in his or her judgment, it is preferable that the Board deal with a particular issue in his or her absence.
- 5.10. If, in the view of a majority of the voting commissioners present at a meeting of the Board, it is desirable that some of the proceedings of that meeting take place without the presence of the CEO or the Board's international electoral expert, the CEO or the Board's international electoral expert shall absent himself from the proceedings in question.
- 5.11. The Board may invite a person who is not a commissioner to attend a Board meeting (including a meeting held in closed session) to provide information or advice to the Board.

6. Documents Received by the Board

- 6.1. The Board can receive three kinds of documents:
- 6.1.1. Submissions, which contain a recommendation for action to be taken by the Board, may be submitted only by a commissioner, including the CEO or his or her delegate and the Board's international electoral expert or his or her delegate.
- 6.1.2. Memoranda, which do not contain a recommendation for action to be taken by the Board, may be submitted only by a commissioner, including the CEO or his or her delegate and the Board's international electoral expert or his or her delegate.
- 6.1.3. Correspondence, which shall include any document addressed to the Board, as distinct from the IECI as a larger institution, may be submitted by any person or entity with an interest in the electoral process.
- 6.2. Whenever a commissioner (including the CEO) receives in his or her official capacity (including the capacity of CEO) a document or correspondence which relates in any way directly or indirectly to the functions of the Board, or to matters which will or may, at any time in the future, be subject to consideration by the Board, he or she must submit it to the Board as correspondence or as part of a submission or memorandum.
- 6.3. Any complaints, disputes, or claims may be presented to the Board as per the procedures required in section 7, below.
- 6.4. When the secretariat receives a document to be submitted to the Board, it shall:
- 6.4.1. Note the time and date of receipt and the mode of delivery;
- 6.4.2. Allocate the document a document number noting if it is a submission, memorandum, or correspondence;
- 6.4.3. Complete a cover sheet for the document according to a standard form;
- 6.4.4. As soon as possible, prepare and deliver copies of the cover sheet and document for each commissioner;
- 6.4.5. Prepare a copy of the cover sheet and document and place it in both hard copy and electronic files which are to contain all documents received by the Board in document number order;
- 6.4.6. Prepare a copy of the cover sheet and place the original of the document, under the cover sheet, in a file containing all Board papers relating to the subject to which the document relates; and,

The Washington Institute for Near East Policy

6.4.7. Consult the Chairperson, with the view to scheduling consideration of the document at a meeting of the Board at the earliest opportunity.

6.5. In general, a document received by the Board will not be considered at a meeting of the Board held earlier than the second day after the day on which the document is received by the secretariat.

7. Decisions

7.1. The Board shall express the outcome of its deliberations as decisions. Decisions may include, *inter alia*, issuance of regulations, approval of procedures, instructions to the CEO, resolution of claims, or authorization of correspondence.

7.2. All decisions of the Board shall be recorded in a standard form.

7.3. The secretariat shall:

7.3.1. Allocate a decision number to each decision;

7.3.2. As soon as possible, prepare copies of the numbered decision for each commissioner;

7.3.3. Prepare a copy of the numbered decision and place it in both hard copy and electronic files which are to contain all decisions of the Board, in decision number order; and,

7.3.4. Prepare a copy of the numbered decision and place that copy in a file containing all Board papers relating to the subject to which the decision relates.

8. Statements of Reasons

8.1. The Board may, at its discretion, produce a statement of reasons, in a standard form, in relation to a decision. If any voting commissioner has dissented from the decision, he or she may include an explanation of his or her dissent in the statement of reasons.

8.2. The secretariat shall:

8.2.1. As soon as possible, prepare and distribute copies of the statement of reasons for each commissioner;

8.2.2. Prepare a copy of the statement of reasons and place it in both hard copy and electronic files which are to contain all decisions of the Board, in decision number order, attached to the decision to which it relates;

8.2.3. Prepare a copy of the statement of reasons and place that copy in a file containing all Board papers relating to the subject to which the statement of reasons relates, attached to the copy of the decision to which it relates.

9. Complaints

9.1. As per Section 7 of Order no. 92, the Board has exclusive jurisdiction with respect to the civil enforcement of its own procedures and regulations. The Board may refer a criminal case to appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of the electoral process. The Board has exclusive jurisdiction to resolve disputes arising out of the preparation for and execution of national, regional and governorate elections. Unless otherwise stated, final decisions of the Board may normally be appealed to the Transitional Electoral Panel as described in Section 7 of Order no. 92.

The Washington Institute for Near East Policy

9.2. The Board may, on the basis of information received by it, or complaints made or referred to it, or on its own initiative, inquire into, and, where appropriate, rule on any matter or situation which in its view may involve, by any person or entity whatsoever, an act or omission constituting intimidation, obstruction, coercion, corruption, or the publication of false information, or any other act or omission intended to or actually resulting in the obstruction or frustration of the preparation for, or the conduct of, credible and legitimate elections.

9.3. The Board will adjudicate any dispute related to the electoral process including any dispute relating to the certification of political entities and the certification of candidates, the eligibility of voters and candidates, and the validity of votes cast.

9.4. The Board shall issue procedures to make it convenient for any concerned person or entity to submit a complaint regarding the electoral process.

9.4.1. Complaints against the Electoral Administration shall be submitted to the CEO.

9.4.2. Any appeals against decisions of the CEO shall be received initially by the Chairperson of the Board. He or she will request an explanation of the situation from the CEO, before the Board adjudicates the appeal.

Appendix 7

IECI REGULATION 02 / 2004

VOTER REGISTRATION

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in orders 92 and 96.

The Washington Institute for Near East Policy

Section 1 **Definitions**

- 1.1. “TAL” means Transitional Administrative Law
- 1.2. “Transitional Period” means the period commencing with the Transfer of Authority and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution.
- 1.3. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.4. “National Assembly” means the National Assembly of the Iraqi Transitional Government, as described in the TAL
- 1.5. “Voter Register” means the list of voters who are eligible to vote in the elections scheduled to be held in January 2005

Section 2 **Entitlement to Vote**

- 2.1. CPA Order number 96 of 15 June 2004 stated that in order to vote in the election of the National Assembly, a person must:
 - 2.1.1. According to Article 11 of the TAL, be deemed an Iraqi citizen, be entitled to reclaim Iraqi citizenship, or be eligible for Iraqi citizenship;
 - 2.1.2. Have been born on or before 31 December 1986; and
 - 2.1.3. Be registered to vote according to procedures issued by the Commission
- 2.2. In order to be able to vote in the Kurdistan National Assembly and the Governorate Council elections, voters must, in addition to the above requirements, be shown on the Voter Register as being resident in Kurdistan or in the appropriate governorate.

Section 3 **Voter Registration**

- 3.1. The Voter Register will be based on the Public Distribution System (PDS) database, and will be further developed during the voter registration period, as a result of additions and amendments made during that period.
- 3.2. People who are eligible to vote will be given the opportunity to verify their inclusion on the preliminary Voter Register, and to correct any erroneous details on the Register.
- 3.3. Voter Registration Centres will be set up throughout Iraq by the IECI, and will function at places and between dates to be set by the IECI.
- 3.4. Any changes to details on the preliminary Register must be notified to a Voter Registration Centre, including any changes which would affect the person’s eligibility to vote in the Kurdistan National Assembly or a Governorate Council election.

The Washington Institute for Near East Policy

- 3.5. Any person who believes her/himself to be eligible to vote but who is not on the preliminary Voter Register can apply at the Voter Registration Centre to be added to the Register. In order for the application to be considered, the person will need to provide such documentary evidence of eligibility as is determined by the IECI to be necessary for this purpose.
- 3.6. No applications for additions or changes will be accepted either before or after a period to be determined by the IECI.
- 3.7. Any entry on the Voter Register which is not amended will be assumed to be correct.

Appendix 8

IECI REGULATION 03 / 2004

CERTIFICATION OF POLITICAL ENTITIES

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in orders 92, 96 and 97.

Section 1

Terminology

- 1.1. “TAL” means Transitional Administrative Law
- 1.2. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.3. “Eligible voter” means a person who satisfies the nationality and age requirements for eligibility to vote in the elections scheduled for January 2005, as defined in CPA Order number 96 and IECI Regulation 02 / 2004.
- 1.4. “Governorate Electoral Office” means the main office of the Electoral Administration of the IECI in the governorate. “Regional Electoral Office” means the main office of the Electoral Administration of the IECI in the Kurdistan Region. “National

The Washington Institute for Near East Policy

Electoral Office” means the main office of the Electoral Administration of the IECI in Baghdad.

1.5. “Coalition” means a grouping of two or more political entities with the purpose of nominating a joint list of candidates for a given election.

1.6. “Leader of a political entity” means

1.6.1. in the case of a group or organization forming a political entity, the person defined as the head of the group by the statutes of the political entity, or,

1.6.2. in the case of an individual forming a political entity, the individual her/himself

1.7. “Personal portrait” means any portrait of any type or medium, portraying a human being

Section 2

Political Entities

2.1. A “political entity” means an organization, including a political party, of eligible voters who voluntarily associate on the basis of common ideas, interests or views, for the purpose of articulating interests, obtaining influence and having their representatives elected to public office, so long as that organization of eligible voters is officially certified as a political entity by the IECI.

2.2. A “political entity” also means an individual who intends to stand for election to public office, so long as the individual person is officially certified as a political entity by the IECI.

2.3. Furthermore, no organization, group of individuals, or single individual may offer candidate(s) for election unless certified as a political entity by the IECI.

2.4. Political entities, to compete freely and openly in an election, are free to form coalitions to aggregate interests, and to build a campaign for candidates around coalitions of such interests.

Section 3

Certification of Political Entities

3.1. The IECI will designate a period of time during which it will receive applications for certification as a political entity. No applications for certification will be accepted either before or after this period.

3.2. For the purpose of contesting the elections, any group or individual may apply to the IECI to be certified as a political entity. When making the application, they must pay a deposit to the IECI. An individual seeking certification as a political entity will pay 2.5 million Iraqi Dinars as a deposit, and a group seeking certification as a political entity will pay 7.5 million Iraqi Dinars as a deposit.

3.3. If the entity or coalition incurs any financial penalties as a result of its violations of any electoral laws, regulations, codes of conduct, etc., the amount of the penalty will be deducted from the deposit.

The Washington Institute for Near East Policy

3.4. If no financial penalties have been incurred, the deposit will be returned in full after the election so long as the entity, or a coalition of which it is a member, has received a minimum of 50% of the votes required to win a seat in any one of the elections in which it is fielding candidates. If the entity or coalition receives fewer votes than this, the deposit will be forfeited to the national treasury.

3.5. The application must be in writing, in the form to be prescribed by the IECI. It may be submitted to the IECI at the National Elections Office, or it may be submitted at a Governorate Elections Office or the Kurdistan Regional Elections Office for onward transmission to the National Elections Office.

3.6. The information required will include:

3.6.1. the full name and the symbol of the political entity;

3.6.2. the name, address, other contact information, and signature of the individual, or of the leader of the group, applying for certification;

3.6.3. the name, address, and other contact information of the persons designated by the political entity as that entity's liaison officers with the IECI; at national level, if the entity is planning to contest the national assembly election; in Kurdistan, if the entity is planning to contest the Kurdistan assembly election; and in any governorate where the entity is intending to contest the governorate council election;

3.6.4. the names, dates and places of birth, addresses, signatures, of no fewer than five hundred (500) persons who are eligible to vote, together with the numbers and dates of their nationality certificates; and

3.6.5. in the case of a group applying for certification, the statutes governing the organization and operation of the political entity, including the method or process for selecting leaders and candidates

3.7. The individual or leader of the group applying for certification must also sign a written declaration, in a form to be prescribed by the IECI, stating that

3.7.1. the individual or group does not have and is not associated with an armed force, militia or residual element;

3.7.2. the individual or group is not directly or indirectly financed by any armed force, militia or residual element;

3.7.3. the individual or group will abide by all laws and regulations in Iraq, including public meeting ordinances, prohibitions on incitement to violence, hate speech, intimidation, and support for, the practice of and the use of terrorism; and

3.7.4. the individual or group will abide by the IECI Code of Conduct for political entities and by all IECI regulations, procedures, decisions, etc.

3.8. An individual or group will be certified as a political entity if the IECI is satisfied that

3.8.1. there is no significant deficiency or inaccuracy in the application;

3.8.2. the political entity does not, in the opinion of the IECI, have a name or symbol which is the same as or similar to that of any established organization, movement or political party, or of any political entity which has previously submitted an application for certification or which has already been certified;

3.8.3. the name is not, in the opinion of the IECI, such as to incite hatred or violence or to cause public offence; and

The Washington Institute for Near East Policy

- 3.8.4. the political entity symbol does not contain religious or military elements or personal portraits, and is not, in the opinion of the IECI, such as to incite hatred or violence or to cause public offence.
- 3.9. If the IECI is not satisfied that the criteria for certification have been met, it will write to the individual or group explaining its decision; the individual or group may submit an amended application, so long as this application is received by the IECI within the time period set for certification of political entities.
- 3.10. The IECI shall notify the individual or group of the success or failure of the application for certification. Such official notification will be by publication on a notice-board at the Elections Office where the application was submitted, and on a notice-board at the National Elections Office.
- 3.11. A political entity may, if it wishes, appeal to the Transitional Electoral Panel against the final decision of the Board.
- 3.12. The IECI will maintain a record of certified political entities.
- 3.13. Applications for certification may not be amended by the political entity after submission to the IECI, unless such amendments have been requested by the IECI in order to make the application compliant with this regulation.
- 3.14. In order to contest any given election, a political entity must also submit a list of candidate nominations for that election. These lists may be submitted at the National Elections Office, or may be submitted at any Governorate Elections Office or at the Kurdistan Regional Elections Office for onward transmission to the National Elections Office.
- 3.15. A political entity will be registered to contest a given election if, in addition to the above requirements for certification, the IECI is satisfied that the candidate list submitted by the entity for that election satisfies all the requirements as stated in IECI regulation 04/2004. Only entities which are registered for an election will appear on the ballot paper for that election.

Section 4

Coalitions of political entities

- 4.1. Any two or more certified political entities may form coalitions for the purpose of fielding a joint list of candidates for any given election.
- 4.2. Any given political entity may enter into different coalitions for different elections, or may field its own candidates for some elections and field coalition candidates for other elections.
- 4.3. In any single election
- 4.3.1. no entity may field candidates both on its own behalf and as part of a coalition.
- 4.3.2. no entity may be a part of more than one coalition.
- 4.4. All applications for certification as a coalition will be assessed at the National Elections Office of the IECI, although they may be submitted at a governorate or regional elections office. The IECI will designate a period of time during which it will receive applications for certification as a coalition. No applications for certification will be accepted either before or after this period.

The Washington Institute for Near East Policy

- 4.5. When applying to form a coalition, the political entities must submit to the IECI in writing:
- 4.5.1. in a form to be prescribed by the IECI, the name and symbol of the coalition, stating the election(s) for which the entities will field joint candidates
 - 4.5.2. the name, address, and other contact information of the persons designated by the coalition as that coalition's liaison officers with the IECI; at national level, if the entity is planning to contest the national assembly election; in Kurdistan, if the entity is planning to contest the Kurdistan assembly election; and in any governorate where the entity is intending to contest the governorate council election;
 - 4.5.3. a declaration as in part 3.5 of this regulation.
- The application must be signed by the leaders of all the political entities in the coalition
- 4.6. The coalition must submit with, and at the same time as, its certification application, the lists of candidates to be fielded by the coalition for each election which it is planning to contest.
- 4.7. A coalition will be certified by the IECI if the IECI is satisfied that
- 4.7.1. there is no significant deficiency or inaccuracy in the application;
 - 4.7.2. the coalition does not, in the opinion of the IECI, have a name or symbol which is the same as or similar to that of any established organization, movement or political party, or of any political entity or coalition which has previously submitted an application for certification or which has already been certified;
 - 4.7.3. the name is not, in the view of the IECI, such as to incite hatred or violence or to cause public offence; and
 - 4.7.4. the political entity symbol does not contain religious or military elements or personal portraits, and is not, in the opinion of the IECI, such as to incite hatred or violence or to cause public offence.
- 4.8. If a political entity withdraws from a coalition after the end of the period for submission of political entity or coalition candidate lists, then neither the political entity nor the coalition will be able to contest the election(s) for which the coalition was formed.
- 4.9. If a political entity withdraws from a coalition before that date, then the remaining entities in the coalition may submit a new candidate list, and the political entity may submit a new candidate list. If the coalition was formed of only two entities, then each entity may submit a new candidate list.
- 4.10. A coalition will be registered by the IECI to contest a given election if the list of candidates nominated by the coalition for that election satisfies the requirements stated in IECI regulation 04/2004. Only coalitions which are registered for an election will appear on the ballot paper for that election.

Section 5

Decisions of the IECI

- 5.1. The IECI may define mechanisms for enforcing its regulations against any political entity or coalition; such mechanisms may include financial penalties and/or decertification of the entity or coalition.

IECI REGULATION 04 / 2004

CERTIFICATION OF CANDIDATES

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in orders 92, 96 and 97.

Section 1

Terminology

- 1.1. "TAL" means Transitional Administrative Law
- 1.2. "Commission" and "IECI" mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.3. "Eligible voter" means a person who satisfies the nationality and age requirements for eligibility, as defined in CPA Order number 96 and IECI Regulation 02 / 2004, to vote in the elections scheduled for January 2005.
- 1.4. "Governorate Electoral Office" means the main office of the Electoral Administration of the IECI in the governorate. "Regional Electoral Office" means the main office of the Electoral Administration of the IECI in the Kurdistan Region. "National Electoral Office" means the main office of the Electoral Administration of the IECI in Baghdad.

Section 2

Political Entities and Candidates

The Washington Institute for Near East Policy

2.1. The political parties and entities law states that no organization or group of individuals may offer candidates for elections in Iraq, and that no individual may stand for election in Iraq, unless certified as a political entity by the Commission. The electoral law also states that any political entity may present a list of candidates for election to the National Assembly so long as the candidates meet the legal criteria.

2.2. The same order states that political entities, to compete freely and openly in an election, are free to form coalitions to aggregate interests, and to build a campaign for candidates around coalitions of such interests.

2.3. To this end, political entities and coalitions of political entities may present lists of candidates for election. Any given political entity may present a list of candidates for one election, while at the same time joining with another political entity in a coalition to present a list of candidates for a separate election.

Section 3

Candidate lists

3.1. The electoral law states that for the lists of candidates for election to the National Assembly:

3.1.1. The lists presented to the Commission must have the candidates in a ranked order.

3.1.2. On any list, except one presented by an individual person certified as a political entity, no fewer than one out of the first three candidates on the list must be a woman, no fewer than two of the first six candidates must be a woman, and so on until the end of the list;

3.1.3. No list, except one presented by an individual person certified as a political entity, may contain fewer than twelve or more than 275 candidates.

3.2. A list of candidate nominations may not be changed after the end of the candidate nomination period, unless such changes have been requested by the IECEI in order to make the list compliant with this regulation and are submitted before the end of the period for corrections to candidate lists.

3.3. The same conditions shall apply to lists of candidates for the governorate councils, except that the minimum number of candidates on any list submitted by a political entity consisting of more than one person shall be three, and the maximum number shall be the number of seats in the Council.

3.4. The lists of candidates may be submitted at the National Elections Office, or may be submitted at any Governorate Elections Office or at the Kurdistan Regional Elections Office for onward transmission to the National Elections Office.

3.5. All lists of candidates fielded by a coalition for elections which that coalition is contesting must be submitted with and at the same time as the certification application of that coalition.

The Washington Institute for Near East Policy

Section 4

Candidate Eligibility

4.1. Article 31 of the TAL states that candidates for the National Assembly must fulfill the following conditions:

4.1.1. S/he shall be an Iraqi no less than 30 years of age.

4.1.2. S/he shall not have been a member of the dissolved Ba'ath Party with the rank of Division Member or higher, unless exempted pursuant to the applicable legal rules.

4.1.3. If s/he was once a member of the dissolved Ba'ath Party with the rank of Full Member, s/he shall be required to sign a document renouncing the Ba'ath Party and disavowing all of her/his past links with it before becoming eligible to be a candidate, as well as to swear that s/he no longer has any dealings or connection with Ba'ath Party organizations. If it is established in court that s/he lied or fabricated on this score, s/he shall lose her/his seat in the National Assembly.

4.1.4. S/he shall not have been a member of the former agencies of repression and shall not have contributed to or participated in the persecution of citizens.

4.1.5. S/he shall not have enriched her/himself in an illegitimate manner at the expense of the homeland and public finance.

4.1.6. S/he shall not have been convicted of a crime involving moral turpitude and shall have a good reputation.

4.1.7. S/he shall have at least a secondary school diploma, or equivalent

4.1.8. S/he shall not be a member of the armed forces at the time of her/his nomination.

4.2. The same conditions shall apply to candidates for election to any governorate council, but, in addition, candidates who are standing for election to a governorate council must be resident in that governorate.

Section 5

Certification of Candidates

5.1. The IECI will designate a period of time during which it will receive applications for certification of candidate lists. No applications for certification will be accepted either before or after this period

5.2. Any political entity, or coalition of political entities, may submit to the IECI for certification separate lists of candidates for the National Assembly, the Kurdistan National Assembly, and/or any Governorate Council.

5.3. The application must be in writing, in the form to be prescribed by the IECI, and must be lodged with a Governorate Electoral Office, the Kurdistan Regional Electoral Office, or the National Electoral Office.

The Washington Institute for Near East Policy

- 5.4. The information required will include:
- 5.4.1. the name of the election for which each list is submitted
 - 5.4.2. the name, date of birth, address and other contact information of each candidate on each list;
 - 5.4.3. a statement from each nominee, in a form to be prescribed by the IECI, confirming that s/he is eligible to be a candidate for the election in question, is willing to be nominated for the stated election by the political entity or coalition of political entities in question, and is not a candidate for any other political entity or coalition or in any other of the elections.
 - 5.4.4. an acknowledgement from each candidate that the Code of Conduct signed by the political entities also applies to her/him.
- 5.5. Any candidate who is found to have made a false statement on the application renders her/himself liable to disqualification.
- 5.6. The grounds on which the IECI may reject any candidate nominations include
- 5.6.1. that the political entity or coalition has not submitted the required documents satisfactorily,
 - 5.6.2. that the list of candidate nominations as a whole does not fulfil the requirements for such lists
 - 5.6.3. that one or more of the nominees is ineligible to be a candidate
- 5.7. If the IECI rejects the list as a whole, it will inform the political entity or coalition, which may then submit a revised list, which must be received by the IECI within the time period set by the IECI for candidate nominations.
- 5.8. If the IECI rejects any individual candidate nominations, it will inform the political entity or coalition of the rejection(s). The list of the remaining nominations will stand as the complete list of nominations for the political entity or coalition, unless the political entity or coalition submits a revised list, which must be received by the IECI within the time period set by the IECI for candidate nominations. If the rejection of any individual candidates from the list results in the invalidation of the list as a whole, section 5.7 will apply.
- 5.9. If the number of candidate nominations on the list exceeds the maximum number of candidates permitted on the list for that election, the IECI will strike the excess candidate nominations from the bottom of the list, and will inform the political entity or coalition of its action. The list of the remaining nominations will stand as the complete list of candidate nominations for the political entity or coalition.
- 5.10. If the IECI finds the list of candidate nominations satisfactory, it will inform the political entity or coalition of this fact as soon as is practicable.
- 5.11. If a candidate is removed from the candidate list for a given election after the period of candidate nominations has ended, for an exceptional reason such as death or disqualification, the list of the remaining nominations will stand as the complete list of nominations of the political entity or coalition for that election.

Section 6

Decisions of the IECI

The Washington Institute for Near East Policy

6.1. The IECI may define mechanisms for enforcing its regulations against any political entity or coalition; such mechanisms may include disqualification of candidates or decertification of the entity or coalition.

Appendix 10

IECI REGULATION 05 / 2004

ELECTORAL OBSERVERS

1. 1. Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and is composed of the Board of Commissioners (the “Board”) and the Electoral Administration.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in the TAL and in CPA Orders 92, 96 and 97.

2. Terminology

2.1. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92

2.2. “Board” means the Board of Commissioners of the IECI.

2.3. “Electoral Observer Group” means a group which registers with the IECI to observe the electoral process with a view to assessing and reporting on the process

2.4. “Electoral Observer” means a person who is accredited by the IECI to observe the electoral process on behalf of a registered electoral observer group.

3. Accreditation of Electoral Observers

3.1. Electoral observers are an important element of democratic elections. They are independent from all government and IECI direction, and their role is to observe the

The Washington Institute for Near East Policy

electoral process, with a view to reporting on its integrity and its adherence to international standards.

3.2. The IECI will register Iraqi and international groups to observe all aspects of the electoral process. Registered groups will nominate electoral observers to enable the group to perform their function effectively.

3.3. The IECI will register only groups and will not accredit any individual observers. Only electoral observers who are part of an registered electoral observer group will be allowed access to observe the electoral processes.

3.4. Electoral observer groups and their nominated observers will be required to agree to and abide by the Observer Code of Conduct, which is promulgated by the IECI. Electoral observer groups will be responsible for the adherence of their nominated observers to the Code of Conduct; any observer group whose observers contravene this Code of Conduct may have its registration or the accreditation of those observers withdrawn by the IECI.

3.5. The decision to cancel the accreditation of an electoral observer or the registration of an electoral observer group may be reviewed by the Board of Commissioners, whose decision on the matter is final.

3.6. The IECI shall issue procedures governing the registration of and withdrawal of registration of electoral observer groups, and the accreditation of such groups' nominated observers.

4. Conditions of operation for electoral observers

4.1. The IECI shall not be responsible for any security, communications, health, transport, safety, or other support to the electoral observer teams.

4.2. Each electoral observer group duly registered shall be solely responsible for all support arrangements and costs in their observing duties (transport, communications, lodging); the IECI shall not be responsible for any such costs. Furthermore, no electoral observer group or observer may utilize any IECI resources, such as facilities or motor vehicles.

4.3. Observer groups have a duty to fully brief their accredited observers on the electoral process and the provisions of the Code of Conduct prior to the beginning of any of their activities

4.4. Each electoral observer must sign her/his badge on receipt. Electoral observers must carry an alternative means of identification complete with signature or photograph to enable electoral staff to confirm their identity.

4.5. Electoral observers may not, under any circumstances, interfere with the electoral process. They may draw the attention of members of the IECI, including the electoral officials, the Chief Electoral Officer, or the Board of Commissioners, to issues which they wish to raise, but the IECI members are under no obligation to act upon their comments.

4.6. Electoral observers will report their observations to the observer group leaders; the group may then issue an official public report commenting on these observations. The group must be prepared to communicate to the electoral authorities a final collective report on the results of their activities, and must wherever possible provide evidence and argument to support all their assumptions and judgments when presenting reports.

IECI REGULATION 06 / 2004

POLITICAL ENTITY AGENTS

1. Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and is composed of the Board of Commissioners (the “Board”) and the Electoral Administration.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in the TAL and in CPA Orders 92, 96 and 97.

2. Terminology

- 2.1. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 2.2. “Board” means the Board of Commissioners of the IECI.
- 2.3. “Political Entity Agent” means a person, for whom accreditation as an agent has been requested by the political entity and granted by the IECI, who monitors the electoral process with a view to reporting to the political entity on the integrity of the process.

3. Accreditation of Political entity agents

- 3.1. Political entity agents are an important element of democratic elections. Their role is to monitor the electoral process, with a view to reporting to the political entity on its impartiality and integrity.
- 3.2. All political entities have the right to nominate agents to monitor all aspects of the electoral process; the IECI will accredit such agents according to procedures to be issued by the IECI.
- 3.3. The IECI will accredit only agents nominated by a political entity, and only agents who have not been properly accredited will not be allowed access to monitor the electoral processes.

The Washington Institute for Near East Policy

3.4. Political entity agents will be required to agree to a Code of Conduct, which is promulgated by the IECI. Any political entity agents who contravene this Code of Conduct may have their accreditation withdrawn by the IECI.

4. Conditions of operation for political entity agents

4.1. The IECI shall not be responsible for any security, communications, health, transport, safety, or other support to the political entity agents

4.2. Each certified political entity shall be solely responsible for all support arrangements and costs for their agents (transport, communications, lodging); the IECI shall not be responsible for any such costs. Furthermore, no political entity agent may utilize any IECI resources, such as facilities or motor vehicles.

4.3. Political entities have a duty to fully brief their accredited agents on the electoral process and the provisions of the Code of Conduct prior to the beginning of any of their activities

4.4. Each political entity agent must sign her/his badge on receipt. Political entity agents must carry an alternative means of identification complete with signature or photograph to enable electoral staff to confirm their identity.

4.5. Political entity agents may not, under any circumstances, interfere with the electoral process. They may draw the attention of members of the IECI, including the electoral officials, the Chief Electoral Officer, or the Board of Commissioners, to issues which they wish to raise, but the IECI members are under no obligation to act upon their comments.

4.6. Political entity agents will report their observations to the leader of the political entity, or to her/his delegate. The political entity may then raise any issues with the electoral officer at the governorate or regional level, or with the Chief Electoral Officer. If the issue is not then resolved, it may appeal to the Board of Commissioners.

Appendix 12

IECI REGULATION 07 / 2004

EXHIBITION AND CHALLENGES PERIOD

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority

The Washington Institute for Near East Policy

to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in CPA orders 92, 96 and 97.

Section 1

Terminology

- 1.1. “TAL” means Transitional Administrative Law
- 1.2. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.3. “Governorate elections office” means the main office of the IECI in the governorate.
- 1.4. “Governorate electoral officer” means the head of the governorate elections office.
- 1.5. “Voter registration centre” means the place where people were able to amend their entry or apply for inclusion on the voter register.
- 1.6. “Exhibition of the voter register” means allowing people to examine the voter register to check its accuracy.
- 1.7. “Challenge to the voter register” means that a person challenges the accuracy of an entry on the register.

Section 2

Exhibition of the Voter Register

- 2.1. During a period to be determined by the IECI, the voter register will be exhibited at the voter registration centres throughout Iraq.
- 2.2. During this period, members of the public may go to the voter registration centres to check that they are correctly and appropriately listed on the voter register.

Section 3

Challenges to the Voter Register

- 3.1. Any challenges to the accuracy of the voter register must be submitted during the exhibition and challenges period to the governorate elections officer of the governorate where the voter registration centre is located.
- 3.2. An eligible voter may challenge the inclusion of a name on the voter register on the grounds that the person whose entry is challenged:
 - 3.2.1. is not an Iraqi citizen, not entitled to reclaim Iraqi citizenship, and not eligible for Iraqi citizenship; or
 - 3.2.2. was born after 31 December 1986; or

The Washington Institute for Near East Policy

- 3.2.3. is dead.
- 3.3. No challenge will be adjudicated without documentary evidence, and the burden of proof for the challenge rests with the challenger.
- 3.4. A member of the public may challenge the absence of her/his own name from the voter register, on the grounds that
- 3.4.1. her/his name was on the family's registration information form, and was not deleted by the family; or
 - 3.4.2. her/his name was added to the voter register during the voter registration period.
- In the latter case, the challenger must be able to produce the registration receipt form.
- 3.5. No new applications for addition to the register will be accepted during the exhibition and challenges period.
- 3.6. The governorate electoral officer will rule on all challenges no later than one day after the end of the exhibition and challenges period.
- 3.7. Any appeal to the Board of Commissioners against the decision of the governorate electoral officer will not affect the voter register for the elections scheduled for January 2005.

Appendix 13

IECI REGULATION 08 / 2004

GOVERNORATE COUNCIL ELECTIONS

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in CPA orders 92, 96 and 97.

Section 1 Terminology

The Washington Institute for Near East Policy

- 1.1. “TAL” means Transitional Administrative Law
- 1.2. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.3. “Governorate council election” means an election in that governorate for the Council of that governorate, to be held on the same day as the National Assembly election.
- 1.4. “Governorate Electoral Office” means the main office of the Electoral Administration of the IECI in the governorate.
- 1.5. “Governorate” is one of the 18 existing sub-national districts whose boundaries will not change during the transitional period.

Section 2

The Electoral System

- 2.1. An election for a governorate council will be held in every governorate of Iraq, on the same day as the National Assembly election, and Kurdish regional elections scheduled for January 2005.
- 2.2. Elections for governorate councils shall be by direct, universal and secret ballot.
- 2.3. Baghdad governorate council will have 51 seats, and all other governorate councils will each have 41 seats.
- 2.4. Each governorate will be a single electoral constituency for the purpose of its governorate election. All seats in each governorate council will be allocated among political entities through a system of proportional representation. The formula for the allocation of seats will be the same as that adopted for the national assembly election to be held at the same time, and seats shall be allocated to candidates, not political entities.

Section 3

Voter Eligibility

- 3.1. The electoral law states that in order to vote in the election of the National Assembly, a person must
 - 3.1.1. according to Article 11 of the TAL, be deemed an Iraqi citizen, be entitled to reclaim Iraqi citizenship, or be eligible for Iraqi citizenship;
 - 3.1.2. have been born on or before 31 December 1986; and
 - 3.1.3. be registered to vote according to procedures issued by the Commission
- 3.2. In order to be able to vote in the governorate council elections, voters must satisfy the above requirements and must, in addition, appear on the voter register as being resident in the appropriate governorate.

The Washington Institute for Near East Policy

Section 4

Candidate Eligibility

4.1. Article 31 of the TAL sets conditions for the eligibility of candidates for the National Assembly. In harmony with this, each candidate for a governorate council must meet the following criteria:

4.1.1. S/he shall be an Iraqi no less than 30 years of age.

4.1.2. S/he shall not have been a member of the dissolved Ba'ath Party with the rank of Division Member or higher, unless exempted pursuant to the applicable legal rules.

4.1.3. If s/he was once a member of the dissolved Ba'ath Party with the rank of Full Member, s/he shall be required to sign a document renouncing the Ba'ath Party and disavowing all of her/his past links with it before becoming eligible to be a candidate, as well as to swear that s/he no longer has any dealings or connection with Ba'ath Party organizations. If it is established in court that s/he lied or fabricated on this score, s/he shall lose her/his seat in the Governorate Council.

4.1.4. S/he shall not have been a member of the former agencies of repression and shall not have contributed to or participated in the persecution of citizens.

4.1.5. S/he shall not have enriched her/himself in an illegitimate manner at the expense of the homeland and public finance.

4.1.6. S/he shall not have been convicted of a crime involving moral turpitude and shall have a good reputation.

4.1.7. S/he shall have at least a secondary school diploma, or equivalent

4.1.8. S/he shall not be a member of the armed forces at the time of her/his nomination.

4.2. In addition to the above, any candidate for a governorate council must

4.2.1. be resident in the governorate for whose council s/he is standing for election

4.2.2. not be a contestant for any other office in this round of elections.

Section 5

Candidate Nominations

5.1. Any political entity, or coalition of political entities, may submit to the IECI separate lists of candidate nominations for one or more different governorate councils. The IECI will designate a period of time during which it will receive applications for certification of political entities or coalitions and for their candidate lists. No applications for certification will be accepted either before or after this period. The method of submitting applications is outlined in IECI regulations 03/2004 and 04/2004.

5.2. Only certified political entities and coalitions (as specified in IECI regulation 03/2004), which submit a list of candidate nominations for a governorate council election, may contest that election.

The Washington Institute for Near East Policy

5.3. The lists of candidates will be in ranked order. The lists may not be withdrawn or changed after the end of the candidate nomination period, unless such changes have been requested by the IECI in order to make the list compliant with this and other IECI regulations, and are submitted before the end of the period for corrections to candidate lists.

5.4. On any list, except one presented by an individual person certified as a political entity, no fewer than one out of the first three candidates on the list must be a woman, no fewer than two of the first six candidates must be a woman, and so on until the end of the list.

5.5. The minimum number of candidates on any list shall be three, and the maximum shall be the number of seats on the governorate council, except that individual persons certified by the Commission as political entities may present themselves on a list as a single candidate.

Appendix 14

IECI REGULATION 09 / 2004

ELECTORAL CAMPAIGN

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and is composed of the Board of Commissioners (the “Board”) and the Electoral Administration.

This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in the TAL and in CPA Orders 92, 96 and 97.

Section 1 Terminology

1.1. “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92

1.2. “Board” means the Board of Commissioners of the IECI.

The Washington Institute for Near East Policy

1.3. “Electoral Campaign” means the campaign of information and legitimate persuasion, run by a political entity or coalition to inform the public about their political aims and views, and thus to try to persuade eligible voters to vote for the entity or coalition.

Section 2 Campaign Period

2.1 Certified political entities and coalitions may start their electoral campaigns on or after 15 December 2004. All electoral campaigns must end no later than 48 hours before 00.00 of the day of the election.

2.2 All certified political entities and coalitions have the right to run an electoral campaign within the parameters given by the law and the regulations of the IECI.

Section 3 Conditions for electoral campaigns

3.1 All political entities and coalitions have a duty to ensure that their electoral campaign in any location abides by the conditions laid down in this regulation and in the Code of Conduct which was signed by the leader of the political entity as part of the political entity certification process.

3.2 Any political entity or coalition which contravenes this regulation or the Code of Conduct for political entities renders itself liable to penalties imposed by the IECI, as well as to any appropriate criminal prosecution.

3.3 Each certified political entity or coalition shall be solely responsible for all support arrangements and costs for their electoral campaign; the IECI shall not be responsible for any such costs. Furthermore, no political entity or coalition may utilize any IECI resources for their campaign.

Appendix 15

IECI REGULATION 10 / 2004

OUT OF COUNTRY REGISTRATION AND VOTING

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and

The Washington Institute for Near East Policy

procedures with the full force of law in connection with elections during the Transitional Period. This regulation elaborates on the legal framework already in place, and is issued by the IECI in consequence of the authorizations given in orders 92, 96 and 97.

Section 1 **Terminology**

- 1.1. "TAL" means Transitional Administrative Law
- 1.2. "Transitional period" means the period commencing with the Transfer of Authority and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution.
- 1.3. "Commission" and "IECI" mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92
- 1.4. "IOM" means the International Organisation for Migration
- 1.5. "National Assembly" means the National Assembly of the Iraqi Transitional Government, as described in the TAL
- 1.6. "Voter register" means the list of voters who are eligible to vote in the National Assembly election scheduled to be held in January 2005
- 1.7. "Host government" means the government of a country in which an out of country registration and voting office is to be established.
- 1.8. "Out of country registration and voting" means the operation to enable eligible Iraqis living outside Iraq to register and vote in the election for the National Assembly, scheduled to be held in January 2005.

Section 2 **Entitlement to Vote**

- 2.1. The Electoral Law stated that in order to vote in the election of the National Assembly, a person must:
 - 2.1.1. according to Article 11 of the TAL, be deemed an Iraqi citizen, be entitled to reclaim Iraqi citizenship, or be eligible for Iraqi citizenship;
 - 2.1.2. have been born on or before 31 December 1986; and
 - 2.1.3. be registered to vote according to procedures issued by the Commission
- 2.2. The IECI will give the opportunity to eligible Iraqis living in certain countries outside Iraq to register for and to vote in the National Assembly election, scheduled to be held in January 2005. The exact countries where this will be conducted will be determined by the IECI, in consultation with potential host governments.
- 2.3. There will be no opportunity for any Iraqis living outside Iraq to vote in the governorate council elections or the Kurdistan Assembly elections, which are also scheduled to be held in January 2005.

The Washington Institute for Near East Policy

Section 3

Administrative Structure

3.1 The out of country registration and voting operation will be managed and implemented by the International Organisation for Migration (IOM) under the overall guidance and supervision of the Board, according to the memorandum of understanding signed between IOM and the IECI.

3.2 County offices for out of country registration and voting will be established in each host country. Additional sub-offices may also be established in host countries with large Iraqi populations.

3.3 The out of country registration and voting offices will deal only with registration and voting processes, and will not deal with other areas of electoral administration unless specified by the IECI.

Section 4

Voter Registration

4.1 Voter registration centres will be set up in those host countries outside Iraq, where out of country registration and voting is to be conducted, and will function at places and between dates to be agreed by the IECI and IOM.

4.2 The voter register for out of country voters will be separate from the register of voters in country, and will be developed during the out of country voter registration period.

4.3 Any person who believes her/himself to be eligible to vote can apply at the voter registration centre(s) in a given country to be added to the Register. In order for the application to be considered, the person will need to provide such documentary evidence of eligibility as is determined by the IECI to be necessary for this purpose.

4.4 The voter registration process will be conducted according to procedures issued by the IECI.

4.5 If a person who believes her/himself to be eligible to vote is living in a country where no voter registration centre is set up, s/he may travel at her/his own expense to a country where there is a voter registration centre in order to register during the registration period and to vote on election day(s).

4.6 No applications for registration will be accepted either before or after the period defined for out of country voter registration.

Section 5

Display of voter register

5.1 The voter register for a given country will be displayed at the voter registration centre(s) of that country during a two day period immediately after the voter registration period.

5.2 During the display period, potential voters may check that they are correctly listed on the register

5.3 An eligible voter may challenge the absence of her/his own name from the voter register, on the grounds that her/his name was added to the voter register during the voter registration period. The eligible voter must produce her/his registration receipt as proof of the challenge.

5.4 No new applications for addition to the register will be accepted during the display period.

The Washington Institute for Near East Policy

5.5 An eligible voter may challenge the inclusion of a name on the voter register on the grounds that the person whose entry is challenged:

5.5.1 is not an Iraqi citizen, not entitled to reclaim Iraqi citizenship, and not eligible for Iraqi citizenship; or

5.5.2 was born after 31 December 1986; or

5.5.3 is dead.

5.6 Where the inclusion of a name on the voter register is challenged, the challenger must state the reasons for the challenge and must support the challenge with documentary evidence where possible.

5.7 All challenges will be adjudicated by the chair of the polling station.

5.8 Any appeal to the Board of Commissioners against the decision of the polling station chair will not affect the voter register for the National Assembly elections scheduled for January 2005.

Section 6 Polling

6.1 Polling in locations outside Iraq will take place over a period to be determined by the IECI.

6.2 As far as possible, polling centres outside Iraq will be in the same locations as those used for out of country voter registration. No voter will be allowed to vote at any location other than the one determined by the location of her/his voter registration centre.

5.1 Polling will be conducted according to procedures issued by the IECI for out of country voting.

5.2 Following the close of polling, ballots will be returned, under procedures to be issued by the IECI, to a central location where they will be counted. The results will be will be amalgamated with those from the voting inside Iraq, in order to determine the seat allocations for the National Assembly.

About the Author

Gregory Hooker is currently the senior intelligence analyst for Iraq at U.S. Central Command. He joined the command in 1996, becoming its primary analytic support to deliberate military planning for Iraq. He has also been a regular contributor to National Intelligence Estimate deliberations on Iraq.

Mr. Hooker has worked and traveled extensively inside Iraq during deployments spanning from 1995 to 2003. He traveled in northern Iraq in support of Kurdish relief

The Washington Institute for Near East Policy

efforts, served as an UNSCOM inspector in Iraq during 1996 and 1998, supported post-conflict leadership conferences in early 2003, and deployed to establish the National Intelligence Center in Baghdad in late 2003.

Mr. Hooker previously served as the senior Iraq analyst at U.S. European Command supporting Operation Provide Comfort. During Operation Desert Storm, he supported military operations in Iraq from the National Security Agency. He holds a master's degree in strategic intelligence from the Joint Military Intelligence College.