



June 22, 2004

***Iraq Operation Reaffirms U.S. Commitment to Freedom and Human Rights***  
**Taking Measure of Iraq's Progress Toward Democracy**

***Executive Summary***

- On June 30, the United States will relinquish sovereignty and control of Iraq. Through a new U.S. Mission and the guidance of Ambassador John Negroponte, the United States will support the Iraqi people and their new interim government as they take control of their own affairs.
- U.S. efforts to transform Iraq and put it on the path to a functioning democracy benefit the Iraqi people, the United States, and the international community. When democracy is fully achieved, Iraq will no longer export terrorism and pose a security threat to its neighbors.
- Since Iraq's liberation in April 2003, Iraqis have made great strides in establishing a framework and foundation for a functioning, liberal democracy that respects human rights and personal freedoms—a radical departure from the abuse that existed under the Saddam Hussein regime.
- A new sovereign, interim Iraqi government is assuming power, provincial governments are governing, courts are dispensing justice, political parties are forming, civil society is emerging, an independent media is operating, and preparations are being made for nationwide elections.
- Recent public opinion poll data show that the majority of Iraqis embrace the concepts of democracy and self-government.
- A democratic Iraq will respect the rights of all of its citizens, will not persecute, deport, silence, or murder its own people because they express opinions critical of the government or practice their faiths in violation of the state-sanctioned religion.
- The interim constitution states that Iraq's system of government will be republican, federal, democratic, and pluralistic, and that federalism will be based on geography, history, and the separation of powers — not on ethnicity or sect.
- On July 1, a new day will dawn on Iraq's future: "Iraq" will no longer be about the United States and its "occupying" role; rather, it will be about the new, self-governing Iraq and the decisions Iraq's leaders will be making in order to further the democratic ideals and principles currently favored by so many Iraqis.

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

—Preamble of Iraq’s Transitional Administrative Law

## **Introduction**

For more than two centuries, Americans have been willing to fight and die in defense of democracy, freedom, and liberty, both at home and abroad. As a result of American action and sacrifice, tens of millions of people have been liberated from the grips of tyrants, dictators, fascists, and communists so that those oppressed then could pursue their unalienable human rights. Since the 13 colonies declared independence on July 4, 1776, more than 100 democracies — many inspired by the United States — have been realized. Iraq is now joining this growing democracy movement.

One of the key motivations behind launching Operation Iraqi Freedom was to liberate the Iraqi people from the brutal regime of Saddam Hussein and to afford Iraqis an opportunity to establish democracy so they might govern themselves. Today — 15 months later — the Iraqi people already are doing just that. A new sovereign, interim Iraqi government is assuming power, an interim constitution is coming into effect, provincial governments are governing, and courts are dispensing justice. Political parties are forming, civil society is emerging, an independent media is operating, and preparations are being made for nationwide elections. Moreover, recent public opinion poll data show that the majority of Iraqis embrace the concepts of democracy and self-government.<sup>1</sup> This is particularly impressive when one recalls that less than two years ago, Saddam Hussein’s regime was still imprisoning, torturing, and killing thousands of innocent Iraqis; financially supporting and encouraging terrorism; illegally profiting from the U.N.’s oil-for-food program, which was denying millions of Iraqis much needed medicines and food; and refusing to honor the terms of 16 U.N. Security Council resolutions.

On June 30, the United States will disengage from governing Iraq and will turn over sovereignty and control to a new interim Iraqi government. The Coalition Provisional Authority (CPA) will no longer exist. Central to the operation of the Iraqi Interim Government (IIG) is the interim Iraqi constitution, the Transitional Administrative Law (TAL), which will serve as the law of the land for approximately 18 months until a permanent government is elected in early 2005 and a final constitution is drawn and ratified. The TAL, which was drafted by the 25-Member Iraqi Governing Council (IGC) with assistance from the CPA (of which the CPA retained veto authority), guarantees free speech, free religion, free assembly, and other individual rights and freedoms common to Western, liberal systems of government. On March 8, the IGC voted unanimously to approve the TAL. Notably, this document was agreed to by a diverse group of ethnic and religious groups—an accomplishment that should not be overlooked or underappreciated.

U.S. efforts to transform Iraq and put it on the path to a functioning democracy benefit the Iraqi people, the United States, and the international community. A democratic Iraq will respect the rights of all of its citizens, will not persecute, deport, silence, or murder its own people because they

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<sup>1</sup> Oxford Research International, “National Survey of Iraq, February 2004.”

express opinions critical of the government or practice their faiths in violation of the state-sanctioned religion. When democracy is fully achieved, Iraq will no longer export terrorism and pose a security threat to its neighbors. It will serve as a source of stability in the region, and will function as an example to people throughout the Arab Islamic world that democratic rule is attainable.

The handing over of sovereignty to a democratic Iraqi government will be particularly noteworthy — it will be the only true Arab democracy in the heart of the Middle East. Contained in Iraq’s interim constitution are values and principles inherent in the U.S. Constitution. The shape of Iraq’s self-government will soon be in the hands of the Iraqi people. And while the democratic face of Iraq may not mirror that of America’s, it will reflect the key principles, values, and rights that Americans cherish—and that Iraqis long have been denied.

## **Establishing Democracy in Iraq**

Since Iraq’s liberation in April 2003, Iraqis (through the Iraqi Governing Council), the CPA, and Coalition officials have made great strides in establishing a framework and foundation for a functioning, liberal democracy that respects human rights and personal freedoms—one that serves as a radical departure from the decades-long era of governmental and personal abuse that existed under the Saddam Hussein regime.

As President Bush stated on November 19, 2003, “Since the liberation of Iraq, we have seen changes that could hardly have been imagined a year ago. A new Iraqi police force protects the people, instead of bullying them. More than 150 Iraqi newspapers are now in circulation, printing what they choose, not what they’re ordered. Schools are open with textbooks free of propaganda. Hospitals are functioning and are well-supplied. Iraq has a new currency, the first battalion of a new army, representative local governments, and a Governing Council with an aggressive timetable for national sovereignty. This is substantial progress. And much of it has proceeded faster than similar efforts in Germany and Japan after World War II.”<sup>2</sup>

**The Transitional Administrative Law (TAL):** The country’s interim constitution was signed on March 8, 2004 after receiving a unanimous vote of support by the 25-Member Iraqi Governing Council. It will serve as the foundation for Iraq’s government and legal structure until a permanent constitution is drafted in late 2005. The TAL has been described—and for good reason—as being an unprecedented document in the Arab Islamic world. It states that Iraq’s system of government will be republican, federal, democratic, and pluralistic, and that federalism will be based on geography, history, and the separation of powers — not on ethnicity or sect (Article 4).

The interim constitution recognizes the unalienable rights of the individual that Americans and others throughout the Western world believe are essential to a viable, functioning democracy. In its bill of rights, the TAL states:

*“All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited.*

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<sup>2</sup> Remarks by President Bush at Whitehall Palace Royal Banqueting House-Whitehall Palace London, England. November 19, 2003.

Everyone has the right to life, liberty, and the security of his person. No one may be deprived of his life or liberty, except in accordance with legal procedures. All are equal before the courts” (Article 12).

The TAL contains checks, balances, and the separation of powers familiar to Americans, and the Iraqi Armed Forces will fall under the control of Iraq’s civilian political leadership (Article 5). The TAL proclaims one religion — Islam — as the official religion of the country. The Afghan constitution provides this, as well. In contrast to the Afghan constitution, under the TAL, Islam will be considered *a*, but not *the*, source of legislation. This means that Iraq will be guided by secular and religious principles and laws. The TAL respects the Islamic identity of the majority of the Iraqi people but guarantees the freedom of religious belief and practice (Article 7). This means that Christians and Jews will be able to practice their faith without fear of punishment or imprisonment, in contrast to the long years of the Hussein regime.

As the new Iraqi prime minister, Iyad Allawi, said, “We see an embodiment of what Iraqis have aspired and struggled for, which is the establishment of a national government enjoying full sovereignty and proceeding toward building the state of constitution and law, and setting the country on its democratic bases.”

**Iraqi Interim Government:** The Iraqi Interim Government (IIG), which came into being on June 1, 2004, was formed on the basis of wide-scale consultations with all segments of Iraqi society, and will assume sovereign authority to govern Iraq as the central part of the June 30 transfer of power. The IIG will operate under the Law of Administration for the State of Iraq during the Transitional Period. The IIG will consist of the Presidency of the State (composed of a President and two Deputy Presidents); a Council of Ministers, including a Prime Minister; an Interim National Council; and the Judicial Authority. Fifteen of Iraq’s 26 cabinet ministries already had made the transition, as of June 17. The Interim Government will dissolve following national elections for the transitional National Assembly, which must take place no later than January 31, 2005. According to the TAL, the National Assembly — a representative body — will draft the permanent constitution.

Iraqis are already making decisions and are carrying out the day-to-day responsibilities of their own government and people. All provincial governments are now operating, and about 90 percent of Iraq’s municipalities have operating councils.

**Political Parties and Civil Society:** One of the key tasks of the IIG is to help prepare the country for — and then hold— nationwide elections to determine the permanent Iraqi government. The CPA, along with many nongovernmental organizations, such as the International Republican Institute and the National Democratic Institute, have hosted nearly a dozen workshops, seminars, and conferences to discuss principles of democracy and assist organizations in becoming involved with the functions of the Iraqi government.<sup>3</sup> Currently, there are at least 12 major political parties in Iraq — in contrast to the Hussein era when there was but one.<sup>4</sup>

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<sup>3</sup> Coalition Provisional Authority, “Administrator’s Weekly Report: Governance,” May 29-June 4, 2004, [http://www.iraqcoalition.org/government/weekly\\_updates/conso/June4\\_Gov.doc](http://www.iraqcoalition.org/government/weekly_updates/conso/June4_Gov.doc); Coalition Provisional Authority, “Administrator’s Weekly Report: Governance,” June 5-June 11, 2004, [http://www.iraqcoalition.org/government/weekly\\_updates/conso/June11\\_Gov.doc](http://www.iraqcoalition.org/government/weekly_updates/conso/June11_Gov.doc).

<sup>4</sup> RFE/RL, “Iraqi Political Groups, Part 1.” <http://www.rferl.org/specials/iraqcrisis>.

Additionally, hundreds of Iraqis and scores of civil society organizations have become active participants in developing Iraqi civil society. A significant focus has been placed on respecting human rights, developing more accountable local levels of government, providing women and youth with the skills necessary to become active participants in Iraq's political process, developing civic education programs, and building capacity for civil society for conflict prevention and mitigation.<sup>5</sup>

**Judicial System:** The Iraqi justice system is operational and the courts are open, issuing judgments in civil cases, and imposing punishments in criminal cases. In April 2004, the Iraqi judiciary adjudicated an all-time record of 3,037 cases. The Judicial Review Committee has reviewed hundreds of judges and prosecutors in Iraq and removed individuals from the Iraqi judiciary who had senior Baath party affiliation or who were determined to have been involved in corruption. In criminal cases in Iraq today, defendants have various rights, including the right to a fair, expeditious, and open trial, and the right to a fair, public hearing by an independent and impartial tribunal. The accused has the right to defense counsel—something that will be afforded to Saddam Hussein, but which he denied to thousands.

## Reaction to Iraq's Democratic Progress

To date, the overall reaction to the TAL and the new Iraqi Interim Government has been strongly positive. Within Iraq, key Iraqi leaders and ethnic and religious groups have endorsed the TAL and the new government. In particular, Grand Ayatollah Sistani, a key Shiite cleric whose voice and opinion are widely respected throughout Iraq, has given his support for both the TAL and the IIG. The United Nations Security Council, the European Union, the G-8, and numerous foreign governments have also endorsed both of Iraq's steps toward democracy. In arguably one of the most significant stamps of approval, on June 16, the Organization of the Islamic Conference (OIC), the world's largest Islamic group, issued a declaration stating that it supported the "process in which the Iraqis will assume their sovereignty."<sup>6</sup> The OIC also stated that it would "actively assist Iraq in its transition and in meetings its needs."<sup>7</sup>

Despite support for the TAL and the new government, not every party, whether it be ethnic, religious, or gender, is 100-percent satisfied with the interim constitution and how rights and representation will be protected once a permanent government is elected and a permanent constitution is formed. In particular, Kurdish leaders are concerned that the permanent government and constitution will not fairly represent and protect Iraq's Kurdish minority, which is about 15-20 percent of Iraq's population. Specifically, the Kurds are concerned that, in the permanent constitution, they may not maintain their veto of Iraq government decisions that the interim constitution grants them.<sup>8</sup> Others have expressed their own reservations about protecting minority rights based on geography.<sup>9</sup> Additional concerns include: whether Assyrian Christians and Jews

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<sup>5</sup> Coalition Provisional Authority, "Administrator's Weekly Report: Governance," June 5-June 11, 2004.

<sup>6</sup> Associated Press, "Iraq Neighbors Welcome Interim Government," June 16, 2004.

<sup>7</sup> Associated Press.

<sup>8</sup> *Chicago Tribune*, "Anti-American Sentiment Growing Among the Kurds," June 15, 2004; MSNBC News Services, "Iraqi Prime Minister Says Dispute with Kurds Resolved," June 10, 2004, <http://www.msnbc.msn.com/id/5156518>.

<sup>9</sup> RFE/RL, "Inside Iraq," March 13, 2004.

will be free to practice their faith once a permanent constitution is drafted; and whether women will be granted equal rights in terms of dissolving a marriage or inheriting property.

However, Secretary of State Colin Powell stated on March 9 that he remains confident the Iraqis will be able to address these issues in a constructive way. Secretary Powell stated that the process will be driven by Iraqis: “They will have to reconcile the differences that might still exist within Iraq, and we will provide our assistance and guidance.”<sup>10</sup> Powell noted that it is for the Iraqis to determine how they will be governed, what kind of constitution they will write, and what kind of political system they will create.

## **Next Steps: Making the Iraqi Government Permanent**

On June 8, the U.N. Security Council passed Resolution 1546, which reaffirmed the right of the Iraqi people freely to determine their own political future and to exercise full authority and control over their financial and natural resources, and which endorsed the proposed timetable for Iraq’s political transition to democratic government.

As previously stated, many functions of government already have been transferred. Sixteen cabinet ministries are now under the control of Iraqis, and many of Iraq’s cities and towns have elected town councils or city governments. However, many steps must still be taken before a permanent Iraqi federal government is elected and its constitution ratified. Such steps include the following:

- June 30, 2004 Iraqi Interim Government (IIG) takes power.
- July/August National Conference selects the Consultative Council.
- January 31, 2005 Iraqis vote to elect members of the Interim National Assembly.
- Early 2005 Iraqi Transitional Government (elected government) replaces IIG.
- August 15, 2005 National Assembly completes draft of permanent constitution.
- October 15, 2005 Iraqis vote on permanent constitution.
- December 15, 2005 Iraqis vote for elected permanent government.
- December 31, 2005 Elected permanent government assumes office.

The highest priority of the new Iraqi government, and the principal responsibility for any government, is to provide security for its citizens. First and foremost, the new sovereign government must act to end terrorist attacks. Since the end of major combat operations, more than 9,000 Iraqi citizens and government officials have been killed by extremists and insurgents seeking to win or regain power through indiscriminate violence.<sup>11</sup>

Among the steps the Iraqi Interim Government is considering to accomplish this is the establishment of martial law either throughout the entire country or in certain portions of Iraq. If the IIG were to declare martial law, such a declaration would have to be *temporary*, could not restrict U.S. forces from operating within Iraq, and could not derail or suspend the terms and timelines for establishing a permanent democratic Iraqi government in 2005. Further, such a

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<sup>10</sup> Ibid.

<sup>11</sup> Canadian Broadcasting Corporation, “Casualties in the Iraq War,” June 21, 2004, <http://www.cbc.ca/news/background/iraq/casualties.html>

decision certainly would only be made following consultations with the United States and other Coalition partners that are supplying more than 130,000 troops in Iraq. Iraq's leaders must recognize that the use of martial law should only be used in desperate times and for desperate reasons.

## **What is the U.S. Role?**

Beginning July 1, the U.S. role in Iraq fundamentally will be altered. No longer will the United States be an occupying power. No longer will Ambassador Paul Bremer or the CPA be issuing governing directives in Iraq. Instead, Ambassador John Negroponte will be America's top diplomat to Iraq and will operate out of a newly established American mission in the country. The role of the U.S. Mission in Iraq will be to support the Iraqi people and government as they take control of their own affairs.

Ambassador Negroponte will primarily focus on three main areas:

- Support the new Iraqi Interim Government as it assumes control of managing day-to-day operations and prepares for nationwide elections.
- Assist in rebuilding Iraq's infrastructure and economy, and in training, equipping, developing as well as working with Iraq's military and police forces to combat insurgent and terrorist threats.
- Work with the international community to reduce Iraq's Hussein-era debt and to develop Iraq's political and economic relations with the world.

## **Conclusion**

In a speech in London on November 19, 2003, President Bush stated: "The failure of democracy in Iraq would throw its people back into misery and turn that country over to terrorists who wish to destroy us. Yet democracy will succeed in Iraq, because our will is firm, our word is good, and the Iraqi people will not surrender their freedom."<sup>12</sup>

On June 30, the U.S. will hand over sovereignty to the Iraqi people. U.S. action and sacrifice in liberating Iraq were not in vain. Iraqis are embracing democracy and establishing a civil society founded on the principles of the rule of law and respect for individual rights. America will rightly remain engaged in stabilization and reconstruction efforts to ensure that democracy is not defeated by those who seek to return to the tyrannical rule of Saddam Hussein. *But it will now be up to the Iraqis themselves to convert these opportunities to reality.* The country's future clearly lies in the hands, hearts, and minds of the Iraqi people.

On July 1, a new day will dawn on Iraq's future: "Iraq" will no longer be about the United States and its "occupying" role; rather, it will be about the new, self-governing Iraq and the decisions Iraq's leaders will be making in order to further the democratic ideals and principles currently favored by so many Iraqis. Obviously, having committed as much of its treasure and blood as has the United States, it is not in America's interest to see an Iraq eventually develop along

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<sup>12</sup> Remarks by President Bush at Whitehall Palace Royal Banqueting House-Whitehall Palace London, England. November 19, 2003.

the lines of the Taliban government of Afghanistan, for example. The Bush Administration and Congress have to hope they have encouraged the kind of Iraqi institutions and leadership that will result in constitutional and legal constructs that reflect values consistent with America's.

The TAL is a binding document and a legal framework for the permanent government that will draft the country's permanent constitution. However, nothing requires the constitutional drafters to use the TAL as the foundation for the country's permanent legal structure. It is expected, however, that the Iraqi people, having enjoyed the democratic rights, privileges, and freedoms afforded them under the TAL, wisely will choose elected leaders that promise to uphold the principles of equality, respect for minority rights and the rule of law, and will assure these values are enshrined in the new constitution.

There is good reason to be hopeful that Iraq will continue on its path toward a fully functioning democracy. As Iraq's new prime minister stated:

“We must look to the future with confidence in order to build a true national unity based on repudiating rancor and feuds, and spreading the spirit of tolerance and reconciliation so that we can forge ahead toward building a society ruled by law, covered by justice, and equality, freedom, and respect for human rights, and stopping the flow of blood for the sake of building a civilized, advanced Iraq to be enjoyed by all Iraqis.”<sup>13</sup>

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<sup>13</sup> Speech by Iraqi Prime Minister Iyad Allawi on June 1, 2004.