Working Paper

UNITED NATIONS / WORLD BANK

JOINT IRAQ NEEDS ASSESSMENT

Government Institutions, Civil Society, The Rule of Law and Media

TASK MANAGER: OSCAR FERNANDEZ TARANCO, UNDP
AGENCIES PARTICIPATING: UNDP, UNCHR, UN/DPI, UNESCO

October 2003
# Table of Contents

**INTRODUCTION** ................................................................................................................... 3

**METHODOLOGY** .................................................................................................................. 4

**CONSTRAINTS** ...................................................................................................................... 5

**A. LOCAL GOVERNANCE** ..................................................................................................... 6

**SUMMARY OF FINDINGS AND RECOMMENDATIONS** ............................................................. 6

  Main Findings: .......................................................................................................................... 6

  Main Recommendations .......................................................................................................... 8

**WORKING ASSUMPTIONS** .................................................................................................. 9

**CURRENT STATUS AND ISSUES** ......................................................................................... 9

  General.................................................................................................................................... 9

  Local Governance Pre-March 2003 ....................................................................................... 10

  The Capacity of Local Government .................................................................................... 15

  “Popular Representation” Pre-March 2003 ........................................................................ 16

  Local Governance in the Post-War Period ......................................................................... 17

  Corruption............................................................................................................................... 24

  The Special Case of Northern Iraq ...................................................................................... 25

  Can One Set Regional Priorities? ....................................................................................... 26

**NEEDS AND PRIORITIES FOR THE SECTOR** ..................................................................... 26

  Supporting the Interim Governing Council and the Constitutional Committee: ................ 27

  Establishing a Professional Civil Service: .......................................................................... 28

  Support to the Ministry of Public Works: .......................................................................... 29

  Capacity building in governorates and municipalities: ...................................................... 30

  Strengthening the capacity of Local (Legislative) Councils: .......................................... 30

  Combating Corruption and Strengthening Financial Management: .............................. 31

**Budget Summary** ................................................................................................................. 34

**B. CIVIL SOCIETY** .............................................................................................................. 34

**CURRENT STATUS AND ISSUES** ......................................................................................... 34

  General.................................................................................................................................... 34

  Current Institutional and Policy Framework ........................................................................ 36

**NEEDS AND PRIORITIES FOR THE SECTOR** ..................................................................... 37

  NGO Fund for Humanitarian Assistance .............................................................................. 37

  Support for a Culture of Civil Society .................................................................................. 38

  Strengthening Organizational, Human and Financial Resource Management .................. 38

  Strengthening the Capacity of Civil Society for Transitional Justice and Human Rights .... 39

  Capacity Development in Constitutional Processes and Legal Reviews ............................ 39

  Strengthening the Accountability of Government Institutions Through CSOs ................ 40

  Improving Access to Justice ................................................................................................. 40

**Budget Summary** ................................................................................................................. 40

**C. THE RULE OF LAW** ........................................................................................................ 41

**CURRENT STATUS AND ISSUES** ......................................................................................... 41

  General.................................................................................................................................... 41
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Constitution</td>
<td>42</td>
</tr>
<tr>
<td>The Judiciary</td>
<td>42</td>
</tr>
<tr>
<td>The Public Prosecutor</td>
<td>43</td>
</tr>
<tr>
<td>The Legal Profession</td>
<td>44</td>
</tr>
<tr>
<td>Legal Education</td>
<td>44</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>45</td>
</tr>
<tr>
<td>Approaches To Transitional Justice</td>
<td>45</td>
</tr>
<tr>
<td>Status of Physical Infrastructure</td>
<td>46</td>
</tr>
<tr>
<td>Current Institutional Framework</td>
<td>46</td>
</tr>
<tr>
<td>Amendments to Applicable law</td>
<td>47</td>
</tr>
<tr>
<td>Needs and Priorities for the Sector</td>
<td>47</td>
</tr>
<tr>
<td>Review and Reform of the Legal Framework</td>
<td>47</td>
</tr>
<tr>
<td>Strengthening the Independence of the Judiciary</td>
<td>48</td>
</tr>
<tr>
<td>Strengthening Legislative Drafting Capacity</td>
<td>48</td>
</tr>
<tr>
<td>Developing The Capacity of Correctional Institutions</td>
<td>48</td>
</tr>
<tr>
<td>Developing The Capacity of The Judiciary and Prosecutors</td>
<td>49</td>
</tr>
<tr>
<td>Developing The Capacity of The Judicial Institute</td>
<td>49</td>
</tr>
<tr>
<td>Developing The Capacity of Defenders</td>
<td>49</td>
</tr>
<tr>
<td>Developing Capacity of the Forensic Institute</td>
<td>50</td>
</tr>
<tr>
<td>Developing Monitoring Capacity</td>
<td>50</td>
</tr>
<tr>
<td>Strengthening Capacity for Approaches to Transitional Justice</td>
<td>50</td>
</tr>
<tr>
<td>Support for Institutions for Legal Education</td>
<td>51</td>
</tr>
<tr>
<td>Budget Summary</td>
<td>51</td>
</tr>
<tr>
<td>D. MEDIA AND COMMUNICATIONS</td>
<td>52</td>
</tr>
<tr>
<td>Current Status and Issues</td>
<td>52</td>
</tr>
<tr>
<td>Introduction</td>
<td>52</td>
</tr>
<tr>
<td>The Present Iraqi Media Sector</td>
<td>52</td>
</tr>
<tr>
<td>Status of the Physical Infrastructure</td>
<td>53</td>
</tr>
<tr>
<td>Human Resources</td>
<td>53</td>
</tr>
<tr>
<td>Current Policy Framework/Current Institutional Framework</td>
<td>53</td>
</tr>
<tr>
<td>Needs and Priorities for the Sector</td>
<td>54</td>
</tr>
<tr>
<td>2004 needs; Policy and institutional changes</td>
<td>55</td>
</tr>
<tr>
<td>Medium and long term needs and policy and institutional changes</td>
<td>56</td>
</tr>
<tr>
<td>Proposed Budget Summary</td>
<td>57</td>
</tr>
</tbody>
</table>
Introduction

i. This needs assessment mission was one of 14 mounted to Iraq by UN Agencies, the World Bank and the IMF in preparation for the Madrid Conference of Donors on 24 October 2003. The objective is to identify priority needs for 2004, along with some broad indications of directions, approaches and strategies extending into the period 2005-2007. Given this limited time frame and the current transitional state of governance in Iraq, the principal focus of the mission is to promote stabilization of the country; recommendations on more fundamental policy options will need to await the formation of an elected government with both domestic and international legitimacy led by the Iraqis themselves.

Conceptually, elements essential for post-conflict stabilization include the following:¹

- **Institutions for (a Return to) the Rule of Law**: This includes development of an independent judiciary, essential legislation guaranteeing the basic rights of people, courts, the police, and civil society organizations and associations with an advocacy function to provide further checks and balances and an organized voice for the public with a means of influencing national and local policies. In many countries this also includes the demobilization and disarmament of armed forces including militias. In the case of Iraq the latter aspect and strengthening of the police force are being addressed by the CPA and is beyond the scope of this mission;

- **Governance and Effective Macroeconomic Management**: The achievement of a political entente among the key parties, the establishment of transitional governance arrangements, the adoption of a widely accepted process for the development of new constitutional foundations of a nation state that are inclusive and provide a voice and safeguards for minorities. The adoption of macroeconomic policies conducive to stabilization and early steps towards sustainable growth and the creation of a vibrant private sector creates opportunities for employment particularly in the private sector;

- **Local Governance**: Strengthening and where necessary, the establishment of, local governance institutions including civil society organizations that are transparent, based on democratic principles that provide advice and rights to all sections of the population including minorities and are sufficiently empowered with resources and mandates to be meaningfully responsive to local needs and demands;

- **Delivery of Essential Services**: Re-establishment of essential services that are delivered in a dependable manner including water, sanitation, electricity, garbage disposal, health and education; and

- **Employment Generation**: The creation of opportunities for employment that target women and men between the ages of 16 and 45, thereby reducing the inherent attraction of extremist ideologies and militant activities.

ii. Given the above, the mission is focused on four distinct, but interrelated areas each of which are accorded a chapter in the report and must be addressed simultaneously: i) the rule of law; ii) local governance and the delivery of essential services at the local level; iii) strengthening of civil society organizations; and iv) strengthening of the media. Employment issues are being addressed by a separate mission, as is macroeconomic management. Governance at the national level and the

preparation and adoption of a new constitution are all within the purview of the Coalition Provisional Authority (CPA) and the Interim Governing Council and are therefore not directly addressed by this mission.

iii. This Needs Assessment proposes a certain number of recommendations and options related to policy and legal changes. It is recognized that some decisions have to be made in the short term, in particular those related to the welfare of the people of Iraq and the initiation of the reconstruction process. However, in compliance with the applicable international law, some of these changes are directed at a future internationally recognized, representative government established by the people of Iraq.

**Methodology**

The mission consisted of three teams as follows:

1. Local Administration (UNDP-led): Mr. Rajeev Pillay (UNDP Senior Consultant); Mr. Ragaa Makharita (UNDP Senior Consultant); Mr. Angelo Baglio (European Commission); and Mr. Kwon Hyoung Nam (Korean Embassy in Baghdad) who participated as an observer.
2. Rule of Law (UNCHR-led): Mr. David Marshall (UNCHR); Mr Jonathan Kuttab (UNCHR Consultant); and Mr Amin Medani (UNCHR); and Mr. Adama.
3. Media and Communications (UN/DPI-led): Ms. Susan Manuel (UN/DPI); and Ms. Christina Dahlman (UNESCO).

iv. Mr. Oscar Fernandez-Taranco (UNDP-RBAS) was the Task Manager on behalf of UNDG. Mr. Roger Guarda of UNDP served as the overall Coordinator and Mission Leader. Ms. Elissar Sarrouh, who was responsible for issues pertaining to the strengthening of civil society organizations (CSO’s), worked with both the Local Administration and Rule of Law teams. Mr. Laurent Marion, UNDP Programme Officer in Baghdad accompanied the mission and provided it with substantive and organizational support and was critical to its success. Rajeev Pillay took the lead in pulling together the work of the different teams into a common report.

v. A list of essential background information was prepared and issued by the Local Administration team prior to the start of activities in Iraq. UNDP Baghdad recruited a local consultant to collect and collate the information requested.\(^2\) The Media and Communications team benefited from prior studies and missions in the sector.

vi. All three teams travelled to Baghdad on or around the first week of August and spent between 5 days and three weeks in country. During this period, the mission met with key actors and stakeholders in Baghdad and (with the exception of the Media and Communications team and individual members of the Rule of Law team) in Baghdad Municipality, Wasit Governorate in the East, Kirkuk, Suleimaniya, Erbil and Dohuk in the North.

vii. Meetings were conducted mostly as structured or semi-structured group sessions during which a series of set issues were covered. Consultations of this type were held with: The Special Representative of the Secretary General and his political advisers, the Humanitarian Coordinator, the

---

\(^2\) For a variety of reasons, including some of those mentioned under “Constraints”, the local consultant was unable to satisfactorily collect any of the information requested. The mission therefore collected all data during its relatively brief visit to the country.
Constraints

This needs assessment mission faced the following constraints:

- **Political framework**: The absence of a political consensus and constitutional framework for “the new Iraq” spelling out the future structure and political orientation of the country including that pertaining to the role of local government and civil society;

- **Absence of statistics**: Most official records including statistics were purportedly destroyed as a result of the targeted bombing of ministries and the subsequent looting and burning of all government and other offices after the fall of the Ba’athist regime;

- **Questionable quality of statistics**: Statistical records, saved by ministry officials who removed files and computers safekeeping are said, nevertheless, to be unreliable and not reflective of the actual pre-war situation;

- **Insufficient time**: The three week time frame available to the mission in Iraq was insufficient to undertake a thorough and detailed assessment of the needs of local administration; and

- **Insecurity**: Widespread attacks on coalition forces, aid workers and Iraqis appointed by the Coalition as well as rioting in several areas of the country restricted the mission’s travel. In addition to frequent delays because of stringent security restrictions, the bombing of the UN offices in Baghdad towards the end of the mission as well as other acts of violence prevented travel to Basra, Nasiriyah and Mosul as well as a final wrap-up stakeholder meeting in Baghdad as originally scheduled. The mission was also unable to travel back from Erbil to Baghdad as planned and therefore unable to undertake further data verification and collect previously requested information. Some individuals whom the mission was scheduled to meet were killed in the conflict and mission members who did not travel out of Baghdad were evacuated early.

---

3 Most Force Commanders tasked with running Governorates are at the rank of Colonel.
4 Moving somewhat beyond the core terms of reference, one member of the mission, Mr. Jonathan Kuttab, also conducted an introductory one-day workshop for government officials, the judiciary, NGOs, human rights associations and others from Kirkuk, Mosul, Suleimaniya and Erbil. The workshop covered such issues as the collection of evidence, the preparation, recording and presentation of testimony and other issues combining both theory and practice.
A. Local Governance

Summary of Findings and Recommendations

Main Findings:

1.1 Governance in Iraq is currently in a transitional phase, and as such, pending the adoption of a constitution, the degree of decentralization/deconcentration and devolution of authorities at the local level in a post-CPA phase cannot yet be determined. The formation of a Preparatory Constitutional Commission under the aegis of the Governing Council constitutes a crucial and welcome first step in this process. All findings and recommendations in this report are therefore premised on the assumption that local administrations will be accorded at least the level of authority and at least the functions accorded to them under existing Iraqi law.

1.2 The CPA is currently applying a centralized form of administration with budget allocations determined at the centre, and subsequent task prioritization delegated to the local level. No formal system of consultation with local Iraqi authorities or Local Force Commanders on budget allocations is currently in place.

1.3 Local Force Commanders are accorded significant authority in the restructuring of local institutions and in the delivery of services. Resources are channelled through the US armed forces and through private contractors for the implementation of projects for rehabilitation and reconstruction.

1.4 The “de-Ba’athification” policy continues at the centre and at the local levels of government. Staff dismissals as a result of this policy are having a considerable impact on the service delivery capacity of the administration of the country.

1.5 Very little prior assistance has been provided in the strengthening of local administrations by UN agencies or other donors outside Northern Iraq as a result of the sanctions regime.

1.6 Local administrations had to reduce their operations significantly after the introduction of sanctions. Service delivery has suffered partly as a result. To make matters worse, the mission was informed that local administrations at the level of the provincial governorates have recently been accorded budgets that are between one fifth and one quarter of the 2002 national budget, further intensifying the downward spiral. As a consequence, several Directors General at the district level as well as Governors of Governors and municipal officials consulted expressed the view that they would be unable to deliver the services required of them.

1.7 The CPA has introduced a system of Local Advisory Councils at the three levels in Baghdad Municipality and at the provincial level in all 15 governorates with the exception of Northern Iraq. The composition and process involved in the establishment of these councils has been largely left to the local Force Commanders and in practice has varied considerably. Local Advisory Councils have all been given the mandate of expressing the views and representing the interests of the local population as well as providing some checks and balances with respect to the local administration at their respective levels.

1.8 In practice, it has been difficult to judge the level of legitimacy that the Local Advisory Councils have among their constituents as none of them have been established through elections. Some
concerns were expressed to the mission about how members of Local Advisory Councils were selected, and some changes have been made to the membership as a result of reactions from their constituents. The arrangement, however, remains experimental.

1.9 Local Advisory Councils in many areas of the country, not least in Baghdad Municipality, are raising the expectations of local populations and are in the process of organizing and mobilising local communities to demand better services from the local administration and from the CPA. Demonstrations have taken place in Baghdad Municipality, Basra and other large towns.

1.10 Local administrations have insufficient resources to meet the demands of Local Advisory Councils and the local population and indeed, the budget announced by the CPA is significantly lower than that received by local authorities in 2002. Failure to provide sufficient means for local administrations to fulfil their existing mandates risks fueling disenchantment with the local administrations, the CPA, and the recovery process as a whole if not addressed.

1.11 All revenue collection by local authorities was suspended until very recently. In light of the heightened expectations of local populations and the inability of the local administration to meet needs coupled with the general lack of security, some local authorities expressed reluctance to enforce the collection of fines, penalties and other dues within their purview.

1.12 Corruption has been widespread and endemic in Iraq for a number of years. This is evidenced by the priorities accorded to projects, solutions adopted, as well as the quality of implementation. Sufficient checks and balances as well as improved financial systems and procedures will need to be institutionalised at all levels of government in order to raise the level of transparency and guard against corrupt practices.

1.13 Lack of contact with the outside world and insufficient exposure to new management practices, technologies and processes at least since the instatement of sanctions but also probably since the early 1980s, have also affected the performance and productivity of local administrations.

1.14 Like the central government, local administrations with the exception of those in the North, have witnessed a significant loss of personnel from within their ranks over the past decade. The deterioration of salaries has contributed in large part to this drain.

1.15 In the north, the governments of the PUK in Suleimaniya and the PDK in Erbil and Dohuk have operated with autonomy since the Gulf War and the establishment of the no fly zones. The new constitution will prove critical to their future status and indeed the quality of life in the region. Maintaining standards in the North as regional integration inside Iraq proceeds will be important to stability.

1.16 Both the PUK and PDK governments indicated that steps to merge their respective governments are underway. To date only the position of Prime Minister has been agreed upon. Such a merger is likely to be complex and difficult to implement.

1.17 Services have seen less interruption in Northern Iraq. This is due in part to the far lower degree of war damage experienced but also to the significant difference in the way the region has been administered.
1.18 Salaries of civil servants in Northern Iraq were considerably higher than those applied in the rest of Iraq prior to this war, and are also considerably higher than those in the five-tiered scale proposed by the CPA for the whole of Iraq. These relatively high scales have contributed to the relative effectiveness and efficiency of the administrations in these areas. Salaries and emoluments differ between the government of Erbil and Dohuk and the government of Suleimaniya.

1.19 The principal sources of revenue for the budget for the northern governorates have been duties levied on goods imported from neighbouring countries as well as their ability to levy other taxes without returning them to the centre. The CPA decision to eliminate all customs duties will have a deleterious effect on the ability of the governments of the area to continue to perform their duties with the same degree of efficiency and should be reviewed for the longer term.

1.20 Peshmerga forces ensure security in Northern Iraq. The mission was informed, however, that the Peshmerga – at least in Erbil and Dohuk – had not been paid for the past six months in compliance with instructions from the CPA in Baghdad. To date this has not had a negative effect on the security situation, but it is not clear how long such a situation can last.

1.21 The oil for food programme and trading constitute the mainstays of the economy of Northern Iraq. Oil for food has paid for the electricity programme delivered by UNDP, UNCHS projects on human settlements, extensive nursery and agricultural projects by FAO and for the delivery of food aid and food-for-work programmes both by WFP. UNICEF has also delivered extensive programmes in the education sector in the north with similar funding. Maintaining and improving capacities for such service delivery after the OFFP is phased out in November 2003 will be critical.

1.22 Several officials in Suleimaniya and Erbil expressed deep-seated concern that the Northern Region would stand to lose more as a result of the outcome of this conflict than other parts of the country. The latter would be determined in no small part by the nature of the constitution that is drafted.

**Main Recommendations**

1.23 The recommendations in this report for 2004 emphasise the urgent need to strengthen the capacity of the executive branch of the local government to meet the growing expectations of the Iraqi population. Furthermore, it is recommended that while the strengthening of legislative bodies at the local level is important, it is essential that any such bodies receiving assistance from the international community should be ones that are legitimately and popularly elected.

1.24 **Support to Interim Governing Council:** The work of the Constitutional Committee is seen to be of critical importance to local government and policies pertaining to decentralization. For this reason, the mission recommends the provision of advice and comparative experience to members of the Constitutional Committee in order to ensure that they are exposed to a range of options and the experience gained with them elsewhere.

1.25 **Establishing a Professional Civil Service:** During the interim period, it is recommended that training be provided to civil servants on public administration and sound management practices. The team also recommends that steps be taken to establish an independent public service commission.
1.26 **Support to the Ministry of Public Works**: As the executive body responsible for the delivery of services that are within the purview of local governments, it is recommended that the capacity of the Ministry of Public Works be strengthened and that sufficient funding be provided to all Governorates to implement quick implementation projects particularly in the provision of safe water, the maintenance and rehabilitation of sewage systems and the disposal of garbage.

1.27 **Capacity building in governorates and municipalities**: The team recommends the recruitment and training of sufficient staff and the provision of essential equipment and furniture in the offices of all governorates and municipalities in the country.

1.28 **Strengthening the capacity of Local (Legislative) Councils**: Local elections need to be held in order to establish representative local councils. Their role should be to ensure that the views of their electorates are heard by the executive branches of local government and to provide checks and balances. In the meantime, the team recommends the provision of training to Interim Local Advisory Council members at all levels along with other leaders from within the community on the role and functions of legislative bodies at the local level.

1.29 **Combating Corruption and Strengthening Financial Systems**: The team outlines programmes that would establish clear administrative procedures, a job rotation system within the civil service, an independent audit function, new and clearer procurement rules and regulations, lay the foundation for a more rational and effective civil service pay structure, and viable information systems – particularly for financial management.

**Working Assumptions**

1.30 Of the three, the work of the local governance team was the most sensitive as conditions are not yet conducive for the reforms that are necessary. Based on the above, the following were the working assumptions adopted by the team involved in Local Governance:

- Pending the preparation and approval of a new constitution and the establishment of a fuller role for Iraqis in the government of the country, recommendations on the structure and functions of Government and any fundamental policy shifts have been deferred.
- Given current conditions, for the immediate future (perhaps even through 2005) the principal challenge will be one of stabilizing the country so that a foundation is laid for longer-term structural changes and sustainable growth and human development.
- That given the current circumstances, the existing laws would continue to apply wherever they do not have any negative implications for human or civil rights; and
- That large donor investments in this sector are unlikely under the present circumstances, and that only activities of the highest priority should be identified.

### Significant Dates

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td>Saddam Hussein takes on full power.</td>
</tr>
<tr>
<td>1980-1988</td>
<td>Iran-Iraq War</td>
</tr>
<tr>
<td>1990</td>
<td>Invasion of Kuwait by Iraq</td>
</tr>
<tr>
<td>1990</td>
<td>Sanctions imposed.</td>
</tr>
<tr>
<td>1991</td>
<td>Operation Desert Storm</td>
</tr>
<tr>
<td>1995</td>
<td>Oil-for-Food Programme approved</td>
</tr>
<tr>
<td>1997</td>
<td>Oil-for-Food Programme Accepted by Iraq</td>
</tr>
<tr>
<td>1 May 2003</td>
<td>Operation Iraqi Freedom and Overthrow of the Saddam Hussein’s regime</td>
</tr>
<tr>
<td>21 May 2003</td>
<td>Security Council Resolution 1483 formalizes the authority of the CPA</td>
</tr>
<tr>
<td>Mid-July 2003</td>
<td>Appointment of an Interim Governing Council</td>
</tr>
<tr>
<td>Sep 2003</td>
<td>Appointment of an Interim Cabinet of Ministers</td>
</tr>
</tbody>
</table>

**Current Status and Issues**

### General

Following the fall of the Ba’athist regime of Saddam Hussein, control over the country has
been in the hands of the Coalition Provisional Authority (CPA). On July 12, 2003, the CPA appointed the Governing Council\(^5\) as the “principal body of the interim administration of Iraq”. Under this decree, the Governing Council is to “exercise specific powers immediately, in addition to representing the interests of the Iraqi people to the Coalition Provisional Authority and the international community during Iraq’s transition”. Under this arrangement, the CPA is required to “consult the Governing Council on all major decisions and questions of policy” and the Governing Council has “the right to set policies and take decisions in cooperation with the CPA in any area of national policy”. The Governing Council has been accorded the right to organize itself any way it wishes to prepare new policies. For instance, it has the right to establish specialised commissions with members that include “international experts, from the United Nations, Coalition Provisional Authority or other bodies.”

1.31 Security Council Resolution 1483 acknowledged the CPA and Security Council Resolution 1500 welcomed the creation of the Interim Governing Council. On 4 September 2003, the Interim Governing Council (IGC) and the CPA appointed an interim cabinet of 25 ministers. The IGC has also appointed a constitutional commission of 25 members (no women have been selected to take part in this commission), mandated with drafting a new constitution for Iraq.

Nevertheless the Executive bodies of the Iraqi administration are at present in disarray and scarcely functioning as a result of:

- Targeted bombing of most of the key government institutions (particularly in Baghdad), either destroying buildings or rendering them unsafe;
- Looting and arson in most government buildings in Baghdad and some other cities;
- Staff reductions as a result of the “de-Ba’athification” policy (see below);
- Transitional mandates linked to the presence and highly centralized decision-making structure of the CPA that remains the locus of all significant decision-making;
- Budgetary insufficiency;
- Electricity shortages\(^6\); and
- A shortage of diesel fuel for generators and vehicles and operations in general; and
- The continued lack of security.

1.32 Governance in Iraq has, at least since 1958, been very centralised. Since the early-1980s even greater centralisation has taken place since the development of problems with neighbouring countries as well as friction with specific communities – particularly in the South. The one exception to this rule has been Northern Iraq, which, with some external support, and following Operation Desert Storm and the establishment of the Northern no-fly zone, has managed to achieve almost total autonomy from Baghdad, including in areas such as defence and relations with foreign countries.

**Local Governance Pre-March 2003**

1.33 Statistics in Iraq had been a problem even before much of the underlying data was purportedly lost or destroyed during and after “Operation Iraqi Freedom.” Population estimates vary greatly.

---

\(^6\) In the district level municipalities visited in Baghdad City, the team was informed that electricity was available for only approximately one hour per day.
<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957</td>
<td>6,299</td>
<td>3,144</td>
<td>3,155</td>
</tr>
<tr>
<td>1967</td>
<td>8,047</td>
<td>3,945</td>
<td>4,102</td>
</tr>
<tr>
<td>1977</td>
<td>12,000</td>
<td>5,817</td>
<td>6,183</td>
</tr>
<tr>
<td>1987</td>
<td>16,335</td>
<td>7,939</td>
<td>8,396</td>
</tr>
<tr>
<td>1997</td>
<td>22,046</td>
<td>11,059</td>
<td>10,987</td>
</tr>
<tr>
<td>1998</td>
<td>22,379</td>
<td>10,895</td>
<td>11,484</td>
</tr>
<tr>
<td>1999</td>
<td>22,989</td>
<td>11,194</td>
<td>11,795</td>
</tr>
<tr>
<td>2000</td>
<td>23,577</td>
<td>11,481</td>
<td>12,096</td>
</tr>
<tr>
<td>2001</td>
<td>24,813</td>
<td>12,388</td>
<td>12,425</td>
</tr>
</tbody>
</table>


Source: Department of Statistics, Ministry of Planning.

1.34 Census was conducted in Iraq approximately every decade since 1957. It is unclear how accurate these census figures are, but they are the only ones available for planning purposes and were used for this needs assessment. Assuming a current population growth rate of between 1 and 2 per cent, and accepting the Ministry of Planning’s estimate of the total population for 2001, the present population of Iraq may be estimated at between 26 million and 27 million.

1.35 The administrative structure of local government in Iraq is broken down into i) Governorates under a Governor; ii) A District or Municipality; and iii) a Locality or Neighbourhood. Each unit was authorised to levy and receive taxes, fees and rents in accordance with the rules established by law and each unit was authorized to enter into agreements and contracts in accordance with the law.\(^7\)

\(^7\) Law No 159 on Governorates of 1969, Article 3.
The Administrative Structures of Local Government in Iraq

1.36 The District was headed by a District Chief (qa’immaqam); the Neighbourhood was headed by a Neighbourhood Director and the village was headed by a Village Chief (mukhtar).  

1.37 Considerable confusion exists at the present over terminology. While the Interim Advisory Councils appointed by the CPA are intended to eventually be elected bodies (see below), prior to March 2003, the term “Council” applied to the administrative/executive structures at each level: more specifically, the Governorate Council, District Council and Neighbourhood Council all refer to the administrative executive units at their respective levels.

1.38 The Governorate Council was composed of: a) The Governor who was appointed by the President and served as Chairman; b) the Deputy Chairman who is a member of the Council and elected by the Council; c) elected members from the governorate or the administrative units attached to the governorate; d) ex-officio members -- Assistant Governor for Local Administration and all the heads of departments attached to the governorate as representatives of their respective ministries. The number of the council members is not specified in the law and varied considerably.

1.39 A Supreme Council for Local Government was established under Law 159. The latter consisted of the Prime Minister (Chairman), and the Ministers of Interior, Finance, Education, Rural and Municipal Affairs, Public Works, Housing, Transport, Health Agriculture, Agricultural Reform, Irrigation, Information and Culture, Labour, Social Affairs and Youth. The basic function of the Supreme Council was the formulation of policies to be implemented by the different councils at the governorate, the district and the neighbourhood levels. This latter arrangement ultimately resulted in

---

8 Law No 159, Article 7.
9 Law No 159.
10 Law No. 159, Chapter 4, Article 54
extensive centralization, even though the same law on paper transferred to the administrative units of the governorate all the functions of the above ministries, together with their budgetary allocations.

1.40 With respect to the two exceptions: The local administration in Baghdad had, until the most recent war, operated on the basis of three different structures and models functioning in parallel:

I. The Mayoralty of Baghdad (consisting of 9 municipal districts);
II. The Governorates of Iraq (a total of 15 excluding the Capital); and
III. The Governorates of Northern Iraq, comprising Erbil, Dohuk and Suleimaniyah).\(^{11}\)

1.41 As a result of sanctions and the *de facto* imposition of a no-fly zone in the north, the Governorates of Northern Iraq have operated for all practical purposes as independent states, retaining responsibility even for their own defence and foreign relations. The special case of Northern Iraq is handled in a separate section below. All other local government units have operated under a highly centralised system.

<table>
<thead>
<tr>
<th>Governorate</th>
<th>Population Density Persons/km(^2)</th>
<th>Area/ km(^2)</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nineveh</td>
<td>57</td>
<td>35,899</td>
<td>204,2852</td>
</tr>
<tr>
<td>Salah Al-Deen</td>
<td>35</td>
<td>26,175</td>
<td>904,432</td>
</tr>
<tr>
<td>Ta’meem</td>
<td>73</td>
<td>10,282</td>
<td>753,171</td>
</tr>
<tr>
<td>Dially</td>
<td>60</td>
<td>19,076</td>
<td>1,135,223</td>
</tr>
<tr>
<td>Baghdad</td>
<td>7,390</td>
<td>734</td>
<td>5,423,964</td>
</tr>
<tr>
<td>Anbar</td>
<td>7</td>
<td>138,501</td>
<td>1,023,736</td>
</tr>
<tr>
<td>Babylon</td>
<td>183</td>
<td>6,468</td>
<td>1,181,751</td>
</tr>
<tr>
<td>Kerbala</td>
<td>118</td>
<td>5,034</td>
<td>594,235</td>
</tr>
<tr>
<td>Najaf</td>
<td>27</td>
<td>28,824</td>
<td>775,042</td>
</tr>
<tr>
<td>Qadisiya</td>
<td>92</td>
<td>8,153</td>
<td>751,331</td>
</tr>
<tr>
<td>Muthanna</td>
<td>8</td>
<td>51,740</td>
<td>436,825</td>
</tr>
<tr>
<td>ThiQar</td>
<td>92</td>
<td>12,900</td>
<td>1,184,796</td>
</tr>
<tr>
<td>Wasit</td>
<td>46</td>
<td>17,153</td>
<td>783,614</td>
</tr>
<tr>
<td>Maysan</td>
<td>40</td>
<td>16,072</td>
<td>637,126</td>
</tr>
<tr>
<td>Basra</td>
<td>82</td>
<td>19,070</td>
<td>1,556,445</td>
</tr>
<tr>
<td>Dohuk</td>
<td>61</td>
<td>6,553</td>
<td>402,970</td>
</tr>
<tr>
<td>Erbil</td>
<td>76</td>
<td>14,471</td>
<td>1,095,992</td>
</tr>
<tr>
<td>Sulaimaniya</td>
<td>80</td>
<td>17,023</td>
<td>1,362,739</td>
</tr>
<tr>
<td>TOTAL</td>
<td>51</td>
<td>434,128</td>
<td>22,046,244</td>
</tr>
</tbody>
</table>

Based on results of 1997 Census
Source: Department of Statistics, Ministry of Planning

1.42 According to statistics from the most recent census (1997), the governorates with the highest population density are Baghdad, Babylon, Kerbala and Basra, all of which have been areas of particular instability since May. Suleimaniya and Erbil, which to date have been relatively stable, also have a relatively high population density. The governorates with the highest total populations are

---

\(^{11}\) Created by law on 11 March 1974.
Baghdad, Basra, Babylon, Anbar, Suleimaniya, Diala and Erbil. A failure to address the capacity of local government in these provinces is likely to lead to continued insecurity and instability.

The Functions and Responsibilities of Local Government

1.43 Departments of each of the line ministries are represented at the level of governorates, and the heads of these departments report back to their respective ministries in Baghdad and also – at least in theory – to the Governor of the province. Strictly speaking, however, the only responsibilities delegated to local governments in Iraq are for: Maintenance of the reticulated water system (below a specific size of pipe); maintenance of local roads; waste and garbage disposal; and the management of parks and green areas. The local governments are also responsible for the issuance of construction licenses and the collection of penalties, fines and real estate taxes.

1.44 The Ministry of Public Works (MPW) is a new ministry created by the Coalition Provisional Authority (CPA) with specific responsibilities for local government that was formerly within the purview of the Ministry of Interior. At present, MPW has five directorates, including the Directorate for Municipalities, which is responsible for delivery of public services such as solid waste disposal, road maintenance and urban and physical planning in 251 municipalities (excluding Baghdad city and the three autonomous governorates of Northern Iraq). The Ministry is also responsible for the General Water and Sewerage Corporation, which provides water and sanitation services in 15 governorates (excluding those of the North). There are also three public enterprises in the field of construction that report to the Ministry. At present, five Directors General, with five CPA Advisers, manage the Ministry and decide on sector policies. Their functional linkage with the governorates remain the same as when local government was linked to the Ministry of Interior, a strongly centralized system.

1.45 At present, the Ministry operates out of temporary premises scattered in different locations in Baghdad, including the Palace where the Directors General and their Advisers operate. The Ministry has little or no control over what is taking place in the governorates, particularly in personnel, asset and financial management. The total number of positions authorized for the Ministry is 45,000 of which about 50% are filled. This does not include the number of staff in the Water and Sewerage Corporations and the three public enterprises for construction. The Ministry’s staff in the 15 governorates (251 municipalities) depend entirely on resources and instructions coming from the centre in Baghdad. The staff has not had training for the last 15 years.

The Iraqi Political Scene

Apart from the the Ba’ath Party which has been banned by the CPA, the following are the principal political parties operating in Iraq today: Iraqi National Accord (INA) consisting mainly of defectors from the Ba’ath party; Iraqi Free Officers Movement (IFOM); the Iraqi National Coalition (INC) which has sought a democratic, pluralistic and federal system of government; Iraqi National Movement (INM); the Arab Ba’ath Socialist Party – Iraqi Command which is a Syria-based rival of the Iraqi Ba’ath Party and advocates union with Syria; the Iraqi Communist Party (ICP); the Da’wa Party; The Iraqi Socialist Party; the Independent Group; Arab Socialist Movement; Unionist Nasserite Grouping; Democratic Pan-Arab Grouping and the National Reconciliation Group; Iraqi Islamist Party; Sadri II Movement; Supreme Council for the Islamic Revolution (SCIRI); The Ali al-Sistani/Imam al-Khoei Foundation which is a highly political group of traditionalist clerical families that while not a political party per se, have a strong voice in national politics; Hizbullah (Iraq) composed mainly of Marsh Arabs; the Iraqi National Congress; the Constitutional Monarchy Movement (CMM); the Democratic Centrist Tendency; the Kurdish Democratic Party (KDP); the Patriotic Union of Kurdistan (PUK); the Islamic Movement of Iraqi Kurdistan; the Kurdish Islamic Union; Kurdistan Toiler’s Party and the Socialist Party of Kurdistan.

(Main source: Al Tirkiti Nabil, Social and Political Forces in Contemporary Iraq: an NGO Primer, A research report)
The Capacity of Local Government

<table>
<thead>
<tr>
<th>Government Employees by Governorate (31 December 2000)</th>
<th>Total</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nineveh</td>
<td>64,187</td>
<td>20,330</td>
<td>33,867</td>
</tr>
<tr>
<td>Salah Al-Deen</td>
<td>33,789</td>
<td>9,410</td>
<td>24,379</td>
</tr>
<tr>
<td>Ta’meem</td>
<td>37,452</td>
<td>13,766</td>
<td>23,686</td>
</tr>
<tr>
<td>Diala</td>
<td>37,418</td>
<td>16,002</td>
<td>21,416</td>
</tr>
<tr>
<td>Baghdad</td>
<td>269,431</td>
<td>131,464</td>
<td>137,967</td>
</tr>
<tr>
<td>Anbar</td>
<td>37,953</td>
<td>1,166</td>
<td>26,288</td>
</tr>
<tr>
<td>Babylon</td>
<td>55,038</td>
<td>22,414</td>
<td>32,624</td>
</tr>
<tr>
<td>Kerbala</td>
<td>19,793</td>
<td>9,014</td>
<td>10,779</td>
</tr>
<tr>
<td>Najaf</td>
<td>31,115</td>
<td>13,517</td>
<td>17,598</td>
</tr>
<tr>
<td>Qadsiya</td>
<td>31,453</td>
<td>13,179</td>
<td>18,274</td>
</tr>
<tr>
<td>Muthanna</td>
<td>13,172</td>
<td>5,706</td>
<td>7,466</td>
</tr>
<tr>
<td>ThiQar</td>
<td>32,914</td>
<td>11,058</td>
<td>21,856</td>
</tr>
<tr>
<td>Wasit</td>
<td>26,619</td>
<td>10,228</td>
<td>15,391</td>
</tr>
<tr>
<td>Maysan</td>
<td>23,881</td>
<td>8,028</td>
<td>15,853</td>
</tr>
<tr>
<td>Basra</td>
<td>89,486</td>
<td>28,471</td>
<td>61,015</td>
</tr>
<tr>
<td>D’Hok</td>
<td>13,752</td>
<td>4,408</td>
<td>9,348</td>
</tr>
<tr>
<td>Erbil</td>
<td>35,091</td>
<td>12,313</td>
<td>22,778</td>
</tr>
<tr>
<td>Sulaimaniya</td>
<td>39,212</td>
<td>11,772</td>
<td>27,440</td>
</tr>
<tr>
<td>TOTAL</td>
<td>891,756</td>
<td>342,246</td>
<td>528,025</td>
</tr>
</tbody>
</table>

Source: Department of Statistics, Ministry of Planning

1.46 While changes since the war resulting from de-Ba’athification, deaths or abandonment of posts has dramatically changed the profile of government institutions, it is still worthwhile attempting to reconstruct a general idea of the size and scope of the government.

1.47 It has proved difficult to obtain reliable statistics concerning the staffing complement and capacity of local government institutions both before the war and after. Indeed, even the official statistics obtained for the Department of Statistics of the Ministry of Planning do not appear to add up correctly, but probably serve to provide a general understanding of the capacity at different levels as an order of magnitude. The most recent statistics available pertain to 31 December 2000 (see below).
Number of Government Employees by Educational Level, Nationality and Gender
(31 December 2000)

<table>
<thead>
<tr>
<th>Educational Status</th>
<th>Total</th>
<th>Female</th>
<th>Male</th>
<th>Foreigners</th>
<th>Arab</th>
<th>Iraqis</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>“Without degree”</td>
<td>180,973</td>
<td>34,484</td>
<td>146,489</td>
<td>2</td>
<td>29</td>
<td>81</td>
</tr>
<tr>
<td>Primary</td>
<td>105,552</td>
<td>21,532</td>
<td>84,020</td>
<td>3</td>
<td>4</td>
<td>57</td>
</tr>
<tr>
<td>Intermediate</td>
<td>51,683</td>
<td>22,862</td>
<td>28,821</td>
<td>2</td>
<td>2</td>
<td>56</td>
</tr>
<tr>
<td>Secondary</td>
<td>206,307</td>
<td>105,453</td>
<td>100,854</td>
<td>4</td>
<td>11</td>
<td>228</td>
</tr>
<tr>
<td>Diploma</td>
<td>166,606</td>
<td>84,459</td>
<td>82,147</td>
<td>13</td>
<td>12</td>
<td>115</td>
</tr>
<tr>
<td>Bachelor</td>
<td>156,905</td>
<td>81,054</td>
<td>75,851</td>
<td>28</td>
<td>14</td>
<td>330</td>
</tr>
<tr>
<td>Post-Graduate Diploma</td>
<td>2,862</td>
<td>897</td>
<td>1,965</td>
<td>2</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Masters</td>
<td>6,490</td>
<td>1,641</td>
<td>4,849</td>
<td>1</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>PhD</td>
<td>3,023</td>
<td>310</td>
<td>2,719</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>349</td>
<td>49</td>
<td>300</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>880,750</td>
<td>352,741</td>
<td>528,015</td>
<td>55</td>
<td>79</td>
<td>884</td>
</tr>
</tbody>
</table>

Source: Department of Statistics, Ministry of Planning

1.48 According to these statistics, the total number of government employees are about 900,000 out of a population of about 24,000,000, or about 3.75 per cent of the population. This figure is relatively high, but not excessively so in comparison to other countries in the region. It is also important to note that approximately one third of this total consists of individuals with a primary education or less (see table below). This is indicative of the fact that most operations in Iraq were not outsourced to private contractors, but were internalised within the civil service. According to these statistics, Government employees with university level education formed about 20 per cent of the total number of Government civil servants. Women were apparently well represented in government institutions at all educational levels and apparently also held supervisory and management positions in most ministries.

“Popular Representation” Pre-March 2003

1.49 The National Action Charter of 1971 called for the formation of popular councils in all administrative subdivisions. This was promulgated in Law No. 25 on the Establishment of Local Popular Assemblies published in the Official Gazette on 25/12/1995. Each Council was to be composed of permanent members who occupy official positions at each level and elected members whose number were to be double those appointed. The President of the Republic had the authority to appoint at the Governorate Popular Council other permanent members, as he saw fit, from other government entities. In practice, the latter included individuals from the internal security apparatus. The elected members were to be from the locality and were required to have completed elementary
school. According to the law, candidates were to be voted by secret ballot and were required to file their candidacies 20 days before the election. These were, indeed intended to be legislative bodies. The rest of the law delineates the function of those councils in each sector of the economy.

1.50 In actual fact, the first councils were appointed by the Ba’ath Party and were authorized mainly to allocate land and property, but had little involvement in assessing or inspecting services provided by the Mayoralities or the Governorates. In practice, therefore, these councils have never been either truly representative of the people or performed the functions that were originally intended.

Local Governance in the Post-War Period

The General Atmosphere

1.51 Insecurity constitutes a major problem. According to security officials of the UN and Coalition forces, small arms including automatic and semi-automatic assault rifles and even grenades are possessed by virtually every household in Iraq. A curfew imposed by the CPA is in force between 11:00 p.m. and 6:00 a.m. Increasingly organized criminal gangs operate in Baghdad and other cities. Kidnapping, car-napping and armed robberies are frequent occurrences. Politically motivated attacks are also on the rise and between 10-15 incidents are reported every day. The movements of local government personnel are also likely to be affected by security concerns. Women in particular are constrained in their movements. Coalition forces are insufficient in number to provide security to the general population and are stationed at sensitive or strategic sites. Patrols with armoured personnel carriers take place regularly, but are insufficient in number and are often the targets of attacks themselves.

1.52 Buildings of ministries remain unreconstructed. In Baghdad municipality, many districts reported only one to two hours of electricity per day. Sewage main breaks are common as is the mixing of sewage with the clean water supply. Districts visited in Baghdad municipality complained of contamination with sewage in local schools and very high levels of gastrointestinal illnesses and skin ailments.

1.53 Gasoline shortages are severe. Long lines were witnessed in Baghdad and in al Kut (Wasit Governorate). It was understood that many private individuals wait for in excess of 7 or 8 hours for fuel. There is a black market for fuel in effect. Coalition forces tasked with returning essential services themselves complained about the lack of access to gasoline fuel for essential equipment.

The Policy of De-Ba’athification

1.54 The de-Ba’athification implementation plan includes dissolution of entities and ministries of the Ba’ath government, establishing an Iraqi de-Ba’athification Council to gather information and investigate Ba’ath party members, property and assets. It also includes the establishment of a judicial review committee to investigate and gather information on the affiliation of judges and prosecutors with the Ba’ath party and subsequent removal from office.

De-Ba’athification

Coalition Provisional Authority Order No. 1 of 16 May 2003 (CPA/ORD/16 May 2003/01) announced the “dissestablishment” of the Ba’ath Party of Iraq by eliminating the party’s structures and removing its leadership from positions of authority and responsibility in Iraqi society. As such, de-Ba’athification goes beyond the formal structures of government to include civil society organizations. By the same order, members of the Ba’ath Party holding the ranks of Regional Command Member, Branch Member, Section Member and Group Member were dismissed. Provision was also made for the dismissal of “full members” of the Ba’ath Party with the more junior ranks of Member and Active Member.
1.55 The effects of the de-ba'athification policy are manifold and are to be judged carefully, weighing both the positive and negative consequences. One positive element, amongst others, is the removal of those in the higher ranks of public and government administration who were appointed more because of their political affiliation than their professional competencies. However, there can be little doubt that the dismissal of tens of thousands of civil servants did add another large number to the unemployed and left considerable shortfalls in the upper and middle management levels in many public organizations and institutions. There is apparently an on-going process of re-hiring former administrative personnel after a thorough screening process. However, restoring adequate levels of qualified staffing with a particular focus on affected women in the public sector, as well as dealing with the remaining unemployment dilemma, is a challenge not likely to be resolved quickly.

1.56 The absence of reliable lists of party members has led to a system of informal reporting wherein officials and local populations are asked to report on any Ba'athists known to them. Caution must be exercised in this approach in order to avoid possible abuses, and blurring of the limits of de-Ba’athification, potentially leading to a further weakening of local government capacity.

1.57 Many Iraqi organizations and individuals interviewed during the mission expressed grave concerns in this regard, pointing to the distinction between the Ba’ath as a political party, and the regime’s practices and criminal actions. The basis of this distinction is the recognition that membership was often merely a vehicle for social and career advancement. Others joined out of fear and necessity.

1.58 The result is that de-Ba’athification has led to increased unemployment, a decrease in economic and income opportunities for a large segment of Iraqi society, and loss of institutional memory and skills particularly among civil servants, professors and other professionals who have important potential contributions to make to rebuilding the country. Women are disproportionately affected by these policies, as they were employed in large numbers in ministries and various governmental structures and are likely to have fewer opportunities outside government. Emphasis should be on creating a change in management culture, philosophy and outlook among the cadres within the administration. This should include incentives for early retirement and provisions for hiring new staff.

**Dissolution of Entities**

1.59 Coalition Provisional Authority Order Number 3 resulted in the dissolution of a number of government entities. In addition to the armed forces and militias and the Government entities responsible for defence, intelligence, information and military affairs, the following entities were also abolished:

- The Presidential Diwan;
- The Presidential Secretariat;
- The Revolutionary Command Council;
- The National Assembly;
- The Youth Organization;
- The National Olympic Committee; and
The Revolutionary, Special and National Security Courts.

1.60 While this is fully understandable and necessary in order to rid the country of the vestiges of the control imposed by the centre, it has also resulted in a general vacuum in the management of the administration.

**Trends in the Civil Service**

1.61 Current staffing in local government is inadequate. While it is clear that a thorough functional review is required, in many local government entities, staffing is insufficient even if major operations were to be outsourced. According to the Deputy Mayor of Baghdad Municipality, in 2002, Baghdad Municipality had approximately 21,000 staff. Its staffing complement is now down to 9,700. At the District level in Baghdad Municipality, the situation is even more dire (see table below). While it is difficult to determine actual trends in aggregate staffing, it is almost impossible to assess lacunae in specific categories of staff without undertaking a detailed hands-on assessment of each government organisation at the local level.

<table>
<thead>
<tr>
<th>Staff Type</th>
<th>Required</th>
<th>Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineers</td>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>Maintenance Technicians</td>
<td>22</td>
<td>2</td>
</tr>
<tr>
<td>Accountants</td>
<td>5</td>
<td>0</td>
</tr>
</tbody>
</table>

1.62 In most governorates it would appear that revenue collection has essentially come to a halt. In a district of Baghdad visited, the head of the district municipality indicated that with the current level of insecurity and with his lack of budget to respond to the concerns of citizens, he was refusing to collect fines and penalties even though he had been instructed to do so by the CPA. In Kirkuk the Deputy Mayor indicated that all revenue collection had come to a halt and that the tax department offices had been looted. The Deputy Mayor also indicated that he was not aware that a budget had been issued for his local government by the CPA.

**The Absence of Real Decentralization**

1.63 In practice, Iraq has been under a centralized, dictatorial regime since the overthrow of the Iraqi Monarchy and the establishment of the Revolutionary Command Council in 1958. Repression worsened following Saddam Hussein’s accession to full power in 1979. Top down management practices, centralised government, the absence of democratic participation and the disempowerment of local government combined with a cult of personality therefore has roots that reach back a long way. During the previous regime, plans and priorities were prepared by the Ministry of Planning and approved by the “Supreme Economic Committee” chaired by the President himself. The priorities of the governorate were established at the centre and solutions were devised with relatively little consultation with local government levels, and the Ministry of Planning had a department in each governorate.

---

12 The 21,000 staffing complement was based on a business model whereby all operations are conducted by staff of the municipality themselves. Outsourcing of operations to private contractors would reduce staff requirements, but in the absence of any systematic management audits or management reviews, it is difficult to determine an optimal staffing complement at each level of government. Figures quoted here merely reflect the opinions of Iraqi officials consulted and in most cases are based on actual staffing in 2002 prior to the recent conflict.
1.64 On the other hand, according to the Ministry of Planning officials, 75 per cent of the local administrative (recurrent) budget was covered from local revenue collection. Local administrations, however, became more dependent on the centre following nationalization of the oil industry. Deficit financing was employed through the use of Treasury Bills and control of the money supply.

1.65 To date, CPA decision-making, including on budget matters, is centralized with little apparent consultation with the Governorates. Based on information provided by municipal governments consulted by the mission, it would appear that the budget accorded to local government institutions under the current CPA budget is between one fifth and one quarter of the budget they were accorded in the 2002 budget by the Iraqi Government.

1.66 Local Military Commanders (most with the rank of Colonel) have been accorded very significant authority over local government in the 15 Governorates. Local Military Commanders select/appoint members of the Interim Local Advisory Councils (see below) and as a result of the de-Ba’athification process also have an important role in appointing municipal and governorate officials. Local Military Commanders are petitioned by local populations on a range of issues and take a number of direct executive decisions.

1.67 Local Military Commanders are complemented by a team of military officers called the Civil Military Operations Centre (CIMOC). The latter provide advice and organizational and logistical support to the Governorate and the Departments of central ministries in the implementation of their operations in the area of water, sanitation, municipal waste disposal, etc. They have also taken on a significant role in attempting to improve the distribution of diesel fuel for the implementation of municipal operations. The modality used for implementation varies considerably. In Wasit, implementation was in close conjunction with local government institutions and US sub-contractors. In most other areas, however, implementation is either undertaken directly by the CPA or through its sub-contractors in consultation with the interim Local Advisory Councils. In some instances, it would appear that Local Advisory Councils have been allowed to take on executive functions, forming a parallel mechanism for implementation.
### COMPARATIVE TABLE OF CIVIL SERVICE SALARIES

<table>
<thead>
<tr>
<th>Category</th>
<th>Range of Monthly Salaries in Northern Governorates&lt;sup&gt;13&lt;/sup&gt; (Swiss Dinars&lt;sup&gt;14&lt;/sup&gt;)</th>
<th>Range of Monthly Salaries in rest of the Country&lt;sup&gt;15&lt;/sup&gt; (In Iraqi Dinars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>University teaching staff</td>
<td>959-3,879</td>
<td>140-367.25</td>
</tr>
<tr>
<td>Teachers</td>
<td>580-1,034</td>
<td>159-879</td>
</tr>
<tr>
<td>Technical education staff</td>
<td>287-752</td>
<td>148-367.25</td>
</tr>
<tr>
<td>Engineers and agriculture. engineers</td>
<td>333-1,027</td>
<td>148-373.75</td>
</tr>
<tr>
<td>Chemists and geologists</td>
<td>333-970</td>
<td>148-373.75</td>
</tr>
<tr>
<td>Accountants and auditors</td>
<td>222-747</td>
<td>148-373.75</td>
</tr>
<tr>
<td>Judiciary:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First rank</td>
<td>959-3,879</td>
<td>140-367.25</td>
</tr>
<tr>
<td>Second rank</td>
<td>5,384</td>
<td>590</td>
</tr>
<tr>
<td>Third rank</td>
<td>5,128</td>
<td>500</td>
</tr>
<tr>
<td>Fourth rank</td>
<td>4,822</td>
<td>420</td>
</tr>
<tr>
<td>Medical doctors</td>
<td>4,470</td>
<td>342</td>
</tr>
<tr>
<td>Anesthesiologists</td>
<td>636-1,036</td>
<td>159-259.35</td>
</tr>
<tr>
<td>Veterinary doctors</td>
<td>795-1,295</td>
<td>159-259.5</td>
</tr>
<tr>
<td>Resident pharmacists</td>
<td>503-1,270</td>
<td>148-375.75</td>
</tr>
<tr>
<td>Specialist pharmacists</td>
<td>318-519</td>
<td>159-259.35</td>
</tr>
</tbody>
</table>

**Salaries and the Civil Service**

1.68 Under the Ba’ath Government, civil service salaries were stipulated in a decree issued by the central government.

1.69 With high levels of inflation over at least the past decade and with fixed salaries with relatively little possibility of movement between grades and pay levels, the real pay of government officials had deteriorated severely in all of Iraq with the exception of Northern Iraq where very different salary scales were applied (see above). Monthly salaries ranged from 148 Iraqi Dinar to 590 Iraqi Dinar (approximately US$1 to US$4 at current exchange rates). In Northern Iraq, however, salaries were administered by essentially autonomous administrations and ranged from 159 to 5,384 “Swiss” Dinar (US$15.90 to US$538.40).

1.70 In the post-war period, government officials went unpaid for a period of time and then were accorded an ad hoc salary of US$20 per month. In July 2004, the salaries were increased to $50 per month.

---

<sup>13</sup> Add to these the following allowances: marriage, children, special allowances granted by Parliament, housing allowances for certain categories (judges, university professors), special rank allowance and special allowances for working under difficult conditions.

<sup>14</sup> The Swiss Dinar is the currency used in Northern Iraq and is currently valued at 15 Swiss Dinar to 1 US Dollar. On 15 September, the CPA is scheduled to revalue the Swiss Dinar at 150 Dinar to 1 US Dollar, bringing it to parity with the Iraqi Dinar.

<sup>15</sup> Add to these: marriage allowance, children allowance, special allowances granted to party loyalists and special allowances granted by decree.
Gender Concerns in Post-Conflict Iraq

1.71 Under the secular Ba’athist government, women played important technical, supervisory and managerial roles in the government (the domination of the military in the Party and the highest reaches of Government, prevented women being represented in large numbers at these levels, but they were well represented in the civil service). Changes resulting from the recent conflict, however, pose possible new challenges for women's full participation in Iraq's future. Also, since May 2003, the country has witnessed a more prominent role being played by religious groups.

1.72 Concerns have already been felt through the open opposition to women judges being appointed to courts in central Iraq. In Wasit province, the mission met a young Iraqi woman lawyer recruited by RTI to report back on the workings of the courts and other rule of law institutions. The lawyer had been repeatedly threatened with her life and was under the protection of the local US military command.

1.73 Drafting of the constitution and the preparation of new laws on the civil service are going to play an important role in determining the future of women in government. Although two women are included in the Interim Governing Council, women are not represented on the Constitutional Committee and only one woman (from Northern Iraq) has been included on the Interim Cabinet appointed in early September 2003.

Interim Local Advisory Councils

1.74 The Coalition Provisional Authority (CPA) has directed the formation of an interim Baghdad Citizen Advisory System to provide the citizens of Baghdad with a forum in which to participate in the rebuilding of their city’s infrastructure and institutions, to raise issues of concern and recommend solutions to the Coalition Authorities, Baghdad Municipal Managers and the National Ministry Representatives.

1.75 Three levels of Interim Citizen Advisory Councils have been established in Baghdad:

- The Neighbourhood (Hayy) Advisory Councils: Meet regularly to discuss issues and concerns of the neighbourhood. They hold frequent discussions with the Coalition’s military commanders. Members can also be nominated to serve as members on one of the nine District Advisory Councils.
- The District (Beladiya) Advisory Council: Are supposed to meet on a weekly basis. Military commander also attend the meetings. Participation can also be requested by members of Executive Committees and Ministries. Can carry forward certain ideas and recommendations to the City Advisory Council.
- The City (Medina) Advisory Council: Is made up of selected members of the District Advisory Councils.
Representatives are not elected, but selected with input from area residents and the approval of the local military commander. Scope, membership and/or duration of these Councils may change any time. Advisory councils hold discussions and make recommendations to coalition authorities and interim Iraqi officials responsible for providing services such as:

1. Police;
2. Power;
3. Water;
4. Schools;
5. Garbage collection; etc.

At present, all local advisory council members are voluntary and are not paid. The method of their appointment varies considerably. In a district of Baghdad visited by the Mission, the District Council was selected by the military commander from a list of nominees received from local leaders (it is not clear who the local “leaders” were). In other areas, it appears that community meetings were held to nominate candidates for consideration by the military commander.

Beyond Baghdad, Local Advisory Councils have been established at the Provincial Level in the 15 Governorates excluding the North (Suleimaniya, Erbil and Dohuk). No councils have been established below the provincial level in these other areas. These Councils are appointed by the local Force Commander (usually at the level of Colonel) according to his/her own judgement and advised by a team of officers (at the level of Major and below) in units called Civil Military Operations Command (CIMOC). The methodology, criteria for the selection and appointment of Council members has varied between governorates as has the total number of council members.
1.78 In practice, the criteria for the appointment of members of the local councils, their size and structure as well as the responsibilities accorded to them vary greatly. Just among the Governorates visited, the mission noted substantial differences. In Wasit Governorate, for instance, the Local Advisory Council consisted of 55 members and had been selected from among nominations received from religious groups, political parties and professional associations in the Governorate. In this Governorate, with the support of the local military commander, the local advisory council was already discussing arrangements for election to the council. In other Governorates the councils have been selected in a more random manner, giving rise to accusations that they are composed of individuals who have ingratiated themselves to the local military. Local communities have in some instances demonstrated against these councils and this has resulted in the replacement of individual members.

1.79 In Kirkuk, on the other hand, representation was more clearly along ethnic lines. The Mission was informed that in other governorates Councils varied between 38 and 55 members. Representation is not based on the population of the constituency concerned.

1.80 It is worth noting that some of the best organised groups with a religious constituency – often Shi’a – have taken the initiative and are using the Local Advisory Councils to further develop their political base. This was particularly apparent in some of the districts of Baghdad.

1.81 While the Councils are intended to be advisory in nature, it is worth noting that the CPA and its sub-contractors have in many instances been working directly with the Councils to implement projects and not with municipal governments. The mission witnessed projects being launched with direct involvement of the Councils in the area of garbage collection and disposal.

Corruption

1.82 Corruption has long presented a huge challenge in Iraq. Most government departments and municipal entities at the local level possessed internal “auditors” who were required to certify accounts before additional funds could be requested from the centre. These auditors reviewed accounts in their own departments and were required to vouch for their accuracy when requests were submitted for additional spending.

1.83 External, independent audit was to be provided by the Supreme Audit Board. The present Supreme Audit Board has a staff of 1,600 responsible for auditing public accounts in the administration and public enterprises nationwide. However, it is not clear to what extent this entity is able to conduct audits at the present time. Audits conducted in the past were financial in nature. No capacity currently exists to undertake management audits, however. Such capacity is essential if significant reforms are to be introduced in the way in which services are delivered in Iraq. Process re-engineering requires hands-on review of an intensive nature that is best undertaken over a period of time by well-trained management auditors.

1.84 At the local government level, most financial records are still maintained by hand or on individual computers. Data is not shared electronically and electronic information systems are not used for the purpose of financial management and control. Such systems are urgently required if large amounts of resources are to be effectively managed and if proper expenditure controls are to be introduced.
The Special Case of Northern Iraq

1.85 Northern Iraq has been operating with almost total autonomy since 1991, and has been governed by the Patriotic Union of Kurdistan (PUK) and Party of Democratic Kurdistan (PDK). A joint parliament was established for Suleimaniya, Erbil and Dohuk in 1992 based on elections in the area. While the intention was to create a joint government for the whole of the area, this failed due to disagreement between the PDK and PUK and degenerated into a civil war in Northern Iraq. This resulted in two separate administrations being established, with one covering Suleimaniya and the other covering Erbil and Dohuk.

1.86 Both administrations have established a “national” cabinet, each with a Prime Minister and a cabinet for each ministry. The administration in Erbil and Dohuk is dominated by the PDK while the administration in Suleimaniya is dominated by the PUK. “Governors” and their “Councils” have been established for each governorate; Suleimaniya, Erbil and Dohuk. Each ministry has departments at the governorate level. Councils in each governorate are elected as is the governor himself. Municipal elections were held in 2000. Each of the two governments have been established based on democratic principles, and while there may be some shortcomings, particularly with respect to other parties, both governments have striven to establish a clear distinction between themselves and the Government in Baghdad, ensuring representation and opportunities for all ethnic groups including Assyrians, Turkomen, other Christians. Women too are represented both in the “Cabinets” and in the local government structures.

1.87 Establishment of a no-fly zone in Northern Iraq had reinforced the ability of the two administrations to operate independently. While they have continued to use laws established by Baghdad, the laws have been adjusted to meet their own specific needs. Both administrations have established control over their own money supply by printing “Swiss Dinars”. Collection of revenue – particularly from customs duties on imports from Turkey and Iran into Kurdish-held territory has enabled them to establish a very different salary scale and benefits packages for their civil servants, enabling them to function more effectively. Considerable international assistance has also been provided to the Northern Iraq through the Iraq Oil-for-Food programme and the UN Agencies. Electricity functions without significant disruptions because of electrical facilities constructed by UNDP and capacity developed in the Kurdish civil service with UNDP projects, agriculture has been significantly improved through FAO projects, education programmes have been supported by UNICEF, and housing has been supported by HABITAT. Several international and national NGOs have operated in Kurdish territory, while great difficulty has been experienced by most NGOs in gaining access to the region.

1.88 The Oil-for-Food programme has constituted the mainstay of the economy of Northern Iraq, with a full 13 per cent of the total received by the region. The administrations fear that transfer of the programme to the central treasury in Baghdad will result in a significant loss of revenue and support to the North. Decisions to ban all customs duties taken in Baghdad threaten to affect the ability of the administration in Northern Iraq to meet its obligations. Arrangements have been made to collect revenue through slight adjustments while continuing to abide by instructions received from the CPA (flat fees are collected from vehicles traversing borders).

1.89 Since the beginning of 2003, steps have been taken to merge the two administrations in the North. A joint parliament is again in effect and it would appear that a decision has been taken on a
joint Prime Minister. Ministerial positions are in the process of being divided up among the two principal parties. This is in large part due to a perception on the part of the both the PUK and PDK leadership that Northern Iraq is at a crucial stage in its development and that the constitutional process and future development of Iraq will be critical for its future.

1.90 Both administrations in the North are prepared to ensure a Kurdistan that is part of an Iraqi Federation, but the process involved in drafting a new constitution will be critical to the future of the Kurdish-controlled areas of Northern Iraq. Whatever happens, it is likely that the Kurdish areas of Northern Iraq will have less autonomy than they currently possess. In order to preserve the relative stability of Northern Iraq it is essential that to the extent possible, policies be raised to ensure the preservation of the standards attained in the North rather than to reduce all parts of Iraq to the lowest common denominator.

Can One Set Regional Priorities?

1.91 In order to achieve overall stability for the country it could be argued that prioritization according to population density or according to areas that were disadvantaged under Saddam Hussein’s regime would maximize the impact of limited resources. Iraq, however, is in a fragile state. Current efforts by unknown parties to destabilize the country by provoking inter-ethnic and inter-communal friction, coupled with a clear reversal of fortunes for those areas of the country that were either favoured by the previous regimes or those such as the Northern Region that benefited from the international sanctions imposed on Iraq, renders any geographic prioritization counter-productive. The emphasis should therefore be on ensuring universal coverage for all Governorates and the implementation of a standardized, common model of governance that:

- Is based on adaptation and improvement of best practices within the country rather than adoption of the lowest common denominator;
- Ensures participation of all sections of the population including women and minority communities;
- Empowers executive branches of the government at all levels with sufficient resources to effectively respond to the needs of the population; and
- Builds in sufficient checks and balances including through elected bodies that answer to the people.

Needs and Priorities for the Sector

1.92 The first priority is stabilization of government institutions, both at the centre and the governorates. Social stability and security are closely associated with the establishment of peace and order. The people need to see the beginnings of a solid process that aims at a return to normalcy and the creation of a functioning government. Peace and order will be established when people feel a glimpse of hope that services will be provided and justice rendered.

1.93 The declaration of a Constitution acceptable to the people through a democratic process will enhance national stability and facilitate the establishment of a constitutional government elected by the people in a free and democratic manner. The Constitution will define the relationship between the central and local government entities and hopefully institutionalize a decentralized system of government.

1.94 While other factors will contribute to stabilization, such as the establishment of law and order to give the public a sense of security, the effective provision of public services, the creation of a
viable banking system and the provision of an environment of trust to enhance investment, among others, the following are priority actions to reach that goal, with particular reference to local governance. The principal focus of these recommendations is on strengthening the capacity of local administrations to provide the services expected of them. In addition, these recommendations pertain to activities that shall take place before the formation of a legitimate Iraqi Government. The determination of future needs for Local Governance will require further assessments, and current financial provisions are hence of a very conservative nature.

**Supporting the Interim Governing Council and the Constitutional Committee:**

1.95 At present there is a Secretariat to manage the Council’s affairs. The capacity of the Secretariat in policy analysis, planning and programming, and follow-up of decisions needs to be strengthened and supported. Though an “Interim” institution, the Governing Council is mandated to appoint Interim Ministers who would testify before it on the policies and management of their ministries. In terms of major decisions and questions of national policies, the Coalition Provisional Authority (CPA) is required to consult the Governing Council before decisions are made.

1.96 To perform its mandate, the Governing Council needs to increase and develop its capacity to make decisions in areas of financial and economic reform, electoral law, the justice system, social services, the drafting of a national Constitution, preparation for national election and the establishment of a legislative assembly. The Secretariat has only one person at present and they need at least 10 specialists in different sectors to support the decisions and monitor their application, in addition to support staff of at least 15 persons. These could also assist the Cabinet when an elected national government is established.

1.97 In addition, expert support is urgently needed to assist the Constitutional Committee to complete its work in an efficient and timely manner. These Constitutional Law experts should be internationally recognized; their task is to expose the Committee to alternative models and experience gained in other countries and to advise them on the implications of different options. The experts will also assist in the organization of seminars and debates, and a company may be recruited to build Iraqi capacity to implement public opinion polls to help the Committee gauge public sentiment and support for what they propose to the Governing Council.

**Related Costs**

- Salaries of 10 senior Iraqi specialists for one year $ 60,000
- Remuneration and travel cost of international experts: $ 200,000
- Salaries of clerical staff $ 10,000
- Seminars, debates $ 40,000
- Opinion polls $ 100,000
- Office equipment: $ 30,000
- Operating cost $ 50,000

**- Estimated total:** $ 490,000

---

16 In estimating costs, only additional resources beyond what is in the planned 2004 budget are indicated. These estimates relate mostly to capacity building.
Establishing a Professional Civil Service:

1.98 The Civil Service has been governed by outdated rules and procedures that were promulgated in the 60’s. Amendments to the basic law, most recently in 1998, changed the salary structures without changing the basic rules of operation. Recruitment, task assignment and promotion were governed by political allegiance and alleged nepotism and corrupt practices. The need is for establishing a transparent and unified code governing the management of human resources both in central ministries, their field offices and the staff of all governorates. Under this code, a market-oriented salary structure would be defined and the job content and level of responsibility, rather than diplomas, should define the pay level. Based on the statement of vision and functions of each administrative unit at all levels, job descriptions would be defined to allow for monitoring and performance evaluation. Promotion rules based on performance, rather than longevity in the post, should be clearly defined and applied in a transparent manner.

1.99 In addition, the Civil Service has no institution to manage properly its human resources. The Minister or the head of an agency was the sole decision maker regarding employment, promotion and termination. There is a need for an independent Public Service Commission (PSC) composed of objective and non-politicized persons to manage the Service and instill a sense of professionalism, justice, transparency and objectivity in the management of human resources. The Commission would ensure the proper application of the Civil Service Code and protect the public institutions and the individual employees against any violation of the Civil Service Code. Ministers would manage their personnel according to the rules that the Commission may establish within the framework of the law.

1.100 To promote professionalism in the public service at all levels, serious training programmes need to be organized to increase knowledge and impart job-related skills. A system of continuous training needs to be established and promotions should be linked to acquiring needed skills. At present, there is no institution that can be entrusted with this task at the national level. There are individual training centers in some ministries, such as the Ministry of Planning and the Ministry of Interior, but they are weak in terms of staff and programmes and no longer functioning.

Related Costs

- 3 International experts for one year: (3 x $200,000) $600,000
- Local experts for two years (12 x $12,000 x 2) $288,000
- Local staff for the Commission: (15x $150 x 12) $27,000/yr
- Public Administration Training Institute
  - Training of Trainers Programme $200,000
  - Salaries of training staff: (30 x $250) $90,000/yr
  - Equipment and library materials for three branches of the Public Administration Institute (the main to be in Baghdad, one in the South and the other in the North) $400,000
  - Operation and maintenance (3 branches) $100,000/yr
  - Operation and maintenance of the PSC $50,000/yr
- Buildings to be provided by government may need to be refurbished to fit Institute’s functions: $180,000
- Estimated total: $1,935,000
**Support to the Ministry of Public Works:**

1.101 *The top priority is for the MPW to be functionally re-established,* consolidating itself in a single location and enabling it to work more effectively as an integral ministry. The following costs relate to the need for technical staff and for training in the areas of planning, project management, operations and maintenance, procurement, financial management, monitoring and evaluation. Training in technical areas is also crucial since the staff have been mostly unaware of developments in their respective fields.

1.102 In addition, provision is made for quick implementation projects for management by the governorates and municipalities to ensure that they have resources to fulfil their functions as they relate to the maintenance and rehabilitation of water and sewage systems as well as the disposal of garbage, particularly in urban and semi-urban areas.

1.103 The needed policy changes will depend on the outcome of the Constitution that is being drafted. The *desired change is a system for decentralized management* in which the Ministry would become a policy planner, rule setter and leader in technology provision and a link with the outside world. To manage the entire country from a central point and to make the entire staff responsible for water and sewerage delivery and maintenance totally dependent upon the Ministry in Baghdad, both financially and technically, risks reducing local staff initiative, increasing dependency and encouraging undesirable behaviour.

1.104 There is a need to give the staff in the governorates a sense of responsibility to their citizens rather than to Baghdad in order to establish allegiance to the population and not to the centre. This will require training, definition of jobs to be performed, establishment of performance criteria and a working system for monitoring and evaluation. Adequate equipment for data management and communication will be needed as well as regular office equipment.

1.105 Another policy change that is *needed is the establishment of new criteria for imposing fees and rents to be collected by the Ministry* staff at the Governorates level. The present system has not changed to take into consideration the level of incomes and the poverty of a large percentage of the population in certain governorates. The system of imposing fees by the Ministry merits serious consideration to allow for income variations and distinct conditions of the governorates. A review of the present criteria and system of collection is needed.

**Related Costs**

- International expertise to provide training for one year: (3 x $200,000) $600,000
- Training operating costs estimate for 2004: $100,000
- International expertise to review and propose criteria for fees and rents (6 months) (3x $150,000) $450,000
- Highly qualified Iraqi technical staff to manage the new responsibilities for water and sanitation in the governorates (two/governorate) $80,560
- Highly qualified Iraqi technical staff for the Mayorality of Baghdad (though not under the MPW) (9 x $180 x 12) $19,440
- Quick implementation projects for rehabilitation of water, sewage and garbage disposal in Baghdad Municipality $2,000,000
- Quick implementation projects for rehabilitation of water,
sewage and garbage disposal in 18 governorates $18,000,000

- Estimated total: $21,250,000

**Capacity building in governorates and municipalities:**

1.106 The governorates and municipalities are operating at about 50% of staff capacity. With equipment looted and fewer personnel than available posts, these offices need to be refurbished and adequately staffed to provide public services.

1.107 Pending adoption of a clearer policy pertaining to the functions of government at each level, local government offices should be staffed and equipped with the minimum requirements to enable them to fulfil the minimum needs of the local population rather than to strive to return to pre-war or pre-sanctions staff levels relegating most implementation functions to sub-contractors rather than internalizing them within the ministries themselves. While awaiting policy review by Iraqi authorities of an elected government, the current practice of contracting out the delivery of public services especially for the removal of solid waste, for clean up operations and for green areas should be enhanced and institutionalized. The capacity of municipal officers to supervise the work and ensure proper contract implementation should be strengthened. In addition, the functions of all offices and units need to be reviewed once a clearer policy on decentralization has been defined by the Governing Council and/or an elected government. Job descriptions with performance criteria need to be defined. Staff will need training in job related areas.

1.108 The following costs relate only to immediate needs.

**Related Costs**

- International expertise for management change in governorates and municipalities (5 x $200,000) $1,000,000
- Office equipment in 18 governorates and 297 municipalities (including the North) $1,700,000
- Staff training, including overseas study tours $800,000

- Estimated total $3,500,000

**Strengthening the capacity of Local (Legislative) Councils:**

1.109 Local elections need to be held in order to establish local councils that are fully representative of the populations within administrative districts. Extending a structure of administrative delineations covering governorate, district and neighbourhood levels should be considered. The role of these councils should be to ensure that the views of their electorates are heard by the executive branches of local government particularly in the identification of priorities and the preparation of plans, and to provide additional oversight and checks and balances for the implementation of plans and policies. Until such time as the Iraqis themselves can determine the structure and functions of such elected bodies at the local level, the international community should provide the local councils appointed by the CPA and other community leaders with exposure to the roles and functions of legislative bodies at the central and local levels in other functioning
democracies. This can take the form of seminars and workshops organized by international experts on local governance issues.

1.110 It is assumed that prior to the election of such councils, a national census will have been carried out to support the electoral process at national and local levels. It is also assumed that the Constitution will have been accepted by the people and that the policy of decentralization is therein confirmed. No estimates of the assistance needed for the present “Interim Advisory Councils” has been included here since questions have been raised as to their legitimacy. The budget prepared by the Coalition Provisional Authority (CPA) for 2003 and 2004 have included a form of “stipend” to be given to the members of those Councils; in some cases staff assistance has been provided for in 2004, especially for the capital city Council. Nor did this mission attempt to estimate costs for conducting the census.

**Related Costs**

- International expertise to provide comparative experience: (4 x $200,000) $800,000
- Training and workshops $500,000

- **Estimated total**: $1,300,000

**Combating Corruption and Strengthening Financial Management:**

1.111 Public safeguards against corruption need to be introduced if public confidence in government institutions is to be restored. While civil society also must play a watchdog and advocacy role in this effort, changes need to be made to existing structures, processes and practices in order to reduce opportunities for rent seeking. Combating corruption will take time and massive efforts to instill accountability, educate the public, and develop and implement a set of policy measures to reduce the chances for undesirable administrative behavior. The measures summarized below are but first steps in an extended programme that will need to go beyond the period covered by this report.

a. Establishing clear administrative procedures: The present rules of business must be reviewed with the aim of establishing clear and simple procedures that reduce the number of steps involved in decision making, while at the same time ensure their transparency to public scrutiny. Corruption thrives in an environment of complicated and burdensome procedures that are unknown to the public. Rules could be clarified to the public through a number of ways including the publication of a Citizen’s Charter. The more the public is aware of its rights, the more they become a power to demand and obtain the services they need.

**Related Cost:**

- International expertise for establishing administrative rules and procedures: (4 x $200,000) $800,000
- Iraqi experts for establishing administrative rules and procedures: (4 x $50,000) $200,000
- Training trainers to implement new rules $100,000

- **Estimated total**: $1,100,000

---

17 No estimates are included for arranging and implementing elections at national or governorate level.
b. **Job rotation:** It is important to rotate staff in different municipalities and governorates even within the same locality to avoid building a power-base for the individual public servant, especially at higher levels. Job rotation is equally important for job enrichment and for gaining experience and depth of knowledge in different environments. Moving from local government units to the central levels and vice versa would also enrich experience while changing the workplace and the public to serve. International experience shows that job rotation reduces the chances of corruption while benefiting the individual officer. The proposed Public Service Commission and the Civil Service Law would ensure that rotation takes place without prejudice to staff needs and possible special circumstances.

**Related cost:**
- Iraqi experts to assist the Public Service Commission to design and implement Job Rotation programme (4 x $50,000) $200,000

**Estimated total** $200,000

c. **Establishing an Independent Audit Function:**
Systems for expenditure control and management will need to be reviewed and computerized. It is, however, equally important to establish an independent management and financial audit function within a public organization that reports directly to the legislative assembly once it has been established. Such an institution would not be under the Executive Branch of Government, but under the Legislative one. It would serve as a public watchdog with responsibility for both financial and management results. The management audit function would also serve to inform the government and international community that may wish to support more structural reforms as they pertain to management structures, responsibilities, functions, processes and efficiency. The law establishing such an institution would give it adequate authority to examine both the use of funds, the organization and management of public entities and administrative units and would require it to submit its reports to the Legislature.

**Related Cost:**
- International expertise for establishing an Independent public audit function (2 x 200,000) $400,000
- Local expertise (4 x 50,000) $200,000
- Staff training $100,000
- Study tours to countries in the region and in the West $100,000

**Estimated total** $800,000

d. **Procurement Rules and Regulations:** Procurement rules and regulations need to be reviewed to establish transparency and accountability and fill the gaps that facilitate corrupt behavior. The rules and regulations should be applicable wherever public funds are utilized in the administration and public enterprises. Simple and clear rules of procurement should be well known to the public.

The Ministry of Finance would ensure that the rules and regulations are properly implemented through financial inspection and through the process of expenditures approval where this may apply. The Ministry would set expenditures ceilings for different government units and public enterprises
for the procurement of goods and services and monitor the application of all rules and regulations. The Ministry would organize training activities to familiarize procurement officers and financial managers with the legal stipulations of procurement and implementation requirements.

**Related Cost:**
- International expertise to revise and draft new Procurement Law (2 x 200,000) $400,000
- Local expertise to assist in revising and drafting new law (3 x 50,000) $150,000
- Training programmes on procurement practices $100,000

**- Estimated total:** $650,000

e. **Civil Service pay structure design:** Improving the pay level of public officials is an essential protection against corrupt behaviour. While the pay level of public officials is an important consideration, it is only one element in a set of measures to combat corruption. At present, the Coalition Provisional Authority has established a new pay scale for the civil service composed of 13 levels. However, this seems to have been established without proper study of the market and the purchasing power of the Iraqi Dinar. Nevertheless, it is an improvement on the old system in terms of pay level. The whole system needs to be thoroughly reviewed and established on sound economic grounds. The system needs to be closely linked to jobs and performance rather than diplomas.

The pay structure should allow for equality among all public servants and there should not be any distinction between the Northern Iraq and the rest of the country. However, *instead of attempting to lower the pay level of the North, the remainder of the civil service should have its pay levels raised to levels equivalent to those in Northern Iraq.*

**Related Cost:**
- International expertise (2 x $200,000) $400,000
- Local expertise (2 x 50,000) $100,000
- Training of financial managers $50,000

**- Estimated total** $550,000

f. **Installation of a viable information system:** Information technology is not applied in all ministries and the exchange of information is still manually based. While the introduction and application of information technology is vital for all ministries, the immediate priority is for the Ministry of Finance and the Ministry of Public Works as a contribution to the process of combating corruption. Information technology is also needed to record and efficiently manage public property and assets.

Staff will need to be trained to become familiar with information and data processing technology and to appreciate the use and speed of modern communication. Training should also include the maintenance and repair of equipment. Training can be designed in several phases to ensure absorption and on-job application of acquired skills.

**Related Cost:**
- International expertise for systems design and related activities (3x200,000) $600,000
- Iraqi experts for systems design and related activities (4x50,000) $200,000
- Staff training in both ministries $100,000
- Equipment $300,000

**Estimated total** $1,200,000

**Budget Summary (in US$)**

<table>
<thead>
<tr>
<th>Programme</th>
<th>2004</th>
<th>2005-2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support to the Constitutional Committee</td>
<td>490,000</td>
<td>0</td>
</tr>
<tr>
<td>Establishment of a professional civil service</td>
<td>1,935,000</td>
<td>1,800,00</td>
</tr>
<tr>
<td>Support to the Ministry of Public Works(^\text{18})</td>
<td>21,250,000</td>
<td>3,750,000</td>
</tr>
<tr>
<td>Capacity building in governorates and municipalities</td>
<td>3,500,000</td>
<td>10,500,000</td>
</tr>
<tr>
<td>Local (legislative) councils</td>
<td>1,300,000</td>
<td>3,900,000</td>
</tr>
<tr>
<td>Establishing clear administrative procedures</td>
<td>1,100,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Job rotation</td>
<td>200,000</td>
<td>200,000</td>
</tr>
<tr>
<td>Independent audit function</td>
<td>800,000</td>
<td>200,000</td>
</tr>
<tr>
<td>Procurement rules and regulations</td>
<td>650,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Civil service pay structure design</td>
<td>550,000</td>
<td>150,000</td>
</tr>
<tr>
<td>Information systems</td>
<td>1,200,000</td>
<td>700,00</td>
</tr>
<tr>
<td><strong>ESTIMATED TOTAL FOR LOCAL GOVERNANCE</strong></td>
<td><strong>32,975,000</strong></td>
<td><strong>22,450,000</strong></td>
</tr>
</tbody>
</table>

**B. Civil Society**

**Current Status and Issues**

**General**

2.1 With the fall of the Ba’athist regime, Iraq has witnessed an explosion of NGOs, associations and political parties across the country. In Northern Iraq, a civil society movement has already been in existence since the acquisition of significant autonomy in the early 1990s. Many of these organizations have also started to re-establish ties and relations with the Centre to provide support to newly emerging Iraqi NGOs in central and southern Iraq, and public services to local communities.

2.2 Emerging Iraqi *service oriented* NGOs provide services in: humanitarian and relief work, literacy campaigns in rural areas—especially among women—youth support programs, focusing mainly on war affected children and youth, medical and social services, assistance to refugees and the displaced, and the protection of citizens in the face of theft and violence at the level of neighbourhoods.

2.3 All such organizations operate in a legal vacuum. They lack knowledge, expertise and background in community development, outreach services and civic education. They are also in desperate need of both financial and human resources.

\(^{18}\) This budget item’s cost estimate does not include reconstruction needs for the period 2005-2007 as these are covered by the public infrastructure provisions in the Sustainable Livelihoods and Rapid Employment Needs Assessment.
2.4 **Advocacy oriented civil society organizations** are also rapidly emerging. *Transitional justice organizations* have emerged with the aim of bringing to justice those responsible for crimes and human rights violations\(^\text{19}\).

2.5 Meetings with these organizations reveal that they possess classified files retrieved from the Intelligence Services and Ministry of Interior that contain sensitive information and details of court proceedings. They also contain names of judges and prosecutors who have issued court sentences for executions. The risk is multifaceted: disclosure of this information and names of prosecutors can lead to score-settling and revenge acts, instigating more violence and jeopardizing a much needed reconciliation process. Secondly, crucial evidence and information to any investigation process and court procedures could be wasted, lost or tampered with, if immediate action is not taken to deal adequately with evidence and classified information. These organizations are ill equipped to protect, document or treat classified and confidential documents or information. Additional capacity is required in terms of skills, knowledge and methodology as well as infrastructure and equipment. These organizations need to be provided urgently with support to properly handle valuable evidence, classified documents and records.

2.6 In Northern Iraq, the “Ministries of Human Rights” and the Anfal handle transitional justice cases, human rights violations and abuses, committed by the Ba’athist regime. Officials explained that these ministries were created to handle these cases, knowing that such a mandate, task and capacity are not available amongst civil society organizations in Northern Iraq, and would require resources and structures beyond those available to any CSO.

2.7 **Emerging human rights organizations include** those that were established during the Ba’athist regime and were completely neutralized or obstructed from operating at any level. These are emerging today as national human rights institutions defending political, civil, economic and cultural rights of all Iraqi citizens. Some have emerged in the post-conflict period, with the aim of upholding principles and practices of international human rights standards as well as the Universal Islamic Declaration of Human Rights. While all these organizations are primarily created and led by lawyers, or work in close collaboration with the Iraq Bar Association, they lack knowledge of international human rights instruments and laws, universal conventions and treaties, exposure to techniques and methodologies of human rights monitoring, investigations, recourse and appeals. They also lack knowledge and expertise in building autonomous relations with state institutions and structures—key to evolving as an effective accountability force in Iraqi society.

2.8 In the North, human rights organizations enjoy political and legal space in which they exercise their mandates and keep the regional governments in check. In addition, citizens are afforded recourse venues (Ministry of Human Rights) where they can submit their claims against unfair treatment or violations of basic human rights. However, lack of capacity, knowledge and exposure to international forums and conventions on universal human rights and international law, are a significant impediment to the evolution of an effective and genuine human rights movement in the North.

2.9 Under the former regime, *the Iraqi Bar Association* was controlled by the Party and its board dominated by senior Party officials or members. In line with the de-Ba’athification policy, a new and

---

\(^{19}\) A strong demand expressed by these organizations is that an Iraqi led legal process, such as a national criminal tribunal, should be immediately put in place, with assistance from international experts on transitional justice and war crimes.
an interim board was elected, with direct guidance from the CPA Senior Advisor to the justice sector, shortly after the CPA took over civil administration in Iraq.

2.10 The Bar Association held national elections during the course of the mission, open to all lawyers across the country, including lawyers from the North, to emphasise unity and collaboration. The Bar Association elected a Women’s Lawyer Committee to institutionalize women’s legal priorities and concerns and provide a framework within which women lawyers can pursue legal activities and build their capacities and skills in specialized legal fields.

2.11 The Bar Association is in desperate need of capacity building, resources and regional/global exposure. Board members raised several issues of concern including: regional representation and outreach to the various districts and regions; confusion resulting from the CPA law amendments and/or suspension and its impact on the association’s internal governance structure, membership as well as practice; the impact of the de-ba’athification policy on the justice sector which could lead to the loss of intellectual knowledge and institutional memory as prominent judges and lawyers are removed from their positions; the inability of the Bar Association to visit some of the detainees held by the Coalition Forces; and the need for a legal review of Iraqi laws to include articles, for example, that deal with “war crimes” which currently is not included in Iraqi laws. The board also stressed the need for capacity building, training of lawyers, access to legal periodicals, journals and international law instruments and conventions. Introducing IT into the justice and legal system is perceived as an immediate priority.

Current Institutional and Policy Framework

2.12 As discussed above, Interim Advisory Councils have been appointed by the CPA to give residents, in the various districts and regions, a forum in which to participate in rebuilding the infrastructure and institutions of local communities and cities as well as raise issues of concern and recommend solutions, to coalition commanders, responsible for their area, and to appropriate interim Iraqi officials and ministers responsible for the delivery of services.

2.13 Despite the CPA efforts to provide an institutional and legal framework to govern civil affairs as well as legal, economic and public service delivery, the current institutional framework remains inadequate as well as confusing. Civil society organizations expressed frustration and confusion in dealing with the current structures and mechanisms and the inability to access government resources or collaborate with municipal structures and resources. Some collaboration with the Advisory Councils has taken place, but lack of knowledge or experience in decentralized government structures and legal authority, functions and operations are also sources of frustration and impediments to responding to local needs.

2.14 In 1991, a policy of “Arabization” was implemented by the Ba’athist regime forcing large numbers of Kurds, Turkmans and Assyrians to leave their homes and property, particularly in the region around Kirkuk, and become refugees or displaced. Estimates indicate up to 200,000 people were affected under this policy. Further, a decree issued by the Revolutionary Command Council according the “right” of every Iraqi to change his/her ethnic identity into Arab, has left those who defied the decree as either refugees or displaced. In 2002, the US Committee for Refugees placed Iraq among the 10 countries with the highest number of internally displaced peoples, estimated at between 700,000 and 900,000.
2.15 Since the fall of the Ba’ath regime, Internally Displaced Persons (IDPs) have begun reclaiming their properties, and this has become a heated issue and top priority for Iraqi officials in Northern Iraq, civil society organizations across the country, as well as UN and other international agencies. IDPs include Kurds and other nationals affected by the Arabization policy; Arabs who have been replaced by Kurds or Turkomen; and Palestinians who have been evicted from their government subsidized housing. IDPs occupied deserted or damaged public buildings. Others lived in tents. However, with recent CPA prohibition on the occupation of public buildings, the IDP tent population has increased. In light of the heat and difficult living conditions, NGOs and UN agencies are concerned about a possible humanitarian crisis. NGOs have been overwhelmed with demands for relief services and humanitarian aid to address basic human needs of the displaced. The redistribution of land has also become an emotional issue and a flashpoint creating inter-ethnic tension and insecurity in the North.

2.16 De-Ba’athification has directly affected many civil society institutions, such as the labour, professional unions and legal education institutions that will also play an important role in reviving civil society.

2.17 Further, the policy is rapidly leading to added pressure on civil society organizations to provide relief and humanitarian services with very limited financial and human resources. Civil society organizations consulted recommended that a credible and legal process be instituted to punish those who have committed crimes, but offer amnesty to those who are/were members but have a clean criminal record.

**The Constitutional Process**

2.18 There appear to be some common strands leading the current process of preparing a constitution including democracy, human rights; political pluralism, separation of executive, legislative and judicial powers, non-discrimination on ethnic, religious or gender grounds; the rule of law and respect for private property. There is also a keen interest in a participatory approach to drafting and ratifying a new constitution for Iraq, bringing together political, religious, professional and gender interests. The international community, it was stressed, should facilitate the participation of all sectors of society so it becomes a national project. This should provide an important role for civil society in the process.

**Needs and Priorities for the Sector**

2.19 Based on the discussions and needs identified during the assessment mission, the following policy frameworks and mechanisms are recommended to develop a vibrant and dynamic civil society in Iraq.

**NGO Fund for Humanitarian Assistance**

2.20 There is an urgent need to establish a fund to provide capacity building and support to NGOs that provide humanitarian assistance and deliver advocacy services, particularly with a view to providing checks and balances in the context of local governance. Criteria must be established for the selection of NGOs eligible for accessing the fund.

**Related Cost**
Support for a Culture of Civil Society

Immediate attention must be given to fostering a culture of civil society in post-conflict Iraq defined as “the realm where voluntary social organizations, interest groups, political associations, professional groups and social movement, come together in a loose coalition to provide counter entity that keeps state power in check”; and nurturing a notion of civil society as a key force capable of mobilizing and creating a critical mass, implementing outreach programs and acting as a link between citizens and the state. This would entail policy development and public education activities that would highlight the overall concept of civil society, as well as the role, mandate and functions of civil society organizations in good governance, sustainable development and poverty reduction.

Related Costs

Remuneration of regional and international experts: (4 x $500 x 12) $24,000
Travel cost of regional/ international experts: $50,000
Logistics and clerical support (Local NGOs): $20,000
Research papers and Policy Documents $20,000
Translation/interpretation $25,000
Equipment and Facilities $30,000
Communication $1,000

Estimated total: $170,000

Strengthening Organizational, Human and Financial Resource Management

CSOs currently lack essential management skills and require a strengthening of their strategic planning, new public expenditure management and financial budgeting and reporting capabilities. They also lack capacity in developing organizational structures, human resources planning and development, writing project proposals, risk analysis and developing results-based frameworks, as well as project implementation, monitoring and evaluation. Resource mobilization and fund raising skills are also lacking. IT training on modern, electronic techniques and procedures as well as capacity building in various software and computer programs are also essential. During the interim period, technical capacity building activities targeting all civil society organizations in Iraq, including the North, are key to fostering a strong and vibrant civil society. The short-term strategy should be to hold training workshops in different districts and regions. This should be combined with a longer-term strategy of training trainers.

Related Costs

Remuneration of IT experts: (2 x $500 x 30) $15,000
Remuneration of institutional development Experts: (3 x $500 x 30) $45,000
Travel cost of regional/ international experts: $80,000
Logistics and clerical support (Local NGOs): $30,000
Training Material and Supplies $19,000
Strengthening the Capacity of Civil Society for Transitional Justice and Human Rights

2.23 Developing capacity of civil society organizations in transitional justice and human rights is essential to a quick transition to stability, peace-building and security. Transitional justice is key to this process and civil society organizations can play an instrumental role in reconciliation and conflict resolution. Support for CSO capacity development in this field should include promoting respect for human rights, democratic accountability, improving access and knowledge of international humanitarian law and justice, strengthening conflict resolution and negotiation skills, training in the handling of sensitive and confidential material, documentation methodologies and record keeping. Support should include access to legal resources, human rights publications and periodicals and participation in international/regional forums and conventions.

Related Costs

Remuneration of legal and human rights experts: (6 x $600 x 45) $ 162,000
Travel cost of regional/ international experts: $ 71,000
Logistics and clerical support (Local NGOs): $ 45,000
Training Material and Supplies $55,000
Translation/interpretation $15,000
Equipment and Facilities $50,000
Legal Resources and Periodicals $65,000
Communication $1,000

Estimated total: $ 810,000

Capacity Development in Constitutional Processes and Legal Reviews

2.24 Preparation of the constitution should be accompanied by civic education on constitutional issues, democratization and civil rights to be implemented by CSOs. Further, the views of the public on the constitutional reforms should be sought, and consultation on the final draft before its adoption should be facilitated. In addition public forums on federalism and various democratic political systems and models should be created with the support of CSOs to enhance public knowledge on these issues with a view to ensuring that the voice of Iraqis are heard with respect to the creation of a democratic political system that best suits their social, ethnic, religious and political culture while ensuring that the rights of all Iraqi citizens are protected.

Related Costs

Civic Education Campaigns (across the country) $100,000
Constitutional and Political Systems Experts $25,000
Public Consultation and Opinion Polls $100,000
Publications and Policy Documents $50,000
Translation and Printing $70,000
Logistical and Clerical Support  $40,000
Communication  $5,000

Estimated total  $390,000

**Strengthening the Accountability of Government Institutions Through CSOs**

2.25 To help establish CSOs in Iraq as effective actors in supporting efforts to ensure government accountability, CSOs need to be exposed to regional and global achievements, challenges and best practices of CSOs. Participation in regional and international activities and workshops on anti-corruption, accountability/oversight mechanisms should be supported. Membership of Iraqi CSOs in regional and international networks and associations should also be encouraged and supported.

**Related Costs**

- Travel cost for participation in regional and international conferences  $200,000
- Travel cost for study Visits to regional and int’l institutions  $200,000
- Membership in Global/regional forums  $25,000
- Publications and Policy Documents  $50,000
- IT facilities and communication  $305,000

Estimated total  $780,000

**Improving Access to Justice**

2.26 Improving access to justice is a key objective of UN agencies and is closely linked to broader efforts geared to ensuring the universal access to opportunities and the creation of sustainable human development. Access to justice is of particular importance and urgency in post-conflict Iraq. Establishing legal aid centres and alternative dispute mechanisms are essential to ensuring equality of access to justice services, information, facilities and venues for all sections of the population, including women. Developing a central data-base linked to courts and the judicial sector, across the country, is key to providing and facilitating legal aid to all Iraqi citizens.

**Related Costs**

- Creating Legal Aid Centres across the Country  $1,000,000
- Salaries for lawyers and legal personnel (all Iraqis)  $850,000
- Remuneration for IT Experts (legal data bases) (2 x $500 x 45)  $45,000
- Publications and legal libraries  $75,000
- IT facilities and communication  $200,000

Estimated total  $2,170,000

**Budget Summary (in US$)**

<table>
<thead>
<tr>
<th>Programme</th>
<th>2004</th>
<th>2005-2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>NGO fund</td>
<td>2,000,000</td>
<td>6,000,000</td>
</tr>
<tr>
<td>Culture of civil society</td>
<td>170,000</td>
<td>750,000</td>
</tr>
</tbody>
</table>
Organizational, human and financial resource management | 230,000 | 3,150,000
Transitional Justice and Human Rights | 810,000 | 3,200,000
Constitutional Preparation | 390,000 | 0
Accountability and Oversight | 780,000 | 2,500,000
Access to Justice | 2,170,000 | 5,000,000
ESTIMATED TOTAL FOR CIVIL SOCIETY | 6,550,000 | 20,600,000

C. The Rule of Law

Current Status and Issues

General
3.1 Over a period of thirty years, all aspects of the Iraqi justice sector, including judicial training, the administration of justice and legal education have been substantially degraded. The intense politicization of the justice sector has undermined its independence. Corruption of legal actors and the use of torture and others abuses by law enforcement agencies appear to have been endemic. Correctional facilities, harbouring a mixture of political and criminal detainees were venues for murder and other abuses.

3.2 The legal framework has been rendered inadequate and outdated. Key legal actors, including public prosecutors and defenders, have been marginalized by the law and consequently ignored by the judiciary. In contrast to their respective roles in modern civil law systems, in Iraq their role is marginal, in particular in relation to the investigation of crime, the collection of evidence, the questioning of witnesses or the protection of defendants’ due process rights. Legal actors have not had the opportunity to enhance their legal knowledge or skills.

3.3 Access to justice for vulnerable groups is generally unavailable. The role of women in the administration of justice has been restricted through discriminatory policies. Since the mid-1980’s, women were denied posts as judges or public prosecutors. Knowledge of international human rights standards as well as the obligations of Iraq under international law is negligible. There are indications that certain religious groups are likely to restrict the role of women in the future Iraq as well unless appropriate safeguards are introduced in the new constitution.

3.4 There is a lack of adequate law enforcement capacity and court security generally. Failure to improve law enforcement capacity and security will frustrate any legal reform efforts. Court infrastructure, buildings and equipment, have been largely degraded and subject to extensive looting. Forensic capacity, an essential investigatory tool for law enforcement and the courts, is in disrepair, with limited expertise and equipment. Correctional facilities, emptied by the prior regime, are largely non-operational due to disrepair and neglect.

3.5 Comprehensive policies enacting institutional and legal reforms will be necessary in order to create a justice system based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion or gender. Such reforms will take time and have far-reaching social implications. This transformation must, from the beginning, be inclusive and command broad-based Iraqi political support.
The Constitution

3.6 The Iraqi Provisional Constitution of 1970, while not repealed or suspended, has been essentially in abeyance since the beginning of the occupation. In early August, a committee of the Governing Council was established to make the necessary preparations for the drafting of the Constitution. It has subsequently been explained that the Committee was given only procedural powers such as the preparation of the terms of reference, membership and time frame for the creation of a drafting committee to be established at a later date. Several quarters including political parties, lawyers and women are campaigning to be included in the drafting committee to be established so that it reflects the complex geographic, ethnic, political and other interests. There are competing views regarding the selection of the drafting committee. While some propose that the committee should be elected through popular balloting, others find this to be impractical if not impossible and propose the selection by the Governing Council of a technical committee comprising Iraqi jurists, law professors, judges and politicians to prepare a draft that would then be adopted through a plebiscite. The 25-man committee has a maximum period of two months to decide on which of these two competing views to adopt.

3.7 The now defunct Revolutionary Command Council (RCC) played a key role in issuing arbitrary laws and decrees that were predominately inconsistent with the Constitution. The National Council (Parliament) had no power to overrule these decrees. The Constitutional Court, as provided for under the Constitution, was never established. The ordinary courts had no authority to review the constitutionality of laws passed by the RCC. Judges who questioned the constitutionality of such laws and decrees risked dismissal or even imprisonment. Although RCC was abolished as an institution, its decrees are still to be considered formally applicable law.

The Judiciary

3.8 Immediately after the Ba’athist assumption of power in 1968, 60 judges were removed from office. The total number of judges in Iraq today is 700, seven of whom are women (all of them serving in Baghdad).

3.9 The constitution of Iraq included provisions purporting to guarantee the independence of the judiciary. However, these guarantees were not implemented in practice. Prior to the ascendancy of Saddam Hussein’s regime, the High Judicial Council chaired by the President of the Court of Cassation and consisting mainly of judges had the authority over appointment, promotion, transfer, discipline and removal of judges. In 1979, the Iraqi Judiciary Act was promulgated. The High Judicial Council was dissolved and a new Justice Council presided over by the Minister of Justice was established, thus subjecting the judiciary to the powers of the executive. Contrary to past practice when the budget of the judiciary was prepared by the High Judiciary Council and submitted directly to the Head of State for approval, the new law gave this power to Ministry of Justice. The powers of the regular judiciary were further eroded through the establishment of special courts, the enactment of laws containing provisions denying the courts' jurisdiction to entertain cases arising from those laws and the enactment, mostly through RRC decrees, of laws that gave judicial powers to ministers.

3.10 The CPA Administrator has declared that it has suspended the 1979 Iraqi Judiciary Act and has created a judicial review committee. The Committee comprises three Iraqi and three international members all appointed by the Administrator. It claims the powers of, inter alia, investigating and gathering information on “the suitability of judges and prosecutors to hold office”. It is also empowered to “remove judges and prosecutors from office, confirm their continued holding of
office, appoint replacements for judges and prosecutors removed from office and resolve the claims of judges and prosecutors who assert that they were improperly removed from office”.

3.11 The Judicial Training Institute is an establishment in which law degree holders who have three years of experience as lawyers or court staff and wish to become judges or public prosecutors are admitted. They receive two years of training before taking office. Under the past regime, candidates were admitted on a selective basis that took their affiliation to the ruling Ba’ath party into account. The curriculum included material of political ideology and politically defined concept of justice. The affiliation with the Ba’ath party requirement affected the quality of the institute’s graduates and their impartiality as judges or prosecutors. The Institute has accepted no women since 1984. Prior to 1990, the Institute organized exchange visits with similar institutes of the former Eastern Europe, Egypt, Morocco and Jordan. The Institute was subjected to massive looting in May 2003.

The Public Prosecutor

3.12 The roots of the public prosecution system in Iraq go back to the Ottoman era. In 1919, the British administration introduced the Principles of Criminal Trials Act, which contained articles on the role of the public prosecutor taken from Ottoman law. However, the Office had very limited powers and in 1970, Law Number 23 was enacted and dedicated eight articles that sought to enhance the role of the institution. In 1979, the Public Prosecution Act was promulgated. This elaborate law, though theoretically better than its predecessors, gave the institution little practical powers.

3.13 At the top of the institution’s hierarchy are the chief public prosecutor and his two deputies assisted by ten public prosecutors. There is a public prosecutor at every criminal court assisted by a number of deputies. These deputies handle various portfolios such as investigations, juvenile suspects, and misdemeanours.

3.14 Iraq has a civil law system in which investigating magistrates control the criminal investigation and determine whether a case should be sent to trial. The prosecutor may intervene at this stage and appeal to the Criminal Court (in its appellate capacity) to contest the decision of the investigating magistrate whether the case should or should not go to trial. Also, when the police receive a report that a crime has been committed, they must send a copy of the police report to the public prosecutor, who has the power to write to the investigating magistrate recommending appropriate action (including arrest, release or the gathering of further or particular type of evidence). Apart from these general powers, the role of the public prosecutor is confined to representing the State at trial and, if necessary, filing an appeal. Members of the defence bar informed the assessment team that public prosecutors often failed to attend trials.

3.15 Prior to 1988, the public prosecutors in all areas but Northern Iraq were on the same salary scale as judges. By 1990, their total number reached 250 persons. Thereafter wages for judges were enhanced, leading to a decreased interest in the office of the public prosecutor. Since 1993, no graduate of the Judiciary Institute joined the public prosecutors office. Today, the total number of serving public prosecutors stands at 151. These are not all career public prosecutors, as some of them were judges who were seconded to serve for periods not to exceed three years each and mostly against their individual wishes.

3.16 The chief public prosecutor is of the opinion that the system should be reviewed to give the public prosecutor a more effective role in the pre-trial procedure than the investigating magistrate.
The Legal Profession

3.17 The mission coincided with the first free elections of the Iraqi Bar Association that took place in August 2003. Previously, senior members of the Iraqi Bar were represented by political appointees of the regime rather than independent members of the Bar Association.

3.18 Members of the assessment had the opportunity to observe the election process, which was generally fair and democratic. It brought into being a new leadership that is not connected with the old regime and which has expressed an interest in improving the situation of the Bar Association. It should be noted, however, that lawyers from the Kurdish areas did not participate in these elections. They have established their own independent association under the legislation of the Kurdish Parliaments.

3.19 The Bar Association might be used as a centre for continuing legal education, for research facilities, to equip it and its various branches with a working modern legal library including textbooks and periodicals from abroad.

3.20 The Bar Association is also well situated to act as the conduit for providing access to justice through free legal representation to the indigent. Iraqi Bar Association law no. 173 of 1965 provides mechanisms for indigent defendants to request the court to provide them with free legal representation, which is then referred to the Bar Association.

Legal Education

3.21 There are 12 government subsidized law schools in Iraq and 3 private ones. During the Ba’ath regime, corruption, co-optation and nepotism led to the deterioration of education standards and the quality of knowledge provided to students attending these universities. This trend has been particularly intensified in the mid 1990s. Although the regime did not exercise any direct interference in the curriculum, an environment of fear and power abuse prohibited any serious critique of current laws, research or development. In addition, universities endured total isolation from international legal forums and debates or exposure to contemporary law instruments, literature, methodologies and conventions. Internet access was very limited. University fellowships or participation in international conferences were also prohibited.

3.22 The Faculty of Law in Baghdad University has suffered tremendous losses in terms of resources and infrastructure during the conflict. The de-Ba’athification policy is also threatening the universities with academic crises. At the end of our meeting, we were handed a letter, signed by the former dean of the Faculty of Law and University professors, to deliver to the SRSG in Baghdad, the SG and the heads of other UN agencies, appealing to the UN with grievance resulting from this policy. There were also concerns about law amendments issued by the CPA and their contradiction with the legal system or “applicable” laws in Iraq. Concerns were also expressed about marginalization of prominent constitutional experts and law professors in Iraqi universities and excluding them from the constitutional commission mandated to draft Iraq’s future constitution.

3.23 Law schools in Iraq are a major provider of lawyers, legal personnel and judges to the justice and security sector in Iraq. The need for capacity building, access to legal documents, instruments and information remains acute. The reforms targeting the Iraqi judicial institute were welcomed and an urgency to address the legal and judicial sector needs as a whole was strongly stressed.
3.24  *Access to justice* is rather poor and institutions and mechanisms to facilitate legal access and services to citizens are non-existent. Although Iraqi criminal law provides for defence rights and access to lawyers for those in need, however, no institutional structures or legal aid centres were developed for that purpose. The Bar Association has provided, in the past, some free services to needy citizens. Recently, the CPA initiated a criminal defense counsel program. Lawyers who perform legal services for needy clients receive $2 per hour, up to 125 hours. To date, $100,000 has been disbursed in Baghdad under this program. This is an area that requires immediate attention.

**Law Enforcement**

3.25 Under the prior regime, the police and the intelligence apparatus were tools of oppression. Post-war they were initially dismantled by the CPA and then reconstituted, subject to the de-Ba’athification policy. The entire law enforcement apparatus suffered from the loss of buildings, vehicles and equipment. In addition, the release of tens of thousands of prisoners together with the widespread possession of firearms by the population has led to the appearance of widespread lawlessness and insecurity.

3.26 The CPA is currently developing a strategy for law enforcement, which includes increasing the current 36,000 law enforcement officers to approximately 65,000. The CPA intends to replace the current quick impact training programs on international standards with substantive training for all law enforcement officers, to take place in Hungary. The Iraqi police do not have the numbers, equipment, or legitimacy to act as an effective deterrent to lawlessness. Though training programs are focusing on international standards, there is concern on the approach to training on the applicable law. For example, the law on powers of arrest, detention and interrogation appear not to comply with international human rights standards.

**Approaches To Transitional Justice**

3.27 Decades of war and repressive rule are said to have produced over a hundred mass graves. The erosion of civil society, thousands of incapacitated individuals, hundreds of thousands of refugees and internally displaced persons and tens of thousands of political exiles. Recent wars have claimed unknown numbers of civilian casualties. As referenced earlier, the organs of justice in Iraq have been substantially degraded.

3.28 The re-establishment of the rule of law after such a period of violent conflicts and repression constitutes a crucial, though difficult, task. Conflicts included widespread human rights abuses and violations of humanitarian norms. For Iraq to overcome its gruesome past, through adequate investigation and truth recovery, it must thoroughly unearth such events.

3.29 The international community has accumulated a wealth of experience in the area of transitional justice including the creation of international tribunals, mixed tribunals, truth and reconciliation commissions (with or without trials), ad hoc national courts, and judicial reform initiatives of varying depths. Nevertheless, there is no ready-made model which can be said to be entirely appropriate for Iraq.

3.30 The peculiarity of the Iraqi situation lies for example on the following factors:

- The outgoing regime was overthrown by a foreign coalition and was not the product of national struggles that created a victorious party or a domestic coalition;
- The CPA has appointed an Interim Governing Council to be followed by a duly elected government that would be recognized by the international community.
The CPA is implementing its own programs for addressing transitional justice issues. Its human rights program has a transitional justice component that has developed detailed activities seeking to engage Iraqi human rights and civil society groups in the development of policy on compensation, the exhumation of mass graves and the creation of memorials.

3.31 The main challenges and questions that face transitional justice in Iraq include the following:

- Whether the investigation to the acts of the prior regime would be assigned to the transitional government, the occupying powers, the United Nations or a combination of these entities. So far the occupying authority has assumed a leading role in this regard. Some of its actions, such as allowing the exhumation of mass graves, may complicate a proper investigation in the future and affect the admissibility of evidence gathered in the absence of duly established investigative body. Some leading members of the Governing Council have expressed their preference for a mixed investigative body and a mixed international tribunal. Some are supporting a pure national Iraqi process. A panel within the Governing Council is considering these options.

- The extent to which the reformation of the Iraqi legal system would be an Iraqi owned and led process, taking account of broad international experience and involve wider consultation with the Iraqi jurists and stakeholders. Existing evidence suggests that the occupying authority in Iraq intends to play the leading role in the area of legal and judicial reform. Contracts have already been tendered to private American firms to undertake the said legal and judicial reform;

- Whether the issue of national reconciliation would be addressed during the transitional period, and, if so, what roles would be assigned to the occupying authority and the UN? Would the reconciliation envision the establishment of some kind of a Truth and Reconciliation Commission?

- How the nascent Iraqi civil society would be empowered to play a role in the framing of the transitional justice issues, and, if so, what should that role be?

- It is too early to suggest a concrete plan of action for transitional justice in Iraq. This will depend on the overall process of transfer of sovereignty to a representative Iraqi government and the role the UN and the international community will be requested to play.

Status of Physical Infrastructure

3.32 During the recent war, the vast majority of court buildings were either destroyed or damaged. All appeared to have been looted, with court equipment and court records stolen or destroyed. Currently, most courts appear to be without the basic essentials for administering justice, from courtrooms to desks and chairs, paper and pens to electricity.

3.33 The CPA has recently consolidated the criminal courts in Baghdad. It intends to launch a rehabilitation effort of the criminal court infrastructure, focusing on the Central Criminal Court, a court for felony offences.

Current Institutional Framework

3.34 The CPA is generally relying on the institutional and legal framework of the prior regime. The most critical component appears to be the Ministry of Justice, which retains executive authority
over the judiciary. The general consensus of Iraqi legal actors is the removal of the judiciary from the Ministry, and empowering a new judicial body with powers of appointment, removal and discipline.

**Amendments to Applicable law**

3.35 The CPA has undertaken a review of the relevant criminal laws, either suspending or annulling certain provisions that it has determined to violate international standards of due process. The assessment team understands that further amendments will be undertaken in relation to sentencing provisions.

3.36 OHCHR considers that the amendments are insufficient in that they are not an exhaustive review of the criminal laws for compliance with international standards. For example, Iraq’s obligations under international law should be used to void current provisions of the applicable law as well as fill in gaps. All Revolutionary Command Council decrees, currently part of the applicable law, should be reviewed and where necessary, suspended. They should then be annulled by a future Iraqi government.

**Needs and Priorities for the Sector**

3.37 The following policy frameworks and mechanisms are recommended so as to develop the basis for a fair and effective justice system. All activities undertaken must be in compliance with international law, including international humanitarian law and international human rights law. In addition, these recommendations pertain to activities that shall take place before the formation of an internationally recognized representative government established by the people of Iraq. The determination of future needs for the Rule of Law will require further assessments, and current financial provisions are hence of a very conservative nature.

**Refurbishment of Local Judicial Infrastructure**

3.38 The rehabilitation and equipping of essential local judicial infrastructures such as courts and judicial training centers, will be an essential step towards improving the efficiency of the judicial system.

<table>
<thead>
<tr>
<th>Refurbishment of Local Judicial Infrastructure</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rehabilitation of Infrastructures</td>
<td>15,000,000</td>
</tr>
<tr>
<td>Equipment and facilities</td>
<td>5,000,000</td>
</tr>
<tr>
<td><strong>Estimated total</strong></td>
<td><strong>$ 20,000,000</strong></td>
</tr>
</tbody>
</table>

**Review and Reform of the Legal Framework**

3.39 So as to ensure compliance with international human rights standards, in the short term, there is critical need for further review and amendment to the Iraqi Criminal Procedure Code and Penal Code, particularly with a focus on the powers of law enforcement and due process rights.

<table>
<thead>
<tr>
<th>Review and reform of the Legal Framework (short term actions)</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration of regional and international experts</td>
<td>2 x $500 x 30 = $30,000</td>
</tr>
<tr>
<td>Travel costs of regional/international experts</td>
<td>$30,000</td>
</tr>
<tr>
<td>Logistics and clerical support</td>
<td>$10,000</td>
</tr>
</tbody>
</table>
### Strengthening the Independence of the Judiciary

3.40 A strong, independent and impartial judiciary is essential to the establishment of, and respect for, the rule of law and legal institutions. The authority to select and dismiss judges should be removed from the Ministry of Justice. A new judicial body, for example, a Judicial Reform Commission, should be created and empowered with the appointment, removal and disciplining of judges. It could also be tasked with advising on legal reform efforts.

<table>
<thead>
<tr>
<th>Strengthening the Independence of the Judiciary</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Development (infrastructure, facilities and equipment)</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Training and professional development</td>
<td>$200,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$1,200,000</td>
</tr>
</tbody>
</table>

### Strengthening Legislative Drafting Capacity

3.41 Though current law making is within the jurisdiction of the Occupying Power, attention must be given to the legislative drafting capacity of Iraqi legal actors. Iraqi legal actors confirmed that the legislative drafting unit is within the Ministry of Justice. Immediate attention must be given to build the capacity of this unit.

<table>
<thead>
<tr>
<th>Strengthening the Legislative Drafting Capacity</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative drafting expert for concept paper (1 x $500 x 14)</td>
<td>$14,000</td>
</tr>
<tr>
<td>Remuneration of IT experts (2 x $500 x 30)</td>
<td>$30,000</td>
</tr>
<tr>
<td>Remuneration of legislative drafting experts for implementation of program (2 x $500 x 100)</td>
<td>$100,000</td>
</tr>
<tr>
<td>Travel cost of regional/international experts</td>
<td>$100,000</td>
</tr>
<tr>
<td>Logistics and clerical support</td>
<td>$46,000</td>
</tr>
<tr>
<td>Training materials, printing and supplies</td>
<td>$100,000</td>
</tr>
<tr>
<td>Translation/Interpretation</td>
<td>$100,000</td>
</tr>
<tr>
<td>Computer equipment and Facilities</td>
<td>$100,000</td>
</tr>
<tr>
<td>Computer training</td>
<td>$50,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$640,000</td>
</tr>
</tbody>
</table>

### Developing The Capacity of Correctional Institutions

3.42 Establishing/Refurbishing humane correctional facilities and training methodologies based on international human rights standards is essential to fostering respect for detention institutions and staff.

<table>
<thead>
<tr>
<th>Developing Capacity of Correctional Institutions</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional development (infrastructure, facilities and equipment)</td>
<td>$5,000,000</td>
</tr>
</tbody>
</table>
Training and professional development $200,000
Estimated total $5,200,000

**Developing The Capacity of The Judiciary and Prosecutors**

To ensure a strong, effective and fair judiciary, establish training programs for current legal actors on international human rights standards, developments in international criminal law and modern approaches to basic legal skills for judges and prosecutors. Moreover, to enhance their awareness of legal developments in civil law systems, ensure exposure to the achievements, challenges and best practices, both regionally and globally.

<table>
<thead>
<tr>
<th>Developing Capacity of The Judiciary and Prosecutors</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration of training experts (4 x $500 x 30)</td>
<td>$60,000</td>
</tr>
<tr>
<td>Training materials and supplies</td>
<td>$50,000</td>
</tr>
<tr>
<td>Translation/interpretation</td>
<td>$20,000</td>
</tr>
<tr>
<td>Equipment and facilities</td>
<td>$50,000</td>
</tr>
<tr>
<td>Printing</td>
<td>$20,000</td>
</tr>
<tr>
<td>Travel cost for visits to regional and international legal institutions</td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>Estimated total</strong></td>
<td><strong>$400,000</strong></td>
</tr>
</tbody>
</table>

**Developing The Capacity of The Judicial Institute**

To ensure a strong, effective and fair judiciary, establish training programs for putative judges and prosecutors on international human rights standards, developments in international criminal law and modern approaches to basic legal skills. Moreover, to enhance their awareness of legal developments in civil law systems, ensure exposure to the achievements, challenges and best practices, both regionally and globally. Reformation of the current curriculum is also essential.

<table>
<thead>
<tr>
<th>Developing The Capacity of The Judicial Institute</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional development of the Judicial Institute (infrastructure, materials, facilities, equipment)</td>
<td>$1 million</td>
</tr>
<tr>
<td>Remuneration of legal and human rights experts for review and revision of curriculum</td>
<td>$20,000</td>
</tr>
<tr>
<td>Remuneration of training experts (2 x $500 x 30)</td>
<td>$30,000</td>
</tr>
<tr>
<td>Travel cost for visits to regional and international legal institutions</td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>Estimated total</strong></td>
<td><strong>$1,250,000</strong></td>
</tr>
</tbody>
</table>

**Developing The Capacity of Defenders**

Enhance understanding of international human rights standards in relation to due process rights, developments in international criminal law and modern approaches to basic legal skills. Moreover, to enhance their awareness of legal developments in civil law systems on the role of defence counsel, ensure exposure to the achievements, challenges and best practices, both regionally and globally.

<table>
<thead>
<tr>
<th>Developing Capacity of Defenders</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration of training experts (4 x $500 x 30)</td>
<td>$60,000</td>
</tr>
<tr>
<td>Training materials and supplies</td>
<td>$50,000</td>
</tr>
<tr>
<td>Translation/interpretation</td>
<td>$20,000</td>
</tr>
<tr>
<td>Equipment and facilities</td>
<td>$50,000</td>
</tr>
<tr>
<td>Printing</td>
<td>$20,000</td>
</tr>
<tr>
<td>Travel cost for visits to regional and international legal institutions</td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>Estimated total</strong></td>
<td><strong>$400,000</strong></td>
</tr>
</tbody>
</table>
### Developing Capacity of the Forensic Institute

A critical investigatory tool in the effective investigation of criminal offences is forensic science. A failure to develop such tools will result in law enforcement relying on interrogation as the sole source of evidence development. Such a practice will undermine efforts to foster respect for legal institutions and the rule of law.

<table>
<thead>
<tr>
<th>Developing Capacity of the Forensic Institute</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional development (infrastructure, facilities and equipment)</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Training and professional development</td>
<td>$200,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$1,200,000</td>
</tr>
</tbody>
</table>

### Developing Monitoring Capacity

In order to track the progress of legal reform, it will be essential to establish a monitoring mechanism of the justice sector (courts, police and prisons). Such a mechanism will identify individual and systemic human rights violations occurring in the justice sector and report them to the authorities for corrective action. Monitoring mechanisms will also assist the courts, government, NGOs and donors in targeting the areas for further reform and funding. A monitoring mechanism can be placed within the Ministry of Justice or a Human Rights Commission. Best practices of monitoring mechanisms should be utilized.

<table>
<thead>
<tr>
<th>Developing Capacity of Monitoring Mechanism</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional development (infrastructure, facilities and equipment)</td>
<td>$500,000</td>
</tr>
<tr>
<td>Remuneration of legal and human rights experts (2 persons for 12 months)</td>
<td>$200,000</td>
</tr>
<tr>
<td>Travel Costs of international experts</td>
<td>$50,000</td>
</tr>
<tr>
<td>Training Materials and Supplies</td>
<td>$50,000</td>
</tr>
<tr>
<td>Translation/Interpretation</td>
<td>$20,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$820,000</td>
</tr>
</tbody>
</table>

### Strengthening Capacity for Approaches to Transitional Justice

Iraqi political and legal actors are still considering their approach to dealing with crimes of the prior regime. The international community has accumulated a wealth of experience in the area of transitional justice including the creation of international tribunals, mixed tribunals, truth and
reconciliation commissions, ad hoc national courts and various judicial reform initiatives. Such experience could assist in policy development and implementation.

<table>
<thead>
<tr>
<th>Strengthening Capacity for Approaches to Transitional Justice</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration of legal and human rights experts (6 x $500 x 7)</td>
<td>$21,000</td>
</tr>
<tr>
<td>Travel cost of experts</td>
<td>$50,000</td>
</tr>
<tr>
<td>Logistics and clerical support</td>
<td>$20,000</td>
</tr>
<tr>
<td>Materials and supplies</td>
<td>$20,000</td>
</tr>
<tr>
<td>Translation/interpretation</td>
<td>$15,000</td>
</tr>
<tr>
<td>Equipment/facilities</td>
<td>$54,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$180,000</td>
</tr>
</tbody>
</table>

**Support for Institutions for Legal Education**

3.49 Legal institutions in Iraq are in dire need of institutional development aimed at modernizing the legal profession. They lack electronic facilities and networks linking them to regional and international law institutions and legal forums. Support for the review of curricula and academic programmes and materials should also be provided.

<table>
<thead>
<tr>
<th>Support for Institutions for Legal Education</th>
<th>USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional development (infrastructure, facilities and equipment)</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Legal publications and resources</td>
<td>$500,000</td>
</tr>
<tr>
<td>Training and professional development</td>
<td>$200,000</td>
</tr>
<tr>
<td>Fellowships and academic exchanges</td>
<td>$200,000</td>
</tr>
<tr>
<td>Estimated total</td>
<td>$2,400,000</td>
</tr>
</tbody>
</table>

**Budget Summary (in US$)**

<table>
<thead>
<tr>
<th>Programme</th>
<th>2004</th>
<th>2005-2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refurbishment of Local Judicial Infrastructures</td>
<td>20,000,000</td>
<td>0*</td>
</tr>
<tr>
<td>Support for Review of the Legal Framework</td>
<td>90,000</td>
<td>27,000</td>
</tr>
<tr>
<td>Independence of the Judiciary</td>
<td>1,200,000</td>
<td>800,000</td>
</tr>
<tr>
<td>Legislative Drafting Capacity</td>
<td>640,000</td>
<td>1,520,000</td>
</tr>
<tr>
<td>Correctional Institutions</td>
<td>5,200,000</td>
<td>15,600,000</td>
</tr>
<tr>
<td>Capacity of the Judiciary and Prosecutors</td>
<td>400,000</td>
<td>1,300,000</td>
</tr>
<tr>
<td>Capacity of the Judicial Institute</td>
<td>1,250,000</td>
<td>950,000</td>
</tr>
<tr>
<td>Capacity of Defenders</td>
<td>400,000</td>
<td>1,300,000</td>
</tr>
<tr>
<td>Capacity of the Forensic Institute</td>
<td>1,200,000</td>
<td>800,000</td>
</tr>
<tr>
<td>Monitoring Capacity</td>
<td>820,000</td>
<td>2,460,000</td>
</tr>
<tr>
<td>Transitional Justice</td>
<td>180,000</td>
<td>540,000</td>
</tr>
<tr>
<td>Legal Education</td>
<td>2,400,000</td>
<td>7,200,000</td>
</tr>
<tr>
<td>ESTIMATED TOTAL FOR THE RULE OF LAW</td>
<td><strong>33,780,000</strong></td>
<td><strong>32,740,000</strong></td>
</tr>
</tbody>
</table>
*This budget item’s cost estimate does not include reconstruction needs for the period 2005-2007 as these are covered by the public infrastructure provisions in the Sustainable Livelihoods and Rapid Employment Needs Assessment.

D. Media and Communications

Current Status and Issues

Introduction

4.1 The report is based upon meetings and discussions with media professionals, representatives of the CPA and international media NGOs. Furthermore, we have benefited from a number of media assessments carried out by international media NGOs.

4.2 For the past three decades, the regime of Saddam Hussein employed a variety of methods, some extremely harsh, to control the media. The Iraqi Ministry of Information employed several thousand journalists and civil servants, issued a number of publications and ran the national news agency, as well as a national broadcast network. The internet was monitored and of limited access. The Kurdish north, however, enjoyed a relatively free press. Iraqi press in exile has also thrived, while diaspora media outlets have acted mainly as advocates for various political factions.

The Present Iraqi Media Sector

4.3 Print: there are a large number of newly established newspapers and magazines in Baghdad and elsewhere, ranging to about 140 publications of which 90 are published in Baghdad. Many are considered partisan with political and/or religious agendas. Most of them are run by individual entrepreneurs. Few have wide distribution or are self-sustaining. There are also publications such as Al-Sabah and Somer which are sponsored by the CPA, as well as publications produced outside of Iraq, such as Azzaman and Al Nahdah. The latter two are considered to be the most professional publications.

4.4 Broadcast: Although there have been no studies of media consumption, media NGOs such as the BBC Trust as well as our own informal surveys have determined TV as the most popular medium. While television was tightly controlled before the fall of the regime when satellite dishes were forbidden, one can now see a proliferation of dishes on buildings around cities. Using the remnants of the national TV infrastructure, the CPA set up its own Iraqi media network (IMN), to act as a basic news service as well as the mouthpiece of the CPA, disseminating its messages. The IMN is still of relatively limited standard and coverage, and cannot compete with the popular Arabic satellite channels Al-Arabia, Al-Jazeera and Iran’s Alalam. However, it is planned as the embryo for

---

Internews: “Framework for Change: Transforming Iraq’s Media Landscape” May 2003; Executive Summary, Athens”“Designs for Democratic Media in Iraq,” (June 1, 2003)
the future state system, with AM and FM radio outlets and a television network capable of reaching about two-thirds of Iraqi homes. In the north and western part of the country, two Kurdish satellite channels (Kurdistan Satellite TV and Kurdsat) disseminate a mixture of entertainment, cultural programming and news, often with a politicized slant. They are each linked to the two main political factions in Kurdistan. A terrestrial channel is also broadcast from Kurdistan.

4.5 Broadcast media is more energetic in the south, where new TV and radio stations have emerged in several cities, some backed by religious groups or small groups of intellectuals. British forces in Basra have established a relatively large radio station.

4.6 There are several local radio stations transmitting mainly on MW frequencies, featuring music and local information. Short-wave and medium-wave radio listeners also have access to a wide range of general Arabic language services from the Middle East and international broadcasters.

4.7 There is still a low level of Internet penetration in the country.

4.8 Despite the proliferation of new media, the Iraqi people continue to cite a lack of reliable, credible and complete sources of information about current events, humanitarian issues, social services, the administration and its regulations, the political process and the security situation.

Status of the Physical Infrastructure

4.9 Due to the flat terrain and absence of high buildings, there is an extensive network of relay masts throughout the country for both TV and radio. With the exception of Baghdad and some other major cities that were badly hit by bombing and where looting has destroyed most of what was left, this relay network is believed to be largely undamaged. Thousands of Iraqis are now buying personal satellite dishes to receive Arabic-language broadcasts from outside Iraq.

4.10 As for print media, there are a substantial number of private printing houses throughout the country. However, many of them are in poor shape with outdated technology. Although newsprint can be purchased from neighbouring countries, lack of financial venues and proper commercial chains may result in a black market in print paper. Furthermore, as the old system collapsed, newspapers have to rely on new mechanisms for distribution.

4.11 The Post and Telecommunication system will need major repair in order to facilitate Internet capacity. An Internet exchange point (IPX) is needed for Iraq.

Human Resources

4.12 Media professionals have either worked in the Ministry of Information or have recently entered the media fray. Many Iraqi journalists were trained in information gathering and have high levels of technical skills, particularly in broadcast engineering. However, many are unschooled in professional reporting, editing and management and many are motivated by a politicized or religious agenda. Most Iraqi media professionals also lack business and advertising expertise which could make new media initiatives sustainable and of wide circulation.

Current Policy Framework/Current Institutional Framework

4.13 The centralized and tightly controlled information system housed in the Ministry of Information and the ban on outside sources of information ceased to exist under the Coalition Provisional Authority (CPA.). However, the closing down of the Ministry of Information also
resulted in the dismantling of distribution and broadcasting systems, the main national printing plants, the national news agency and several newspapers. Several thousand employees lost their jobs, which has caused resentment among the former public employees, including journalists.

4.14 Iraq currently lacks laws guaranteeing freedom of expression and a regulatory framework to license and allocate frequencies in a fair and equitable manner. The CPA has issued strict directives on operations of the media, and its responsibility for overseeing both regulation as well as operations raises questions as to its role in developing media support and providing the building blocks for independent media. The CPA has plans to establish a media commission, based on a proposal by US based media NGO Internews, to adjudicate complaints and oversee the creation of a public broadcaster. The CPA intends to provide an interim regulatory framework for the media sector until a new Iraqi constitution can lay the groundwork for media legislation that guarantees free and independent media.

4.15 There are at present two loosely organized associations of journalists—one based on members of the former Information Ministry and the other formed by Diaspora Iraqis. However there is a need for a more formalized association to help meet the immediate challenges facing Iraqi journalists and the more long-term professional issues to be addressed during the transformation process.

**Needs and Priorities for the Sector**

4.16 The Universal Declaration of Human Rights in its Article 19 states that: “Every one has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

4.17 Iraq has the potential for a thriving independent and professional media. However, assistance is needed to develop a policy framework and establish nation-wide media, such as an independent public broadcast system, to ensure all Iraqis have equal access to credible and relevant information.

4.18 The media have an active role to play in poverty reduction and conflict management in Iraq, as media can strengthen public awareness of available options and self-confidence of the participants in public debate.

4.19 Media development in Iraq should proceed based upon four pillars: a legal system including freedom of expression legislation and broadcast licensing; full and accurate information on the humanitarian and social services as well as the present political process—with fair access, especially leading up to elections; an independent, nation-wide public broadcast system; and capacity building to professionalize the entire sector. Furthermore, any assistance to media should be implemented independently from political, military, economic and other interests of donors and multilateral bodies as well as recipients such as political parties or religious affiliations. Lastly, any assistance must take a broad-based, cross-sectoral and holistic approach. There is a vital need to include not only media but also other sectors of society to create awareness of the role of an independent media, i.e. judiciary, officials, political leaders, civil society, religious leaders. The CPA’s new media commission has proposed an independent media authority of Iraqis under whose auspices much of the above would be carried out.
2004 needs; Policy and institutional changes

4.20 In Iraq, 2004, the potential role of media as the non partisan provider of information on Iraq to the civilian population cannot be underestimated and must be supported in order for Iraq to emerge from the current chaos and prepare for its democratic future. The Iraqi people must have access to credible information on the political process leading towards elections, on humanitarian assistance and social services, on law and order, and on economic and financial developments. Iraqis interviewed have also stressed the need for a media that reflects and respects Iraqi culture.

4.21 The most effective option in terms of media and communications is the establishment of an independent, nation-wide public broadcast system, with consideration for regional needs and context and the establishment of a market for media products. The national broadcaster should be based in Baghdad with strong links with and editorial control in the regions. Such a system would require restoring and upgrading the national broadcast network, training or retraining journalists and technicians; and forming an independent board of directors and secretariat. Funding must be sought and assured until such time as revenues can be raised domestically.

4.22 As for market development, incentives such as the establishment of a media loan fund should be considered.

4.23 In parts of Iraq where local structures have disintegrated, it may be necessary to set up temporary information channels to provide information on humanitarian and social issues. This should however, not be confused with media development nor should it replace strategies for assistance to sustainable independent media. The CPA-funded media commissioner has proposed to establish an independent media authority of Iraqis who would themselves establish an independent, national public service broadcaster, in time for elections and possibly in cooperation with an implementing partner.

4.24 Other quick impact response to immediate needs:

- Media centers – UNDP and UNAMI are setting up media centres in Baghdad, Basra and Erbil.
- Retraining former media professionals in practical reporting in covering current challenges such as peace process, political transformation and election processes
- Policy guaranteeing freedom of expression and regulatory framework for broadcast licensing should be formulated. The UN acknowledges the effort on the part of the CPA to plan a comprehensive strategy for the interim administration of the above. The international community under the auspices of the UN can provide appropriate inputs for the development of a regulatory policy framework, which should be shaped and driven by local participants, and taking into account both public and private media.
- A joint international-Iraqi media conference should be convened in Baghdad to enable discussions on media policy.
- Restart local broadcasting where Iraqi staff, facilities and security exist (Basra and South Central Iraq), which can later link up with national public service network.\(^5\)

\(^5\) BBC World Trust
Medium and long term needs and policy and institutional changes

4.25 Legal issues
- The new Iraqi Constitution should include provisions guaranteeing freedom of expression and a free press, deriving from internationally recognized standards such as Article 19 of the Universal Declaration of Human Rights.
- It is also recommended that the national independent public service broadcast system should be enshrined in law guaranteeing its independence and method of financing. News agencies should also be guaranteed their independence from government control.
- A permanent independent Iraqi regulatory body should be established ensuring equal access to the broadcast spectrum, taking into account the diversity of the Iraqi population. Iraqi media should be encouraged to develop a professional, self-regulatory code of ethics incorporating international standards.

4.26 Capacity building and awareness raising
- Retraining and awareness raising on democratic media for all groups of media professionals.
- Develop management and business skills of media outlets.
- School of journalism at university level: re-start UNESCO initiative at Baghdad University on journalism, to include training of journalists, training of trainers, as well as development of research on media and communication. This should also be extended to other universities.
- Build awareness of public officials, police, judiciary, academia and educators and civil society on role of independent media and on dealing with media.
- Promote, in partnership with relevant international professional organizations, international labor standards and economic conditions for media professionals to help ensure independence and prevent corruption.
- Promote safety training for journalists.
- Encourage Iraqi media community to continue to discuss and enhance professional standards. Assistance in this effort can be done through partnership between Iraqi media associations and relevant international professional associations. Neither government nor associations should require journalists to be accredited in order to work.

4.27 Infrastructure, public services and market
- Develop, strengthen and expand national independent public broadcast system, with regional and municipal branches. It is crucial that such a network be well resourced, professional and technically advanced as the competition will be stiff from satellite broadcasters outside Iraq. An Iraqi public broadcast network must be available through terrestrial as well as satellite systems. There will also be a crucial need to find or develop Iraqi professionals to run the public broadcast system. Perhaps this could be achieved initially through partnering with experienced media NGOs.
- Assist where appropriate in developing the necessary printing and distribution situation to help ensure a viable print press in both rural and urban areas.
- Help create conditions for a genuine private media market by means of support for start up costs, professional expertise, equipment and materials and distribution assistance. This could be administered through an independent Media Development Fund administered by respected local media professionals from across all communities, which can provide low cost loans to help new media get established. However, external funding cannot be a substitute for development of a domestic market.
• Further develop nation-wide Internet capacity and access. Promote system of public information space that includes publication of all laws, regulations, and other public documents

**Proposed Budget Summary**

Other than the CPA budget it is impossible to determine current private sector expenditures for media products, nor is that relevant in the context of media’s role as an independent part of civil society.

**Programmes for 2004**

For 2004, the following activities should be initiated for quick impact as well as initiation of mid-term and long-term activities:

- **Humanitarian information**
  - US$2,000,000
- **Initiate national regulatory policy framework**
  - US$250,000
- **Start up of national broadcast network**
  - US$20,000,000
- **Media centers in Baghdad, Erbil and Basra**
  - US$400,000
- **Professional capacity building**
  - US$450,000
- **International media conference in Iraq**
  - US$130,000
- **Assistance to local broadcasters**
  - US$1,500,000
- **Assistance to infrastructure of print media**
  - US$1,450,000

**Sub-total**

US$26,180,000

**Medium- and long-term activities:**

- **Development of Iraqi media legislation**
  - US$300,000
- **Full development and implementation of an independent national public service broadcaster**
  - US$200,000,000
- **Professional capacity building**
  - US$2,450,000
- **Capacity building of school of journalism including research– university level**
  - US$400,000
- **Capacity building of public officials and civil society on role of media as well as dealings with media**
  - US$400,000
- **Support the organization of Iraqi journalist associations and unions**
  - US$350,000
- **Further development and strengthening of print media infrastructure**
  - US$3,000,000
- **Establishment of Media Development Fund**
  - US$3,000,000
- **Development of Iraqi Internet capacity**
  - US$2,000,000

**Sub-total**

US$211,900,000

**GRAND TOTAL FOR MEDIA AND COMMUNICATIONS**

US$238,080,000