



Iraqi Women and Constitutional Law Workshop

Date: May 5-7, 2005

Venue: Intercontinental Hotel, Amman, Jordan

Workshop Agenda

Day 1

9:00 am – 9:30 am

Topics to be addressed:

1. Description of objectives of Workshop
2. Discussion of needs and goals
(UNIFEM)

9:30 am – 10:45 am	Open introductory session on past and present Iraqi legal system (SAIID)
10:45 am – 11:00 am	Coffee/Tea Break
11:00 am – 12:00 pm	The preamble and its importance in clarifying the meanings and objectives that the constitution aims to achieve. Mechanisms for safeguarding rights and freedoms (SAIID)
12:00 pm – 1:00 pm	International treaties as they relate to human rights and women's rights in constitutional law (SAIID)
1:00 pm – 2:00 pm	Lunch Break
2:00 pm – 3:45 pm	Protecting women's rights in policies and legislation (SAIID)
3:45pm – 4:00 pm	Coffee/Tea Break

4:00pm – 5: 00 pm	<p>Break into Working Groups: The formation of constitutional law and mutual understanding: workgroups to identify human rights issues, education, health, and personal status law, among others. (JOINT-TEACH, AKHLAGHI & SAID)</p>
Day 2	
9:00 am – 10:45 am	<p>Day 1 wrap-up</p> <p>Open discussion on the role of women parliamentarians in the drafting of the constitution (UNIFEM)</p>
	<p>Open discussion on the role of civil society in enhancing the role of women parliamentarians in drafting the constitution (UNIFEM)</p>
10:45 am – 11:00 am	Coffee/Tea Break
11:00 am – 12:45 pm	<p>Introduction into the United States Constitutionalism. Constitutional development: Federal Judicial Authority and Separation of Powers (AKHLAGHI)</p>
12:45 pm – 2:00 pm	Lunch Break
2:00 pm – 3:45 pm	<p>Constitutional Law: The approach, similarities and comparisons between legal systems. The integration of women’s rights and human rights in constitutional law: an instrument to bridge the gap between the Islamic Legal Systems and Other Legal Systems. (AKHLAGHI)</p>
3:45 pm – 4:00 pm	Coffee/Tea Break
4:00 pm – 5:00 pm	<p>Break into Working groups: Based on the former legal systems, the constitutional comparisons, knowledge of the U.S. system, tools to keep the constitution fluid the working groups to formulate legal language structures to incorporate into the Iraqi constitution as it relates to human rights, women’s rights, education, and personal status. (AKHLAGHI)</p>

Day 3

9:00 am – 10:45 am	Day 2 wrap-up and open discussion
10:45 am – 11:00 am	Coffee/Tea Break
11:00 am – 1:30 pm	Discussion and analysis of each working groups formulation of legal language structures. Development of strategies and an action plan for addressing constitutional matters. Constitutional monitoring of laws (AKHLAGHI)
1:30 pm – 2:00 pm	Workshop wrap-up What next?

APPENDIX 2

Complete Workshop Minutes

**Notes for UNIFEM Workshop
Iraqi Women and Constitutional Law Workshop
Date: May 5-7, 2005
Venue: Intercontinental Hotel
Amman-Jordan**

DAY 1 – Thursday, May 5, 2005

Session 1 – 9:00 am to 9:30 am

Facilitator: UNIFEM's Dr. Shirin

Topics addressed:

- 1.) Description of Objectives of Workshop**
- 2.) Discussion of Needs and Goals**

Dr. Shirin Shukri welcomed the parliamentarians, guests of UNIFEM, to Amman, Jordan. She applauded their persistence in making the journey, read over the list of goals and objectives, and the complete workshop agenda. (*See attached.*)

Dr. Haifa Abu Ghazaleh, Regional Programme Director of UNIFEM, graciously offered warm greetings to the group of parliamentarians. Likewise, Dr. Haifa extended praise to them for their commitment to enhancing the equality of women in the region. After thanking them for making the difficult trip to Jordan, she offered an apology. Due to a recent tragedy in her family, she could not welcome the entire group to her home, as is her usual practice.

In a subsequent conversation with Dr. Shirin, the parliamentarians shared some of their concerns and what they hoped to achieve during the workshop. Some of their concerns included:

- Would like to discuss characteristics of various constitutional strengths and weaknesses in comparative analysis.
 - Would like to focus on Personal Status Laws in terms of how to legally protect women as wives and other related issues.
 - Would like to discuss Sharia in relation to the constitution.
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Session 2 – 9:30 am to 10:45 am

Facilitator: Dr. Saiid

Topic addressed:

1.) Open introductory system on past and present Iraqi legal systems

Initial Remarks

- The doctor stated his intention to conduct the morning session so as to offer an opportunity to engage with the Parliamentarians. “I will speak to you (Parliamentarians), NOT at you (Parliamentarians).”
- Acknowledges that there is a lot of “experience” in the room.
- Acknowledges that the women attendees ARE the general authority who will put the constitution together.

What is the purpose of the Constitution?

- 1.) The Constitution is the first and highest authority of its nation’s law.
- 2.) It will hold UNLIMITED authority.
- 3.) Discussion
 - i. *Question:* Please elaborate on the supreme and unlimited power held by a constitution.
 - ii. *Answer:* With regards to constitutional power, what does it mean that the constitution is the first power versus the supreme power? When I say “first” and “supreme,” such language is agreed upon by legal and legislative people, in that “supreme” infers a certain set of responsibilities as inherent. All decisions infer from that which is “supreme.”

The Nature of the Parliamentary System

- 1.) Is designed to be a governing legislative system, representing the sovereignty of its nation’s people. Should be representative.
- 2.) Law is the tool for political development.

Etymology of the word “Constitution” as it relates to Arabic language and regional dialects in particular

- 1.) Dr. Saiid delivers a brief historical overview of the word’s etymology, its Persian origin, the history of its meaning, including that found in present-day usage. Specific emphasis on how usage differs from Africa to the Middle Eastern region.

Tunisia: Historical Overview of the Role of Women in Developing Tunisia's Constitution

- 1.) Dr. Saïid delivers a brief account of the historical involvement of women in Tunisia's democratic process (For example, no women helped draft Tunisia's constitution in 1959.), and the current demographic of women serving within the Parliament and its varying councils. As of the 2004 election in Tunis, 25% of parliamentarians are women; with 30% of those who will serve on a developing Municipal Council are slotted to be women. Also introduced the topic of Civil Code, in particular that of Tunisia's Magazine and French Constitution's limitation of women.

Introduction to the Involvement of Women in the Democratic Processes Around the World: How Have the Roles of Women Varied?

- 1.) Women's roles in drafting various constitutions have differed from country to country.
- 2.) In some areas, *Policy* governs *Religion*, but in others, *Religion* governs *Policy*.
- 3.) **More on this to follow.*

Interjection

Question: What are the things we need to take care of writing into the constitution? For example, what do we need to take into consideration when we write the constitution?

Drafting the Constitution – Consider Reality

- 1.) Some of the best drafts of constitutions, written by experts in the field, have not been implemented. Although many have been written by Western experts, they are NOT compatible with the realities found on the ground.
 - a. Constitutionalism within Rwanda's tribal context.
 - b. A major problem, which is relevant in our situation, is how do you convince the general public of "gender issues?"
- 2.) Our ambitions and aspirations MUST be compatible with the prevailing situation at hand.
- 3.) Reality vs. Ideal: The Constitution should express the following
 - a. Harmony with reality
 - b. Needs to be respected by EVERYONE
 - c. Mechanisms need be put into place to ensure respect of constitution
- 4.) A main concern in drafting the constitution is how to distribute the workload amongst the designated subcommittee.

Writing the Preamble of the Constitution

- 1.) There is no relation between actual law and the preamble.

- 2.) It is possible to make reference to various international conventions in the preamble, such as the following:
 - a. Universal Declaration of Human Rights (UDHR), *(See booklet)*
 - b. International Covenant on Economic, Social & Cultural Rights (ICESCR), *(See booklet)*
 - c. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), *(See booklet)*
- 3.) With regard to the CEDAW take note: While Tunisia ratified this convention, which allows for woman to marry “anyone,” later Tunisia’s Minister of the Interior issued a leaflet calling for the prohibition of marriages between a Muslim woman and a Non-Muslim man. The ratification of the convention did not necessarily prevent this later act.

On the Question of Sharia as Supreme Law

- 1.) How to Reference Islam as the National Religion: Wording Is Tricky
 - a. Examples to use as sources include: Sudanese, Indonesian and Tunisian
 - i. Sudan: Where the popular background of the people is Islamic.
 1. Constitutions reads: “Islam is the religion of the country.”
 2. Weakness of this wording: Religion is for people NOT states.
 - ii. Tunisia: Same as above.
 1. Constitution reads: “Religion of the state is Islam.”
 2. Constitution reads: “Arabic is the state language.”
- 2.) Islam as “a” source, “the” source, or “the fundamental” source.
- 3.) Legislation needs be compatible and consistent with Constitutional language and content to reduce legal liabilities.
 - a. *(More discussion on this topic to follow later.)*
- 4.) *Question:* Please elaborate on the use of Islamic Law as the main source of legislation or as only one source? What about those points in the UDHR that contradict Sharia?

Answer:

- Constitution must respect the main principles of the UDHR, so laws should not be passed to contradict those in the treaty.
- Must implement a mechanism to safeguard Human Rights as guaranteed in the UDHR. Guaranteed protection is essential.
- Monitoring is necessary. Special “legal” courts can be created, especially in confederations. These are special courts to follow up on Human Rights violations.
- It is not enough to merely mention these rights, as in many cases, we have seen and continue to see that they are never applied or followed and no recourse is available let alone accessible for citizen.

- 5.) In response to a comment that Peace should be considered the main religion of Iraq, Saiid commented that while Peace cannot be acknowledged as a main religion in the constitution, Peace can be referred to in the Preamble or can be guaranteed to the citizens of Iraq.

More on policy's governing of religion vs. religion's governing of policy

- 1.) Some Islamic states allow policy to govern religion, and religion is not an absolute governor.
- 2.) Other Islamic states/countries operate in the name of religion, with religion IS synonymous with policy.
- 3.) On the importance of "freedom of religion," Dr. Saiid reminded the group that both kings and man have claimed to be the prophet of God.

Do We Need a Constitution?

- 1.) *Question:* Do we have an example of a country without any constitution?
- 2.) *Answer:* The answer here depends on how you define "constitution."
 - a. Definition of "Constitution:" A group of rules (usually written) regarding the organization of power and authority.
 - b. In materialistic terms: freedoms, duties and organization of power.
 - c. English system is without a written constitutional document
 - d. Other countries without a written constitution:
 - i. Libya
 - ii. New Zealand follows British system
 - iii. Morocco - After abolishing their constitution, Morocco were without official constitution, but not without constitutional law.
 - iv. Algeria (Operated without a constitution as late as 1996)

Dr. Akhlaghi's Initial Introduction

Emphasis placed on the important task ahead of the Iraqi Parliamentarians.

- 1.) Emphasized timing shortage and asked the PM's to keep one central question in mind: Are we ready for August submission date?
- 2.) Also consider: What do you want your granddaughter's rights to look like?
- 3.) Another point to consider: What about Minority Rights?

Dr. Akhlaghi's discussion will focus on the following:

- 1.) Strategizing to extend the deadline and allow for more time.
- 2.) Specific language examples provided and created in workgroups.
- 3.) Coalition building among participants here and how to implement this strategy back in Baghdad.

Initial Questions and Concerns from the Participants

- 1.) *Question:* Timing is accomplishable.
Answer: TAL is a good start, but is not close to what you have stated you want out of a constitution. The reasons I say you need time include the following:
 - a.) Consult constitutional experts and scholars
 - b.) Consult your constituencies, those people whom you represent.
 - c.) Finish within the context of the current law presiding over Iraq, the TAL.

- 2.) *Question:* Timing is not a main issue. The main feeling with the leadership is a lack of support for women's rights. We do not believe we will be granted the chance to write our rights into the constitution. We need to secure support from scholars and leaders who will support us as we attempt to secure our rights. We are scared. What can we do? For example, the UN has a supporting committee, we can ask for their assistance and secure help from them. Who else? How else?
Answer: *Coalition Building* will be a primary tool to use for ensuring women's rights in the form of Minority Rights. I will go into greater detail as I begin my portion of the program later today and tomorrow. However, I will reiterate my concerns regarding what I see as an insufficient amount of time for the NA to draft a constitution taking into consideration
 - a.) The tremendous set of additional responsibilities now before you
 - b.) The brevity of the time allotted to draft the language especially considering all of the socio-political, economic, and religious elements involved.I want you to ask yourselves as we proceed with this workshop: Do you believe the NA has sufficient time?

Key Points for Later Discussion

- A. Democracy doesn't look the same everywhere in the world. I would encourage you to use examples from ALL of the following:
 - a. Malaysian
 - b. Indian
 - c. USA
 - d. Canadian

 - B. I encourage you to develop a constitution that CAN BE ENFORCED.
 - C. Its citizens, people in general, must believe in the validity of the document.
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Session 3 – 11:00 am to 1:00 pm

Facilitator: Dr. Saïd

Topics addressed:

- 1.) The preamble and its importance in clarifying the meanings and objectives that the constitution aims to achieve.**
- 2.) Mechanisms for safeguarding rights and freedoms.**
- 3.) International treaties as they relate to human rights and women’s rights in constitutional law.**

Sensitive Historic Situation

- 1.) Preamble – You are the representatives of the people and must express their needs.
- 2.) Look at other experiences and draw from their examples, but do not copy as have some African nations. Your document needs be unique unto itself to reflect the uniqueness of your nation, its situation and sensitive history.
- 3.) How have other countries addressed solutions to problems you face?
 - a. While there are no ready-made examples, there are some technical options that may be of use.

United States’ Constitution – The Oldest

- 1.) Created in 1787
- 2.) Allowed for Amendments to be made later on.
- 3.) The US model cannot be exported to other nations. Many Latin American countries tried to follow and could not. Many are now ruled by dictators.

The Role of Law

The role of law is to change society.

- 1.) Law must express the will of the general public.
- 2.) In developing countries, many societies are “retarded.” Law attempts to develop them, but is not always successful.
 - a. Example: Tunisia, 1956, developed law at the will of its leadership, not at the will of its people.
 - b. Laws should aim to reshape social, cultural practices over time, including elimination of unwanted practices and introduction of favorable new practices.

More on the Preamble

- 1.) No laws are included in the content of the preamble.

- 2.) Rather, the preamble demonstrates objectives of people writing the constitution.
- 3.) There are no abiding rules within.
- 4.) Some preambles declare or make reference to rules.
 - a. For example, Morocco and Algeria mention their adherence to the UDHR and the ICESCR
 - b. These declare the objectives and intentions of the constitution in adhering to the international agreements mentioned.
- 5.) There is nothing to prevent you from declaring a number of international conventions in the preamble. Some you may want to mention include:
 - a. UDHR
 - b. ICESCR
 - c. ICCPR
- 6.) Introduction of French history as it relates to Human Rights, France's various attempts at establishing its republics and the French debate in 1946 over its preamble and how it would address human rights.
- 7.) Articles within the constitution may be used in courts to clarify judgments, to interpret texts other than the constitution, such as laws enacted by parliamentary body, etc.
- 8.) Any preamble must mention the following:
 - a. UDHR of 1948
 - b. Int'l agreements under UN in 1966
 - c. ***Intentions and objectives*** of those rulings laws to be outlined in the body of the constitution.

How to remain consistent with UDHR?

Interjection 1.) *Question:*

- a. **UDHR contains some points against what is the general direction of our country, Iraq. Some contradictions include: 1.) death penalty;**

2.) right to marry regardless of religion, race, etc.

- b. Some of us are concerned about solely addressing the UDHR in the preamble ONLY.

c. *Please address my concerns.*

Answer:

- a. In 1948, only one Arab country signed onto the UDHR, as many Arab countries had concerns such as those you are sharing.
- b. The UDHR is not contradictory with Islamic Law.
- c. Problem with law in Arabic countries is it is marginalized. Need to find ways to strengthen laws.
- d. The two issues most heavily debated in Islamic countries include:
 - i. The right of a woman to choose her husband
 - ii. Issues concerning choices of children

2.) *Question*

- a. What do these commitments and/or references to International Treaties mean for the average citizen?

Answer:

- a. If a convention is binding and a citizen's country ratifies this convention as law, nothing prohibits a citizen from demanding its country implement the laws of the convention.
- b. International Law trumps Federal Law
- c. Additional concerns specific to the Arab nations: All Arab countries ratified, but their citizens have seen little to no impact as far as implementation is concerned. Why?
 - iii. Lack of capability to appeal.
 - iv. If someone initiates an appeal, that person is impacted personally.
- d. Another concern is that those nations whose governing bodies ratified international treaties, shelve the treaties after seeking media attention for their ratification. Thus, the ratifications are virtually meaningless.
- e. Mechanisms for safeguarding the protections found under such treaties are essential to put in place. A door must be left open, so to speak, leading to the international community.

Women's Role in Various Arab Countries

Today there exist varying degrees of acceptance of women leaders. Some Arab countries may refuse to acknowledge women leaders, but this will change. It is only a matter of:

- 1.) Time
- 2.) Persistence (level of commitment of women involved)
- 3.) Extent – The legal solution, while crucial, is NOT ENOUGH. It is preliminary and necessary to aide in empowerment. Also focus to implement change in socio-cultural institutions, spreading awareness via:
 - a. School curriculum
 - b. Media
 - i. Important tool for women to change the conceptions driving a male society.
 - ii. Media is instrumental in establishing a new culture.
 - c. Other educational / outreach organizations and institutions
 - i. Credible organizations supporting equality of women and women's rights will take time to develop, but support their creation and growth.
 - ii. Seek out local, national and international organizations that aide in the struggle to ensure equality for women.

Reality: The context in which the constitution is being drafted in Iraq

- 1.) Iraq's tribal system, which cannot and will not be eliminated with the constitution.

- a. For example, the constitution developed in Afghanistan would lead to people gaining a majority of votes, but when the PM convenes, a representative may not be credible. Afghan citizens have little to no faith in centralized governing body.
- 2.) Text must be outlined in constitution to begin the process of achieving certain goals.
- 3.) Legal framework is not a magic step.

Origins of Laws

- 1.) Laws can be originated by legislative bodies.
- 2.) Caution: Laws can also be established even if they do not represent voters, but rather express the will of rulers.
- 3.) Caution: Oppressive laws do exist.

Interjection

Question:

Some problems identified with the women's role in the new democracy as voters, citizens and parliamentarians include:

- a. Democratic process is a new experience
- b. Even pioneering women are not at liberty to move freely
- c. Terrorist stricken society
- d. Women who go outside are killed
- e. Men and their views on women cannot be changed in a matter of two (2) years.
- f. Women's husbands are divorcing them simply because they've been elected to parliament.
- g. Three days in a workshop are not enough to learn about how to draft a Preamble.
- h. I can't show up on television or in the media because if I do, I risk my life.
- i. It isn't feasible to write a constitution in six (6) months, let alone with the additional restrictions and responsibilities assigned to the Iraqi parliamentarians.

Answer:

- a. Women's status today doesn't allow her to play the role she wants to play.
- b. We can't change a dominant cultural view in 2-10 years, such is true. This takes generations, and as we've stated before, will require persistent efforts in two significant mediums in order to change stereotypes. To reiterate, those two mediums are:
 - 1. Education
 - 2. Media
- c. Begin by writing your rights into your constitution. This represents a good start.

What about developing a National Charter before a Constitution?

- 1.) Spoke with one Parliamentarian over the break who posed this question: Why don't we have a "Charter of Rights" before a "Constitution?"
 - a. There is no law that prevents you from doing this.
 - b. A group of goals and principles, freedoms and rights could be discussed, stated and outlined in a Charter and presented preliminarily.
 - c. A Constitutional document, detailing the issues and expanding on points outlined in the Charter, would follow.

Interjection

Comment: Participant expressed her concern that women in Iraq should be allowed to represent herself and her constituency truly without control by men or other parties, especially in Kurdistan, where the participant sees a need to affect women by educating her on her rights.

National Identity

- 1.) Country needs to be united. Citizens should feel and demonstrate their unity as a cohesive state. Each Iraqi should feel first and foremost he/she is an Iraqi, before claiming allegiance to a particular sectarian group/party within.
- 2.) Conforming to the national identity will secure a sense of national unity unifying the country.

Workshop Activities Begin

Long term objectives to take home with you

- Prepare projects that you will eventually propose to committees.
- Propose your ideas to other coalitions within the Parliamentary who will be able to assist and support you in submitting your ideas.

Within the next fifteen minutes complete the following activities:

- Focus now on the preamble and the first article.
- Look to other preambles in those constitutional packets distributed with your binders.
- For example, begin work on Article One now, which will focus on the Islamic State and how it incorporates its several minorities.
- Take fifteen (15) minutes to draft article one in your groups, choose a spokesperson who will represent your work to our larger group before the break.

Groups share their developments and participants discuss *pros* and *cons* amongst themselves as Dr. Saiid facilitates.

Constructive Criticism from Dr. Saïid includes:

- Don't burden the preamble with too many references to various conventions.
- Minimize your references to a total of three (3) conventions.
- Be sure to integrate at least one article regarding women's rights into the body of the constitution rather than in the preamble.
- Important to establish a national monitoring body for women's rights, which can be addressed in the body of the constitution (not the preamble).
- Define the word "constitution" in the preamble. For example, "This law is the constitution that stipulates authorities ..."
- Not an academic approach, but rather an explanation of articles and content.
- Concern: Does a citizen in the rural areas know the meaning and relevance of the separation of legislative powers?
- It is possible to outline those freedoms, rights and fundamental principles on which to build Iraq's democracy successfully in a national charter.
- Ratification of the national charter would occur prior to the drafting of the constitution.
- Consider developing an awareness campaign.
- One group's idea to reiterate that the Iraqi state is in a state of law in order to rid Iraq of dictatorship. The state of Iraq will work to regain its freedom, while rejecting the power of a single authority figure, such as a one-man dictatorship.

Crucial Points to Keep in Mind While Developing Preamble and Constitution

- 1.) State of law vs. legal state – To be discussed later.
- 2.) Preamble should be positive in emphasizing the aim of the constitution, such as:
 - a. The Iraqi people enjoy freedom, democracy and sovereignty.
 1. *Use of these three words (concepts) within the constitution is imperative.*
 - b. The Iraqi constitution is determined to achieve a set of goals.
 - c. Iraqi people are a free people.
 - d. Iraqi people are free to achieve this certain set of goals. (To be discussed later)
- 3.) While much of what is stated in the preamble may have nothing to do with the law at all, avoid text that identifies the constitution as a form of revenge with elaborate references to the former martial state under military dictatorship.
- 4.) It is essential to state the constitution is permanent, not temporary.

- 5.) Allowing for the constitution to be amended is essential. (To be discussed later.)

One group's example:

Article 1. Islam is the formal religion of the country with guarantees of other religious freedoms for those in the minority.

Arabic is the formal language with Kurdish as the designated language for Kurdistan. Minority groups may teach their languages freely.

Dr. Saiid reiterates. Be sure to make reference to these three concepts:

- a. Freedom
- b. Sovereignty
- c. Democracy

Citizenship & Nationality: Legal question or political issue?

- 1.) Emphasize two main languages, such as Kurdish and Arabic, in addition to others. It is possible to state there are multiple ethnicities, with varying languages. The majority of these may be Arab, but be sure to “ensure” the minority rights of the others.
 - a. Minority rights are the same as those of the majority.
 - b. Arabic and Kurdish may represent the two most populous groups, but the other minority groups enjoy the same rights.
 - 2.) In response to one question as to why the constitution should stress the nationalities explicitly, Saiid commented that it is acceptable to refer to the fact that there are multiple groups within Iraq, of which two groups, the Arabs and the Kurds, represent the majority.
 - 3.) It is not easy to structure this particular chapter, so as every nationality will be ensured the same rights of others.
 - 4.) Avoid use of the word “main” as this word implies majority, secondary, subordinate, etc.
 - 5.) Use of “demographic” over “main” when referring to categories of people within the state.
 - 6.) Important to ask ourselves: Do we even agree whether Iraq is Arab or Arab / Kurdish? What about the official language as Arabic?
 - 7.) Comment from a participant: We Kurds feel very connected to Arabs in spite of our wars and divisions. We cannot completely divide ourselves from the Arabs, but how can we state that all Iraqis are Arabs?
 - 8.) Comment: Iraq is not necessarily an Arabic country.
 - 9.) It can be said that Iraq's citizens may carry various affiliations, but all its citizens enjoy the same rights.
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Session 4 - 2:00 pm to 3:45 pm

Facilitator: Dr. Saïd

Topic discussed:

1.) Protecting Women's Rights in Policies and Legislation

- 1.) Constitutions do not protect civil code.
- 2.) Custodianship
 - a. Even within Sharia, certain codes might accept and appoint custodianship.
 - b. For example, a Belgium woman may be granted custody of a child with a Moroccan father.
- 3.) Inheritance
 - a. Court in Tunisia posted a verdict in the year 2000 deciding that religious convention is not a legitimate reason to underpin Tunisian law.
 - b. Continued discussion on Tunisian Supreme Court, Tunisian law and the affects of Tunisian ratification of various international conventions.
- 4.) International Law includes a massive amount of text addressing a lot of civil codes.
- 5.) Alimony
- 6.) Honor Crimes – What can be done to address these?
- 7.) No legal obstacles in front of integrating any general rights. Examples of various cultural values infused within constitution include:
 - a. Swiss: Discussion of slaughter of animals
 - b. Indian: Reverence for Holy Cow
 - c. North Korea: Labor Laws
- 8.) Protection of Families
 - a. Protection of wife and her role.
 - b. Protection of family
 - c. Nothing prevents us from mentioning these roles and protecting families within the constitution.
- 9.) More on the Family
 - a. Ensuring those protections outlined within the UDHR
 - b. All of that which falls under civil code include:
 - i. Inheritance
 - ii. Marriage
 - iii. Divorce
 - c. Family should be acknowledged as a base or a main cell.
 - d. How do you protect the family? Is it feasible to address these issues in the constitution? Do we want a long constitution, possibly including over 100 articles?
 - i. Constitution must guarantee most essential principles
 - ii. Constitution must introduce mechanisms to protect the principles as outlined in the constitution.
- 10.) Must implement guarantees for certain Civil Rights

- a. Health Services
 - b. Education
 - c. Antiviolence against women
 - d. Can these be adopted and included in civil code? Is it likely that in the future such amendments could be passed?
- 11.) Legislature
- a. The constitution and various international agreements will determine when legislative body can establish law.
 - b. The constitution and various international agreements will likewise determine when legal authority can interfere.
 - c. Legal value of an international agreement is held higher and supercedes that of a law passed by a legislative body if there is a contradiction between the code found within an international agreement that has been ratified by law and another legislative law. In a case in which an international law conflicts or contradicts text within a state's constitution, the constitution takes precedence.
- 12.) Mechanism Protections: Further reiteration that it is not enough to merely state rights in a constitutional document, but rights need applicable laws for enforcement.
- a. First mechanism is the ability to determine constitutionality of laws
 - i. A court entity must be created with the purpose of monitoring constitutionality of laws legislated.
 - ii. The courts, under a system of separation of powers, will determine the constitutionality of laws passed by the legislature.
 - iii. Under the constitution, a court can judge that a law ratified by a legislative body contradicts the constitution and thus, cannot prevail as law.
 - iv. The constitution must be upheld as the highest law of the land by the courts in their judgments.
- 13.) Limiting Corruption
- a. Only solved through “*ombudsmen*” entity - An appeal process
- 14.) Resolution of certain types of disputes may be designated to regional and/or tribal leaders to maintain their respective traditional roles in conciliatory matters, as these leaders can be more successful in certain matters than the Secretary General of the UN
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Session 5 – 4:00 pm to 5:00 pm

Facilitators: Dr. Akhlaghi & Dr. Saiid

Format: Workgroups will focus on the formation of constitutional law and mutual understanding: workgroups will identify human rights issues, education, health and personal status law among others.

In this session, Dr. Akhlaghi emphasized the need to identify those rights and freedoms the participants desire to see implemented. After identifying these points of concern, Dr. Akhlaghi divides the participants into various groups and assigns each one a category of rights:

- 1.) Political and Civil Rights
- 2.) Social, Economic and Cultural Rights
- 3.) Issues of Personal Status
- 4.) Social Welfare / Social Security Concerns

The purpose in this initial workgroup is to allow the participants to share their main concerns - possibly for the first time ever – in a safe and nurturing environment. During the second and third days of the workshop, Dr. Akhlaghi will explain what types of rights and freedoms should be addressed in the constitution. She will distinguish appropriate constitutional subject matter from those issues that do not belong in the constitution. The latter will be addressed in civil code instead.

Dr. Akhlaghi intends to identify parallels in the matters concerning the attendees. In doing so, the 23 participants of the UNIFEM workshop will establish common ground on key issues. It is on these core rights that Dr. Akhlaghi recommends they focus their efforts upon their return to Iraq and as the National Assembly begins drafting its constitution. The group in attendance at the UNIFEM workshop will be most effective in ensuring the rights it identifies as most crucial to women and minority groups, if it acts in a unified fashion upon its return.

DAY 2 – Friday, May 6, 2005

Session 1 – 9:00 am to 10:45 am

Facilitator: UNIFEM’s Dr. Shirin

Topics to be addressed:

- 1.) **Day 1 wrap-up**
- 2.) **Open discussion on the role of women parliamentarians in the drafting of the constitution**
- 3.) **Open discussion on the role of civil society in enhancing the role of women parliamentarians in drafting the constitution**

Revisiting Day 1

- Definition of Constitution
- Overview and discussion on International Conventions of 1948 – 1966
- Preamble functions to:
 - i. Outline objectives of constitution
 - ii. Nothing found within the preamble is necessarily binding

Feedback

Positive:

- 1.) Exposure to expertise
- 2.) Clarify points that were vague
- 3.) Define / Outline the role and duties of parliamentary woman
- 4.) Clarify the preamble

Negative:

- 1.) We needed papers from yesterday in order to revisit complete minutes of the first day of workshop.
- 2.) Would request some clarification over personal status law and how it relates to constitutional text.

Gender Issues

- 1.) As only 3 out of the 23 parliamentarians in attendance have been exposed to formal instruction on gender issues, I will provide some background on this topic.
- 2.) Dr. Shirin discusses a 1995 conference in Beijing, in which gender was identified as a “Social Type.”
 - a. Difference of roles and responsibilities between women and men change according to time and place.
 - b. Social relations are based on:
 - i. Cultural, social and economic values and conditions
 - ii. Practical conditions (for example, who does what types of work at what time and how)
- 2.) Social type is different from the concept of sex, which is fixed and unchangeable.
- 3.) If a woman psychologically accepts that her role differs from that of a man, it follows that her duties and rights will also differ from those allotted to a man.
- 4.) Keep gender in mind in all of your phrasing!

Western Concept of Gender & Islamic Tradition

- 1.) In Islam, all verses from the Koran that judge personal laws make mention of male and female believers. If you read these verses, explicit reference is made to both genders. The text itself offers protection to both genders and their rights and duties under the Holy Koran.
- 2.) Historically, the role of the woman has been to bring children to life and care for the home. The woman provided social care only.
- 3.) Upon her exposure to educational opportunities, and in her pursuit of a BA, BS, etc. the Arabic woman has grown to become highly educated. Hence, her responsibilities and workplace have become divided.

Dr. Shirin continues her discussion on various international conferences that have focused on “Women’s Rights” after 1975. She touches briefly on the following:

- 1.) Beijing (1995)
- 2.) Nairobi (1985)
- 3.) CEDAW (1979)

Role of Iraq's Parliamentarian Women

- You as Parliamentarian women will have a great role.
- You are not representing a region, but a nation consisting of 24 million people.

Let us define important aspects to your role.

- 1.) You are a bridge between female citizens and their government.
 - a. As women in the legislative body, you will need to ensure gender protection within the language of the constitution.
 - b. You will need to open the discussion of gender issues among men.
- 2.) To ensure freedom of the individual.
 - a. This includes both males and females.
 - b. Stress that both groups are equal before the law.
- 3.) To ensure complete personal freedom of the woman

Dr. Shirin broke the attendees into groups for discussion on the role of the parliamentarian women. They shared as follows:

Group 1.

- Parliamentarian promotes women's rights and all human rights as ratified by the constitution.

Group 2.

- Integrate gender component into the constitution.
- Commit Iraqi Parliament to UDHR
- Commit Iraqi Parliament to CEDAW and ICESCR

Group 3.

- Parliamentarian women constitute 25% of the legislative body and will use this position to empower women and ensure women's rights in the constitution.

Group 4.

- Parliamentarian women provide the point of intersection between parliament and its female citizens.

Shared concepts of these four groups are that women parliamentarians provide a "bridge between their female and male constituencies and the parliament" and are also key representatives of women's issues in particular.

Empowering Women

Concerns: Attendees share that men have not given the women representatives a real chance to participate in meaningful dialogue.

Dr. Shirin focuses on persistence

- 1.) Dialogue with the men amongst the parliamentarians is critical.
- 2.) Women must participate in drafting the constitution, cannot merely vote on it.
- 3.) Establish an office in order to work with a man, say “Hamed”
- 4.) While women are particularly vulnerable in committees, we must persist. Try to participate in discussions from their outset. If you sense resistance, persist!

Discussion of most effective composition of an article addressing equality

- 1.) Let us review one example, say a single article, that of Iraqi Civil Society
 - a. All citizens are equal before the law
 - i. Must ensure equality between male and female citizens
 - b. See handouts produced by the American Bar Association entitled Iraq Legal Development Project for more examples of relevant language structures.
 - c. Also, per Dr. Akhlaghi’s suggestion, see Chapter 2, Article 12 of the TAL
 - c. Review these example options
 - i. All citizens equal before the law
 - ii. All Iraqi citizens are equal before the law
 - iii. All male and female citizens are equal before the law
 - iv. All citizens, men and women alike, are equal before the law
 - v. All male and female Iraqis are equal before the law
 - vi. All Iraqi men and Iraqi women are equal before the law
 - vii. There shall be no distinction amongst citizens before the law
 - viii. All ... are equal in rights and responsibilities before the law

On the composition of a constitutional article on the topic of religion

- 1.) See Lebanon’s examples
 - i. Part A, Chapter II “The Rights and Duties of the Citizen.” Article 9
 - ii. Part B, Chapter II, Article 9
- 2.) See Tunisia’s example
- 3.) See TAL as an example: Chapter 1, Article 7

Dr. Shirin’s Closing Words

As all of our participants know, Iraq has a rich history. For example, in approximately 1700 BC, the ancient Sumerian King of Mesopotamia (what is modern-day Iraq) developed and promulgated the earliest known legal code known as Hammurabi’s Code. Set in stone, the law was immutable.

- Politicians come and go.
 - Believe in yourselves.
 - Believe in pluralism.
-

Session 2 – 11:00 am to 12:45 pm

Facilitator: Dr. Akhlaghi
Topics addressed:

- 1. United States Constitutional History: Creation and Reform, Separation of Powers**
- 2. The rights and strategies of the minority**
- 3. South African, Indian, and Nigerian Constitutional History**

After the morning break, Ms. Akhlaghi opened with a discussion concerning the historical background of the United States Constitution, and in particular the dynamic nature of this document. She highlighted the following points:

The U.S. Constitution is a “Living, Breathing Document.”

1. Ms. Akhlaghi asked parliamentarians to keep in mind the process through which the U.S. Constitution was conceived over two hundred years ago and how since then the document has changed.
2. Change in the Constitutional letter of the law, or in the interpretation of the law occurs when a social, political, environmental, economic, etc. needs arise. Change occur primarily in two ways:
 - a. Alterations are made by ratifying amendments which then attach to the Constitution and become encompassed in its authority. The original Constitution allows for amendments provided a series of terms and conditions are met.
 - b. Many times, the interpretation of the Constitution changes, where the language of the Constitution remains the same, but a political branch (federal courts or the federal legislative) reinterprets the meaning of a particular section of the Constitution.
3. Example: When first written, the U.S. Constitution began: “We the white, male, landowners affirm...” thus restricting the benefits/protections of Constitutional rights to white males who owned property. Today, the Constitution opens with “We the people affirm...” affording benefits to all U.S. citizens.

4. Ms. Akhlaghi stressed the point that what the people need today may very well be dramatically different from what the people need tomorrow. Therefore, it is critical to institute mechanisms that allow for altering the Constitution to address the changing desires and needs of the country.

Separation of Powers

1. The U.S. federal system is divided into three political powers: the executive, legislative and judicial branches. Ideally this is a system of check and balances to insure no one branch accumulates overreaching powers.
2. Ms. Akhlaghi stressed that the judicial branch, known as the Supreme Court in the U.S. or the Constitutional Court in South Africa, is the most important branch. It holds the power to enforce the provisions within the Constitution. Presently, the TAL of Iraq does not create a Constitutional Court.
3. Ms. Akhlaghi suggested parliamentarians work to create a caucus for bringing about the creation of a Constitutional Court. She suggested the court must:
 - a. Remain unbiased and objective, exclusive from the executive or legislative will.
 - b. Be empowered to enforce the rights and protections granted in the Constitution. If rights/protections can not be upheld, then the Constitution is only a collection of words and meaningless in its significance.

The Majority, its Definition and Powers

Ms. Akhlaghi next discussed and distinguished the roles and definitions of political majorities and minorities. She cited examples in South Africa as a model for coalition building amongst minority groups prior to drafting South Africa's Constitution.

1. The definition of the majority: the group or party that holds the most power. The majority is often smaller in numbers than the minority. Examples include:
 - a. South African Apartheid: White South Africans, consisting of approximately 25% of the country's population, held absolute political majority and power.
 - b. In Iraq, women are the majority in numbers, but lack political majority power in the legislative branch of government (Currently, 31% of National Assemble Members are women)
 - c. Ms. Akhlaghi asked workshop participants to give other examples of groups who hold a majority in numbers, yet hold minority status. Some examples, amongst others, that were given included:

- i. Iraqi Turkmen
 - ii. Kurds
 - iii. Young people
 - iv. Assyrians
 - v. Workers
2. Ms. Akhlaghi asked parliamentarians to think beyond what appears in front of them and expand the scope of consideration when estimating majority and minority groups.
3. She then stressed that minorities can form coalitions to leverage political power to insure their rights are realized and protected. Recently, in South Africa, minority groups did just this, recognizing minority coalitions are a means to majority power.
4. Ms. Akhlaghi strongly suggested for women parliamentarians to consider reaching out to other minority groups in an effort to form a stronger political voice to be used to secure minority rights. She emphasized that parliamentarians should consider what women rights are absolute and nonnegotiable and which rights, for the time being, are expendable (and to be reconsidered through amendments/interpretation at a latter date.)
 - a. For example, if the majority agrees to constitutional language that protects individual religious rights for all, then women are wholly included as recipients of individual religious rights.
 - b. In other words, so long a court exists empowered to enforce Constitutional Rights, rights that apply to all Iraqis will, by definition, apply to women. Constitutional language specific to women's rights is not necessarily required.
5. One concerned parliamentarian raised the point that many minorities are fractured and have various interests particular to their group or even within the group themselves. These schisms create obstacles to coalition building.
 - a. Ms. Akhlaghi acknowledged that there are many difficulties to overcome in this respect. Ms. Akhlaghi then pointed out that bringing minorities together begins with candid discussions, point by point.
 - b. She then reiterated the importance of a Constitutional Court. Regardless if minorities can agree on solutions to rights issues as they relate to particular interests, all minorities should be able to agree to the importance of establishing a Constitutional Court empowered to address rights issues at a later date.
 - c. The establishment of a Constitutional Court should be seen as the mechanism paramount in addressing rights issues by all minority groups.

Agreeing to create a Constitutional Court could act as a foundation for minorities to become part and parcel of a strong coalition.

6. Ms. Akhlaghi then segued into a discussion concerning the difficulties surrounding the effectiveness and implementation of various Constitutions, specifically the constitutions of South Africa, India and the United States.
 - a. Ms. Akhlaghi reminded parliamentarians that the U.S. Constitution has undergone many necessary amendments since its genesis to address rights issues particular to minorities.
 - i. Suffrage rights were not granted to women until 1920 with the ratification of the 19th Amendment.
 - ii. Similarly, African American's voting rights were not granted until 1870 with passage of the 15th Amendment. Even then, African American voting rights were not protected until the ratification of the Civil Rights Act passed in 1957.
 - b. India's Constitution ratified in 1960, considered by Ms. Akhlaghi and others as one of the best Constitutional models, has had to be revised numerous times as a result of arising problems unanticipated at the time the Constitution was drafted. The same is true for South Africa's Constitution.
 - i. One critical problem that arose in South Africa concerned the lack of the public's education and awareness of the Constitutional rights afforded to them.
 - ii. Ms. Akhlaghi discussed South African efforts to inform the public of their rights through quarterly town hall meetings conducted by politicians in their jurisdictions.
 - iii. These workshops are for the purpose of rights training as well as establishing bridges between political officials and their constituents. These workshops have been a noteworthy success.
 - iv. Ms. Akhlaghi suggested parliamentarians consider implementing similar workshops in their respective jurisdictions once public safety can be assured.

Sharia and Examples in Modern Constitutions

The final topic during this workshop session centered how the legal system is to treat religious issues.

1. Ms. Akhlaghi discussed the Nigerian model, which separates legal matters of personal law into two separate judicial systems: a Sharia court and a secular court.

- a. Each court falls under the jurisdiction of the Constitutional Court. Thus, the appeals process from both court systems culminates before the Constitutional Court.
 - b. In Nigerian, Islam is the formal religions of the country and is a source of law
 - c. Ms. Akhlaghi distinguished between the language of “a” source of law, and “the” source of law.
 - d. For a country, such as Nigeria, to hold dual court systems, Islam in necessarily “a” source of law, given the existence of a secular stem that does not necessarily follow Sharia law.
2. Ms. Akhlaghi suggested parliamentarians review the specific language used in the Nigerian Constitution as a possible model for Iraq should they be inclined to create a similar system. (*More on the Nigerian Constitution and system to follow.*)

Sessions 3 & 4 – 2:00 pm to 4:30 pm

Facilitator: Dr. Akhlaghi

Topics addressed:

- 1.) **Recap on Ensuring Protections: Constitutional Court, Amendments and Coalition Building**
- 2.) **Constitutional Law: The approach similarities and comparisons between legal systems**
- 3.) **The integration of women’s rights and human rights in constitutional law: bridging the gap between the Islamic Legal Systems and Other Legal Systems**
- 4.) **Workgroup Discussion focused on formulating legal language structures to incorporate human rights, women’s rights, educational rights, personal status issues into the Iraqi constitution.**

Dr. Akhlaghi re-summarized three critical points from the session preceding lunch

Review of Three Legal Principles: Primary Goals in Developing the Constitution

- 1.) Development of a Constitutional Court
 - a. Reminder: Powerful, ruling, political parties tend to resist change, as change can typically threaten the power of a ruling party
 - b. Generally courts act to balance the power of a ruling party
- 2.) Allowance for Constitutional Amendments - *Imperative*
 - a. In the USA, amendments require a 2/3 majority.
 - i. For this purpose, coalition building is crucial
 - b. Currently, the TAL does not allow for amendments.
 - c. Consider including a right to introduce and ratify amendments to the constitution with 2/3 vote in the National Assembly (Legislative body)

- 3.) Equal Protection for Minority Rights
 - a. If Islam is the religion of the state, other religious groups will require protection under minority rights.
 - b. Ensuring the protection of minority rights is important because the protection of minority groups will inherently protect women's issues without separating women into a category wholly on their own, and thus, drawing too much criticism without enough support of women's equality.
 - c. Protecting women's rights via minority rights will be possible through coalition building.

South Africa's Constitution: One of the best constitutional examples

- 1.) Constitution created in 1994 and finalized in 1996
- 2.) Interim constitution utilized for two years
- 3.) Words and rights sought to incorporate all of South Africa's peoples
- 4.) Historical Overview: Since 1918, South Africa's minority groups had engaged in a struggle with the powerful elite, which was numerically small. Regardless, the constitutional committee performed outreach for two years in an effort to ensure all groups were represented in the constitution.
- 5.) Contemporary situation: South Africa is revisiting its constitution now, 11 years later, due to assessment that the constitution, which has not been entirely successful, is incomplete.
- 6.) You, as parliamentarians, will come to understand these problems as you develop your own.
- 7.) Preamble
 - i. Refer to this preamble in particular, as it pays its respect to all of those who toiled to ensure a democratic, sovereign and free state.
 - ii. Dr. Akhlaghi highlights the South African emphasis on "Unity through Diversity."
 - iii. Other noteworthy language in the preamble:
 - "To heal the wounds of the past"
 - "To establish a society based on democratic values, social justice, fundamental human rights"
 - iv. Note: These textual examples embody goals and objectives. We have already established that the preamble should outline the goals and objectives of the constitution.
 - v. The preamble will encompass an everlasting vision for Iraq's future.

On the Issue of Equality Before the Law

- 1.) South Africa instituted several ways of addressing past discrimination and issues concerning disenfranchised groups into the body of its constitution.

- a. Refer to Chapter 2, Section 9 on Equality
 - b. Intention is to promote achievement and equality via legislative means and other measures designed to protect and advance persons or categories of persons disadvantaged by unfair discrimination.”
- 2.) Let this serve as an example for how we can advance women’s equality without explicit reference to her cause. Also, this language allows women to forge coalitions with other disenfranchised groups seeking equality and retribution.
- 3.) TAL’s section on equality is only one paragraph in length. See Chapter 2, Article 12.
- 4.) South African constitution addresses equality in one line, but then allows four full paragraphs in which to elaborate on meaning.

On the Issue of Human Dignity

- 1.) South Africa’s constitution addresses the issue of Human Dignity
 - a. See Chapter 2, Section 10.
 - b. Everyone has inherent dignity and the right to have dignity respected and protected.
- 2.) India’s constitution addresses the protection of life
 - a. See Article 21
- 3.) Such an article – addressing human dignity and/or protecting life – will hardly be challenged.
- 4.) A clause of this nature can be used to encompass many of those issues we listed during our brainstorming session in the last session of the first day (yesterday).

UNIVERSAL RIGHTS

- Dr. Akhlaghi identifies the issues of equality and human dignity as “Universal Rights.”
- Universal Rights can be “sold” to other minority groups who will help to ensure a place for universal language in the constitution.
- The Indian and South African are the two best constitutions for ensuring a wide array of rights.

Legislating Equality

Dr. Akhlaghi delivers an overview of “Affirmative Action” policies in the United States, which have sought to redress historical acts of institutionalized discrimination.

- Such legislature was implemented in an attempt to correct a historical wrong.
- Affirmative action was not added to the constitution; rather the legislative branch of the United States government mandated it as law.
- Affirmative action addressed the historical discrimination directed toward women, but without overt mention of women.
- Affirmative action addressed the needs of a variety of separate disenfranchised minority groups, all of whom shared one common historical factor: their lack of access to power. All such groups benefited from the passage of this legislation.

Federal System vs. Local System

Dr. Akhlaghi segued from the federal system into the local system using South Africa as the example.

- 1.) South Africa has a provincial system as opposed to the US system, which consists of state and federal.
- 2.) States have their own constitutions and governing bodies.
- 3.) In its constitution, a state may not violate the federal or national constitution.
- 4.) The states, however, can broaden the scope or go beyond the federal constitution in protecting additional rights, etc.

Dr. Akhlaghi illustrated the relationship between the state and federal systems as follows:

Let us take for example, the freedom of religion, which may be guaranteed by a federal constitution. A local or state constitution may list those religious groups explicitly, whereas the federal constitution only guarantees a general freedom.

- 5.) This issue is of particular concern with respect to Kurdistan. A delicate situation, in which the legal system composed of its own parliamentary body, laws, etc., which has developed in recent years in the northern region must be integrated in with a newly developing federal system. To date, those regions located in the middle and southern portions of Iraq have not attained the level of institutional development achieved by the Kurds. How do these groups go about harmonizing these systems?
- 6.) Under federalism, local constitutions cannot violate the federal constitution.
 - a. While states adhere to national laws, they do outline their own rights and privileges as they relate to the needs and values of their own locally-based groups.
 - b. In the United States, we have many examples of such:
 - i. The state of Nevada allows gambling, which is prohibited in almost all other states. (Excepting certain forms of gambling under certain provisions).
 - ii. Utah was originally settled by a specific religious community known as Mormons, who follow the Church of Jesus Christ of Latter Day Saints. They have their own set of religious holidays incorporated into state law.
 - iii. States differ in their approaches to the death penalty, otherwise known as capital punishment.
 - a. The eighth amendment of the US Constitution prevents government from imposing “cruel and unusual punishment”
 - b. Some states have interpreted this amendment so as to prohibit the institutionalization of capital

punishment within their respective states, while other states impose the death penalty.

Personal Idiom – Words of Wisdom from Dr. Akhlaghi

Dr. Akhlaghi reminds the participants that if they find themselves frustrated, they are trying too hard. Instead of trying to push through the wall, find a way around it.

Additional References

Be sure to use the following website as a tool to review others constitutions from a variety of countries, many we've discussed, and others we have not had time to discuss. This website is a wonderful reference tool for you over the next few months:

www.iraqiconstitution.org

Each constitution can be read in three languages including: Arabic, English and the native language of each constitution.

Dr. Akhlaghi suggests the best constitutions to use as references are:

- South Africa
- India
- Nigeria
- Malaysia
- Afghanistan

DAY 3 – Saturday, May 7, 2005

Session 1 – 9:00 am to 2:00 pm

**Facilitators: UNIFEM's Dr. Shirin
Dr. Akhlaghi**

Topics addressed:

- 1.) Day 2 wrap-up and open discussion**
- 2.) Iraq - Modern Constitutional History**
- 3.) Sharia – Letter vs. Spirit**
- 4.) Discussion and analysis of each working group's formulation of legal language structures**
- 5.) Development of strategies and an action plan for addressing constitutional matters; emphasis on coalition building**
- 6.) Next Steps ...**

The day started with Dr. Shirin Shukri going over the events of the past day. The participants spoke about the positive and negative impressions of the second day and the workshop so far.

The positive impressions formed by the participants were the following:

- The workshop provided them with a good background to better enable them to participate effectively in drafting the constitution.
- The MPs found that by looking at different constitutions from around the world and different constitutional language structures, they are now better able to construct gender sensitive language for use in the drafting of the constitution.
- The participants noted the importance of the preamble and how it is written, highlighting the importance of leaving room in it for possible future changes to be made in the constitution.
- The importance of laws pertaining to the constitutional court and how it is formed were noted.
- The participants pointed to the high degree of interest and expertise that the consultants possess.

Iraq - Modern Constitutional History

- 1.) Ms. Banafsheh Akhlaghi discussed the 1991 constitution.

Strategizing: Development of an Action Plan for Addressing Constitutional Matters

- 1.) Each of the groups of the previous day was then asked to concentrate on a different law. Ms. Akhlaghi noted that there are bound to be laws already in the constitution that the participants are going to want to hold on to, but asked the participants to be very weary at the same time of the language structures used.
- 2.) Ms. Akhlaghi pointed to the fact that there are already many progressive laws within the Iraqi system that worked in the past and are still working, and that the only problem is that they are not adhered to.
- 3.) Ms. Akhlaghi suggested that with the new set of eyes that the participants acquired over the three days of the workshop, that they look at the interim constitution and the 1991 constitution and see what parts they want maintained and what parts are lacking or need to be removed. She also suggested that they write the laws in a way that doesn't provoke strong opposition.
- 4.) Ms. Akhlaghi asked the participants to think about their vision of the future Iraq as they write.
- 5.) Upon completion of the exercise the participants were asked if this was the first time they've ever analyzed the constitution to the level they analyzed it during

this workshop. The answer was yes. According to Ms. Akhlaghi, their role as parliamentarians would be very similar to this exercise: analyzing and reviewing legislation.

- 6.) Ms. Akhlaghi also suggested that the parliamentarians create committees of parliamentarians with a legal background among themselves to act as a resource for the others. She also encouraged them to utilize the expertise of other parliamentarians with different backgrounds and perspectives.

Coalition Building

- 1.) Ms. Akhlaghi also suggested appealing to the men within disenfranchised groups to push for their agendas. Seeing as each of the participants present is part of not only one coalition (a coalition of women), but also part of other coalitions that include men, the men can be used to push for their agendas – a form of lobbying.

Dr. Akhlaghi's Evaluation of Workgroups

- 1.) Moving back to the language created by the parliamentarians themselves during this workshop, Ms. Akhlaghi pointed to the fact that there lacks a vision statement; that while there is discussion of a higher court, there is no definition of its duties; and that the areas the participants broke down into are absolutely silent in the document.
- 2.) According to Dr. Akhlaghi, once the preamble (which acts as a vision statement) is in place, all disenfranchised groups will rally behind that vision.

More on Sharia

- 1.) Another important section Dr. Akhlaghi pointed out to is how Islam and Sharia will be adhered to in the new Iraq, and whether they will be a source of law or the source of law. She went on to present a comparison to the Egyptian law, and explained that the law moves in two formations:
 - The spirit of the law
 - The letter of the law

She went on to explain that the spirit as it is applied in Sharia is not necessarily the letter of the Sharia, and that the spirit allows for much more leniency and discretion.

- 2.) In response the participants had different, sometimes opposing views on this matter. Some expressed preference to the spirit because as they explained it allows them to keep abreast of changes that may occur over time. Others preferred a mixture of both approaches, explaining that there were matters that are not subject to change, but that sometimes interpretation was acceptable.

- 3.) Ms. Akhlaghi suggested that in order to keep the constitution alive there must be a provision for that in the preamble. She then went on to give examples of how other countries have dealt with Sharia as base for the constitution.

Consensus Building

Ms. Akhlaghi later went on to point out to two matters that she considers key:

- No majority in any political establishment around the world can do it on their own. There must be consensus. Otherwise it is not a democracy. Therefore minorities can point out their grievances and wants.
- Within the majority they will need to reach consensus among the different political, religious, racial, etc ideologies. It would be smart to start planting seeds into their heads.

In response, several participants shared as follows:

- A committee composed of 25 parliamentarians as well as experts will formulate the draft constitution. The draft would then be presented to the National Assembly where it will be discussed before it is put to a referendum. Therefore, there is no need to worry, as everyone will have a say.
- The current government allows for healthy opposition.
- There is concern that during the voting within the national assembly the majority will get its way.
- There is sufficient belief that the way the constitution is being drafted, it will house the interests of all Iraqis and that the constitution will ultimately be of the will of the people.

Key Points of Concern

Ms. Akhlaghi expressed the following concerns regarding the points made:

- How will the constitution reach the Iraqi people?
- How will they understand it?
- How will the dialogue look like?
- Who will be part of that process?
- Participant's concerns: There was concern expressed by some however regarding the voting and how the majority might win the day just as they did with the national elections.

Education via NGOs and Media

The participants acknowledged the importance of educating people in this regard by means of the media, NGOs, etc... and pointed to the fact that a lot of this is already taking place on a wide scale in Iraq.

Parliamentarian Introduces herself and her NGO, by the name of “WHO”

Naima Qasir, Head of the WHO in Iraq, introduced herself and gave an overview of the work the WHO has been doing in Iraq, and about how impressed she is with the caliber of women elected for parliament from the different districts. She also pointed to how fortunate it is that for the first time in Arab history women are going to take part in the drafting of their constitution in Iraq and how she hoped that Iraqi women would be an example for women in other Arab countries.

In Closing

- 1.) Ms. Akhlaghi stressed the importance of looking at the Indian and South African constitutions in particular (use the website to reference these), because they tackle issues that are not dealt with in other constitutions.
- 2.) Ms. Akhlaghi reviewed the articles the participants worked on and discussed with the participants the content and the language structure used.

Next Steps

Wrapping up the workshop, the participants were asked to suggest what they think the next steps should be, and they suggested the following:

- Pushing for an extension of the deadline given for the writing of the constitution.
- Reviewing constitutions of the world in search of terminology and language structures that can be used.
- Having more of these workshops with new ideas for the same group if possible to enable them to work as a lobby, and that it might also be a good idea to meet in Iraq.
- That the next workshops should concentrate on the points of disagreement within the group, and that they discuss different strategies.
- That there should be follow up workshops to build on what was achieved during this workshop.
- That a joint workshop with other parliamentarians from other countries should take place so that they can share their problems, and that these parliamentarians include not only female but also male parliamentarians.

Final Words & Official Closing

The workshop ended with Dr. Haifa Abu Ghazaleh, UNIFEM Regional Program Director, giving a speech thanking all the participants present, the consultants and the organizing committee, followed by a few words of thanks given by Ms. Akhlaghi and then by Ms. Raja'a Al-Khusa'i on behalf of the Iraqi Women Parliamentarians present. Dr. Abu Ghazaleh then presented the participants with certificates of attendance.

APPENDIX 3

Republic of Iraq Transitional Administrative Law (TAL)

Coalition Provisional Authority

LAW OF ADMINISTRATION FOR THE STATE OF IRAQ

FOR THE TRANSITIONAL PERIOD

8 March 2004

PREAMBLE

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

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

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

CHAPTER ONE – FUNDAMENTAL PRINCIPLES

Article 1.

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

Article 2.

(A) The term “transitional period” shall refer to the period beginning on 30 June 2004 and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution as set forth in this Law, which in any case shall be no later than 31 December 2005, unless the provisions of Article 61 are applied.

(B) The transitional period shall consist of two phases.

(1) The first phase shall begin with the formation of a fully sovereign Iraqi Interim Government that takes power on 30 June 2004. This government shall be constituted in accordance with a process of extensive deliberations and consultations with cross-sections of the Iraqi people conducted by the Governing Council and the Coalition Provisional Authority and possibly in consultation with the United Nations. This government shall exercise authority in accordance with this Law, including the fundamental principles and rights specified herein, and with an annex that shall be agreed upon and issued before the beginning of the transitional period and that shall be an integral part of this Law.

(2) The second phase shall begin after the formation of the Iraqi Transitional Government, which will take place after elections for the National Assembly have been held as stipulated in this Law, provided that, if possible, these elections are not delayed beyond 31 December 2004, and, in any event, beyond 31 January 2005. This second phase shall end upon the formation of an Iraqi government pursuant to a permanent constitution.

Article 3.

(A) This Law is the Supreme Law of the land and shall be binding in all parts of Iraq without exception. No amendment to this Law may be made except by a three-fourths majority of the members of the National Assembly and the unanimous approval of the Presidency Council. Likewise, no amendment may be made that could abridge in any way the rights of the Iraqi people cited in Chapter Two; extend the transitional period beyond the timeframe cited in this Law; delay the holding of elections to a new assembly; reduce the powers of the regions or governorates; or affect Islam, or any other religions or sects and their rites.

(B) Any legal provision that conflicts with this Law is null and void.

(C) This Law shall cease to have effect upon the formation of an elected government pursuant to a permanent constitution.

Article 4.

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

Article 5.

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

Article 6.

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

Article 7.

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

- (B) Iraq is a country of many nationalities, and the Arab people in Iraq are an inseparable part of the Arab nation.

Article 8.

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

Article 9.

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

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

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

CHAPTER TWO – FUNDAMENTAL RIGHTS

Article 10.

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

Article 11.

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

(E) Decision Number 666 (1980) of the dissolved Revolutionary Command Council is annulled, and anyone whose citizenship was withdrawn on the basis of this decree shall be deemed an Iraqi.

(F) The National Assembly must issue laws pertaining to citizenship and naturalization consistent with the provisions of this Law

(G) The Courts shall examine all disputes arising from the application of the provisions relating to citizenship.

Article 12.

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

Article 13.

(A) Public and private freedoms shall be protected.

(B) The right of free expression shall be protected.

(C) The right of free peaceable assembly and the right to join associations freely, as well as the right to form and join unions and political parties freely, in accordance with the law, shall be guaranteed.

(D) Each Iraqi has the right of free movement in all parts of Iraq and the right to travel abroad and return freely.

(E) Each Iraqi has the right to demonstrate and strike peaceably in accordance with the law.

(F) Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited.

(G) Slavery, the slave trade, forced labor, and involuntary servitude with or without pay, shall be forbidden.

(H) Each Iraqi has the right to privacy.

Article 14.

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

Article 15.

(A) No civil law shall have retroactive effect unless the law so stipulates. There shall be neither a crime, nor punishment, except by law in effect at the time the crime is committed.

(B) Police, investigators, or other governmental authorities may not violate the sanctity of private residences, whether these authorities belong to the federal or regional governments, governorates, municipalities, or local administrations, unless a judge or investigating magistrate has issued a search warrant in accordance with applicable law on the basis of information provided by a sworn individual who knew that bearing false witness would render him liable to punishment. Extreme exigent circumstances, as determined by a court of competent jurisdiction, may justify a warrantless search, but such exigencies shall be narrowly construed. In the event that a warrantless search is carried out in the absence of an extreme exigent circumstance, the evidence so seized, and any other evidence found derivatively from such search, shall be inadmissible in connection with a criminal charge, unless the court determines that the person who carried out the warrantless search believed reasonably and in good faith that the search was in accordance with the law.

(C) No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs.

(D) All persons shall be guaranteed the right to a fair and public hearing by an independent and impartial tribunal, regardless of whether the proceeding is civil or criminal. Notice of the proceeding and its legal basis must be provided to the accused without delay.

(E) The accused is innocent until proven guilty pursuant to law, and he likewise has the right to engage independent and competent counsel, to remain silent in response to questions addressed to him with no compulsion to testify for any reason, to participate in preparing his defense, and to summon and examine witnesses or to ask the judge to do so. At the time a person is arrested, he must be notified of these rights.

(F) The right to a fair, speedy, and open trial shall be guaranteed.

(G) Every person deprived of his liberty by arrest or detention shall have the right of recourse to a court to determine the legality of his arrest or detention without delay and to order his release if this occurred in an illegal manner.

(H) After being found innocent of a charge, an accused may not be tried once again on the same charge.

(I) Civilians may not be tried before a military tribunal. Special or exceptional courts may not be established.

(J) Torture in all its forms, physical or mental, shall be prohibited under all circumstances, as shall be cruel, inhuman, or degrading treatment. No confession made under compulsion, torture, or threat thereof shall be relied upon or admitted into evidence for any reason in any proceeding, whether criminal or otherwise.

Article 16.

(A) Public property is sacrosanct, and its protection is the duty of every citizen.

(B) The right to private property shall be protected, and no one may be prevented from disposing of his property except within the limits of law. No one shall be deprived of his property except by eminent domain, in circumstances and in the manner set forth in law, and on condition that he is paid just and timely compensation.

(C) Each Iraqi citizen shall have the full and unfettered right to own real property in all parts of Iraq without restriction.

Article 17.

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

Article 18.

There shall be no taxation or fee except by law.

Article 19.

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

Article 20.

(A) Every Iraqi who fulfills the conditions stipulated in the electoral law has the right to stand for election and cast his ballot secretly in free, open, fair, competitive, and periodic elections.

(B) No Iraqi may be discriminated against for purposes of voting in elections on the basis of gender, religion, sect, race, belief, ethnic origin, language, wealth, or literacy.

Article 21.

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

Article 22.

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

Article 23.

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

CHAPTER THREE – THE IRAQI TRANSITIONAL GOVERNMENT

Article 24.

(A) The Iraqi Transitional Government, which is also referred to in this Law as the federal government, shall consist of the National Assembly; the Presidency Council; the Council of Ministers, including the Prime Minister; and the judicial authority.

(B) The three authorities, legislative, executive, and judicial, shall be separate and independent of one another.

(C) No official or employee of the Iraqi Transitional Government shall enjoy immunity for criminal acts committed while in office.

Article 25.

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

(A) Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; formulating foreign economic and trade policy and sovereign debt policies;

(B) Formulating and executing national security policy, including creating and maintaining armed forces to secure, protect, and guarantee the security of the country's borders and to defend Iraq;

(C) Formulating fiscal policy, issuing currency, regulating customs, regulating commercial policy across regional and governorate boundaries in Iraq, drawing up the national budget of the State, formulating monetary policy, and establishing and administering a central bank;

(D) Regulating weights and measures and formulating a general policy on wages;

(E) Managing the natural resources of Iraq, which belongs to all the people of all the regions and governorates of Iraq, in consultation with the governments of the regions and the administrations of the governorates, and distributing the revenues resulting from their sale through the national budget in an equitable manner proportional to the distribution of population throughout the country, and with due regard for areas that were unjustly deprived of these revenues by the previous regime, for dealing with their situations in a positive way, for their needs, and for the degree of development of the different areas of the country;

(F) Regulating Iraqi citizenship, immigration, and asylum; and

(G) Regulating telecommunications policy.

Article 26.

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

Article 27.

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

Article 28.

- (A) Members of the National Assembly; the Presidency Council; the Council of Ministers, including the Prime Minister; and judges and justices of the courts may not be

appointed to any other position in or out of government. Any member of the National Assembly who becomes a member of the Presidency Council or Council of Ministers shall be deemed to have resigned his membership in the National Assembly.

(B) In no event may a member of the armed forces be a member of the National Assembly, minister, Prime Minister, or member of the Presidency Council unless the individual has resigned his commission or rank, or retired from duty at least eighteen months prior to serving.

Article 29.

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

CHAPTER FOUR – THE TRANSITIONAL LEGISLATIVE AUTHORITY

Article 30.

(A) During the transitional period, the State of Iraq shall have a legislative authority known as the National Assembly. Its principal mission shall be to legislate and exercise oversight over the work of the executive authority.

(B) Laws shall be issued in the name of the people of Iraq. Laws, regulations, and directives related to them shall be published in the official gazette and shall take effect as of the date of their publication, unless they stipulate otherwise.

(C) The National Assembly shall be elected in accordance with an electoral law and a political parties law. The electoral law shall aim to achieve the goal of having women constitute no less than one-quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, ChaldoAssyrians, and others.

(D) Elections for the National Assembly shall take place by 31 December 2004 if possible, and in any case no later than by 31 January 2005.

Article 31.

(A) The National Assembly shall consist of 275 members. It shall enact a law dealing with the replacement of its members in the event of resignation, removal, or death.

(B) A nominee to the National Assembly must fulfill the following conditions:

(1) He shall be an Iraqi no less than 30 years of age.

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

Article 32.

(A) The National Assembly shall draw up its own internal procedures, and it shall sit in public session unless circumstances require otherwise, consistent with its internal procedures. The first session of the Assembly shall be chaired by its oldest member.

(B) The National Assembly shall elect, from its own members, a president and two deputy presidents of the National Assembly. The president of the National Assembly shall be the individual who receives the greatest number of votes for that office; the first deputy president the next highest; and the second deputy president the next. The president of the National Assembly may vote on an issue, but may not participate in the debates, unless he temporarily steps out of the chair immediately prior to addressing the issue.

(C) A bill shall not be voted upon by the National Assembly unless it has been read twice at a regular session of the Assembly, on condition that at least two days intervene

between the two readings, and after the bill has been placed on the agenda of the session at least four days prior to the vote.

Article 33.

(A) Meetings of the National Assembly shall be public, and transcripts of its meetings shall be recorded and published. The vote of every member of the National Assembly shall be recorded and made public. Decisions in the National Assembly shall be taken by simple majority unless this Law stipulates otherwise.

(B) The National Assembly must examine bills proposed by the Council of Ministers, including budget bills.

(C) Only the Council of Ministers shall have the right to present a proposed national budget. The National Assembly has the right to reallocate proposed spending and to reduce the total amounts in the general budget. It also has the right to propose an increase in the overall amount of expenditures to the Council of Ministers if necessary.

(D) Members of the National Assembly shall have the right to propose bills, consistent with the internal procedures that are drawn up by the Assembly.

(E) The Iraqi Armed Forces may not be dispatched outside Iraq even for the purpose of defending against foreign aggression except with the approval of the National Assembly and upon the request of the Presidency Council.

(F) Only the National Assembly shall have the power to ratify international treaties and agreements.

(G) The oversight function performed by the National Assembly and its committees shall include the right of interpellation of executive officials, including members of the Presidency Council, the Council of Ministers, including the Prime Minister, and any less senior official of the executive authority. This shall encompass the right to investigate, request information, and issue subpoenas for persons to appear before them.

Article 34.

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

CHAPTER FIVE – THE TRANSITIONAL EXECUTIVE AUTHORITY

Article 35.

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

Article 36.

(A) The National Assembly shall elect a President of the State and two Deputies. They shall form the Presidency Council, the function of which will be to represent the sovereignty of Iraq and oversee the higher affairs of the country. The election of the Presidency Council shall take place on the basis of a single list and by a two-thirds majority of the members' votes. The National Assembly has the power to remove any member of the Presidency Council of the State for incompetence or lack of integrity by a three-fourths majority of its members' votes. In the event of a vacancy in the Presidency Council, the National Assembly shall, by a vote of two-thirds of its members, elect a replacement to fill the vacancy.

(B) It is a prerequisite for a member of the Presidency Council to fulfill the same conditions as the members of the National Assembly, with the following observations:

- (1) He must be at least forty years of age.
- (2) He must possess a good reputation, integrity, and rectitude.
- (3) If he was a member of the dissolved Ba'ath Party, he must have left the dissolved Party at least ten years before its fall.
- (4) He must not have participated in repressing the *intifada* of 1991 or the Anfal campaign and must not have committed a crime against the Iraqi people.

(C) The Presidency Council shall take its decisions unanimously, and its members may not deputize others as proxies.

Article 37.

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

Article 38.

(A) The Presidency Council shall name a Prime Minister unanimously, as well as the members of the Council of Ministers upon the recommendation of the Prime Minister. The Prime Minister and Council of Ministers shall then seek to obtain a vote of confidence by simple majority from the National Assembly prior to commencing their work as a government. The Presidency Council must agree on a candidate for the post of Prime Minister within two weeks. In the event that it fails to do so, the responsibility of naming the Prime Minister reverts to the National Assembly. In that event, the National Assembly must confirm the nomination by a two-thirds majority. If the Prime Minister is unable to nominate his Council of Ministers within one month, the Presidency Council shall name another Prime Minister.

(B) The qualifications for Prime Minister must be the same as for the members of the Presidency Council except that his age must not be less than 35 years upon his taking office.

Article 39.

(A) The Council of Ministers shall, with the approval of the Presidency Council, appoint representatives to negotiate the conclusion of international treaties and agreements. The Presidency Council shall recommend passage of a law by the National Assembly to ratify such treaties and agreements.

(B) The Presidency Council shall carry out the function of commander-in-chief of the Iraqi Armed Forces only for ceremonial and protocol purposes. It shall have no command authority. It shall have the right to be briefed, to inquire, and to advise. Operationally, national command authority on military matters shall flow from the Prime Minister to the Minister of Defense to the military chain of command of the Iraqi Armed Forces.

(C) The Presidency Council shall, as more fully set forth in Chapter Six, below, appoint, upon recommendation of the Higher Juridical Council, the Presiding Judge and members of the Federal Supreme Court.

(D) The Council of Ministers shall appoint the Director-General of the Iraqi National Intelligence Service, as well as officers of the Iraqi Armed Forces at the rank of general or above. Such appointments shall be subject to confirmation by the National Assembly by simple majority of those of its members present.

Article 40.

(A) The Prime Minister and the ministers shall be responsible before the National Assembly, and this Assembly shall have the right to withdraw its confidence either in the Prime Minister or in the ministers collectively or individually. In the event that

confidence in the Prime Minister is withdrawn, the entire Council of Ministers shall be dissolved, and Article 40(B), below, shall become operative.

(B) In the event of a vote of no confidence with respect to the entire Council of Ministers, the Prime Minister and Council of Ministers shall remain in office to carry out their functions for a period not to exceed thirty days, until the formation of a new Council of Ministers, consistent with Article 38, above.

Article 41.

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

Article 42.

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

CHAPTER SIX – THE FEDERAL JUDICIAL AUTHORITY

Article 43.

(A) The judiciary is independent, and it shall in no way be administered by the executive authority, including the Ministry of Justice. The judiciary shall enjoy exclusive competence to determine the innocence or guilt of the accused pursuant to law, without interference from the legislative or executive authorities.

(B) All judges sitting in their respective courts as of 1 July 2004 will continue in office thereafter, unless removed from office pursuant to this Law.

(C) The National Assembly shall establish an independent and adequate budget for the judiciary.

(D) Federal courts shall adjudicate matters that arise from the application of federal laws. The establishment of these courts shall be within the exclusive competence of the federal government. The establishment of these courts in the regions shall be in

consultation with the presidents of the judicial councils in the regions, and priority in appointing or transferring judges to these courts shall be given to judges resident in the region.

Article 44.

- (A) A court called the Federal Supreme Court shall be constituted by law in Iraq.
- (B) The jurisdiction of the Federal Supreme Court shall be as follows:
 - (1) Original and exclusive jurisdiction in legal proceedings between the Iraqi Transitional Government and the regional governments, governorate and municipal administrations, and local administrations.
 - (2) Original and exclusive jurisdiction, on the basis of a complaint from a claimant or a referral from another court, to review claims that a law, regulation, or directive issued by the federal or regional governments, the governorate or municipal administrations, or local administrations is inconsistent with this Law.
 - (3) Ordinary appellate jurisdiction of the Federal Supreme Court shall be defined by federal law.
- (C) Should the Federal Supreme Court rule that a challenged law, regulation, directive, or measure is inconsistent with this Law, it shall be deemed null and void.
- (D) The Federal Supreme Court shall create and publish regulations regarding the procedures required to bring claims and to permit attorneys to practice before it. It shall take its decisions by simple majority, except decisions with regard to the proceedings stipulated in Article 44(B)(1), which must be by a two-thirds majority. Decisions shall be binding. The Court shall have full powers to enforce its decisions, including the power to issue citations for contempt of court and the measures that flow from this.
- (E) The Federal Supreme Court shall consist of nine members. The Higher Juridical Council shall, in consultation with the regional judicial councils, initially nominate no less than eighteen and up to twenty-seven individuals to fill the initial vacancies in the aforementioned Court. It will follow the same procedure thereafter, nominating three members for each subsequent vacancy that occurs by reason of death, resignation, or removal. The Presidency Council shall appoint the members of this Court and name one of them as its Presiding Judge. In the event an appointment is rejected, the Higher Juridical Council shall nominate a new group of three candidates.

Article 45.

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

Article 46.

(A) The federal judicial branch shall include existing courts outside the Kurdistan region, including courts of first instance; the Central Criminal Court of Iraq; Courts of Appeal; and the Court of Cassation, which shall be the court of last resort except as provided in Article 44 of this Law. Additional federal courts may be established by law. The appointment of judges for these courts shall be made by the Higher Juridical Council. This Law preserves the qualifications necessary for the appointment of judges, as defined by law.

(B) The decisions of regional and local courts, including the courts of the Kurdistan region, shall be final, but shall be subject to review by the federal judiciary if they conflict with this Law or any federal law. Procedures for such review shall be defined by law.

Article 47.

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

CHAPTER SEVEN – THE SPECIAL TRIBUNAL AND NATIONAL COMMISSIONS

Article 48.

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

Article 49.

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

Article 50.

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

Article 51.

No member of the Iraqi Special Tribunal or of any commission established by the federal government may be employed in any other capacity in or out of government. This prohibition is valid without limitation, whether it be within the executive, legislative, or judicial authority of the Iraqi Transitional Government. Members of the

Special Tribunal may, however, suspend their employment in other agencies while they serve on the aforementioned Tribunal.

CHAPTER EIGHT – REGIONS, GOVERNORATES, AND MUNICIPALITIES

Article 52.

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

Article 53.

(A) The Kurdistan Regional Government is recognized as the official government of the territories that were administered by the that government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term “Kurdistan Regional Government” shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region.

(B) The boundaries of the eighteen governorates shall remain without change during the transitional period.

(C) Any group of no more than three governorates outside the Kurdistan region, with the exception of Baghdad and Kirkuk, shall have the right to form regions from amongst themselves. The mechanisms for forming such regions may be proposed by the Iraqi Interim Government, and shall be presented and considered by the elected National Assembly for enactment into law. In addition to being approved by the National Assembly, any legislation proposing the formation of a particular region must be approved in a referendum of the people of the relevant governorates.

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

Article 54.

(A) The Kurdistan Regional Government shall continue to perform its current functions throughout the transitional period, except with regard to those issues which fall within the exclusive competence of the federal government as specified in this Law. Financing for these functions shall come from the federal government, consistent with current practice and in accordance with Article 25(E) of this Law. The Kurdistan

Regional Government shall retain regional control over police forces and internal security, and it will have the right to impose taxes and fees within the Kurdistan region.

(B) With regard to the application of federal laws in the Kurdistan region, the Kurdistan National Assembly shall be permitted to amend the application of any such law within the Kurdistan region, but only to the extent that this relates to matters that are not within the provisions of Articles 25 and 43(D) of this Law and that fall within the exclusive competence of the federal government.

Article 55.

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

(B) Each Governor and member of each Governorate Council who holds office as of 1 July 2004, in accordance with the law on local government that shall be issued, shall remain in place until such time as free, direct, and full elections, conducted pursuant to law, are held, or, unless, prior to that time, he voluntarily gives up his position, is removed upon his conviction for a crime involving moral turpitude or related to corruption, or upon being stricken with permanent incapacity, or is dismissed in accordance with the law cited above. When a governor, mayor, or member of a council is dismissed, the relevant council may receive applications from any eligible resident of the governorate to fill the position. Eligibility requirements shall be the same as those set forth in Article 31 for membership in the National Assembly. The new candidate must receive a majority vote of the council to assume the vacant seat.

Article 56.

(A) The Governorate Councils shall assist the federal government in the coordination of federal ministry operations within the governorate, including the review of annual ministry plans and budgets with regard to activities in the governorate. Governorate Councils shall be funded from the general budget of the State, and these Councils shall also have the authority to increase their revenues independently by imposing taxes and fees; to organize the operations of the Governorate administration; to initiate and implement province-level projects alone or in partnership with international, and non-governmental organizations; and to conduct other activities insofar as is consistent with federal laws.

(B) The *Qada'* and *Nahiya* councils and other relevant councils shall assist in the performance of federal responsibilities and the delivery of public services by reviewing local ministry plans in the afore-mentioned places; ensuring that they respond properly to local needs and interests; identifying local budgetary requirements through the national budgeting procedures; and collecting and retaining local revenues, taxes, and fees; organizing the operations of the local administration; initiating and implementing local projects alone or in conjunction with international, and non-governmental organizations; and conducting other activities consistent with applicable law.

(C) Where practicable, the federal government shall take measures to devolve additional functions to local, governorate, and regional administrations, in a methodical way. Regional units and governorate administrations, including the Kurdistan Regional Government, shall be organized on the basis of the principle of de-centralization and the devolution of authorities to municipal and local governments.

Article 57.

(A) All authorities not exclusively reserved to the Iraqi Transitional Government may be exercised by the regional governments and governorates as soon as possible following the establishment of appropriate governmental institutions.

(B) Elections for governorate councils throughout Iraq and for the Kurdistan National Assembly shall be held at the same time as the elections for the National Assembly, no later than 31 January 2005.

Article 58.

(A) The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:

- (1) With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.
- (2) With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such

individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.

- (3) With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.
- (4) With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

(B) The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.

(C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

CHAPTER NINE – THE TRANSITIONAL PERIOD

Article 59.

- (A) The permanent constitution shall contain guarantees to ensure that the Iraqi Armed Forces are never again used to terrorize or oppress the people of Iraq.
- (B) Consistent with Iraq's status as a sovereign state, and with its desire to join other nations in helping to maintain peace and security and fight terrorism during the transitional period, the Iraqi Armed Forces will be a principal partner in the multi-national force operating in Iraq under unified command pursuant to the provisions of United Nations Security Council Resolution 1511 (2003) and any subsequent relevant resolutions. This arrangement shall last until the ratification of a permanent constitution and the election of a new government pursuant to that new constitution.

(C) Upon its assumption of authority, and consistent with Iraq's status as a sovereign state, the elected Iraqi Transitional Government shall have the authority to conclude binding international agreements regarding the activities of the multi-national force operating in Iraq under unified command pursuant to the terms of United Nations Security Council Resolution 1511 (2003), and any subsequent relevant United Nations Security Council resolutions. Nothing in this Law shall affect rights and obligations under these agreements, or under United Nations Security Council Resolution 1511 (2003), and any subsequent relevant United Nations Security Council resolutions, which will govern the multi-national force's activities pending the entry into force of these agreements.

Article 60.

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

Article 61.

(A) The National Assembly shall write the draft of the permanent constitution by no later than 15 August 2005.

(B) The draft permanent constitution shall be presented to the Iraqi people for approval in a general referendum to be held no later than 15 October 2005. In the period leading up to the referendum, the draft constitution shall be published and widely distributed to encourage a public debate about it among the people.

(C) The general referendum will be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it.

(D) If the permanent constitution is approved in the referendum, elections for a permanent government shall be held no later than 15 December 2005 and the new government shall assume office no later than 31 December 2005.

(E) If the referendum rejects the draft permanent constitution, the National Assembly shall be dissolved. Elections for a new National Assembly shall be held no later than 15 December 2005. The new National Assembly and new Iraqi Transitional Government shall then assume office no later than 31 December 2005, and shall continue to operate under this Law, except that the final deadlines for preparing a new draft may be changed to make it possible to draft a permanent constitution within a period not to exceed one year. The new National Assembly shall be entrusted with writing another draft permanent constitution.

(F) If necessary, the president of the National Assembly, with the agreement of a majority of the members' votes, may certify to the Presidency Council no later than 1 August 2005 that there is a need for additional time to complete the writing of the draft constitution. The Presidency Council shall then extend the deadline for writing the draft constitution for only six months. This deadline may not be extended again.

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

Article 62.

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

<http://www.cpa-iraq.org/government/TAL.html>

APPENDIX 4

1990 Constitution of the Republic of Iraq Handout

(June 5, 2002)

For many years, Iraqis have discussed the shape of a new constitution for Iraq that would serve as the backbone of a new democratic state. In 1994 and 1995, the Iraq Foundation held meetings at Princeton University and School of Oriental and African Studies (London University) to examine some of the issues that will need to be addressed in a such a constitution. In more recent years, several Iraqi scholars have written drafts and proposals for a future Iraqi constitution.

In 1970, the Iraqi government drafted a provisional constitution that was never ratified by a national referendum or adoption by an elected parliament. In 1990 Iraq drafted a new provisional constitution, which was amended in 1995 when Saddam Hussein was "elected" president for life. (The election had a 99.47% turnout and a 99.96 "yes" vote). However, the 1990 document is still technically an interim constitution, as it has not been ratified by any of the accepted methods.

Below is the text of the interim constitution (excluding the 1995 amendment).

{ Adopted in: 1990 } { ICL Document Status: 1990 }

Chapter I The Republic of Iraq

Article 1 [State Form]

Iraq is a Sovereign People's Democratic Republic. Its basic objective is the realization of one Arab State and the build-up of the socialist system.

Article 2 [Authority]

The people are the source of authority and its legitimacy.

Article 3 [Sovereignty, Territory]

- (a) The sovereignty of Iraq is an indivisible entity.
- (b) The territory of Iraq is an indivisible entity of which no part can be ceded.

Article 4 [State Religion]

Islam is the religion of the State.

Article 5 [Nationalities]

- (a) Iraq is a part of the Arab Nation.
- (b) The Iraqi People are composed of two principal nationalisms: the Arab Nationalism and the Kurdish Nationalism.
- (c) This Constitution acknowledges the national rights of the Kurdish People and the legitimate rights of all minorities within the Iraqi unity.

Article 6 [Iraqi Nationality]

The Iraqi nationality is regulated by the law.

Article 7 [Languages]

(a) Arabic is the official language.

The Kurdish language is official, besides Arabic, in the Kurdish Region.

Article 8 [Capital, Decentralization]

(a) Baghdad is the Capital of the Iraqi Republic, and it can be transferred by law.

(b) The Iraqi Republic is divided into administrative units and is organized on the basis of decentralization.

Article 9 [Flag, Emblem]

The Flag of the Iraqi Republic, its Emblem, and stipulations concerning the two, are regulated by law.

Chapter II Social and Economic Foundations of the Iraqi Republic**Article 10 [Social Solidarity]**

The social solidarity is the first foundation for the Society. Its essence is that every citizen accomplishes his duty in full, and that the Society guarantees the citizen's rights and liberties in full.

Article 11 [Family, Mothers, Children]

The family is the nucleus of the Society. The State secures its protection and support, and ensures maternal and child care.

Article 12 [Economy, Arab Unity]

The State assumes the responsibility for planning, directing and steering the national economy for the purpose of:

(a) Establishing the socialist system on scientific and revolutionary foundations.

(b) Realizing the economic Arab unity.

Article 13 [Public Property and Planning]

National resources and basic means of production are owned by the People. They are directly invested by the Central Authority in the Iraqi Republic, according to exigencies of the general planning of the national economy.

Article 14 [Cooperation]

The State secures, encourages, and supports all types of cooperation in production, distribution, and consumption.

Article 15 [Public Property]

Public ownership and properties of the Public Sector are inviolable. The State and all People are responsible for safeguarding, securing, and protecting it. Any sabotage to it or

aggression against it, is considered as sabotage and aggression against the entity of the Society.

Article 16 [Ownership, Private Property]

- (a) Ownership is a social function, to be exercised within the objectives of the Society and the plans of the State, according to stipulations of the law.
- (b) Private ownership and economic individual liberty are guaranteed according to the law, and on the basis of not exercising them in a manner incompatible with the economic and general planning.
- (c) Private property is not expropriated except for considerations of public interest and for just compensation in accordance with the law.

Article 17 [Inheritance]

Inheritance is a guaranteed right, regulated by the law.

Article 18 [Foreigners' Property]

Immobile ownership is prohibited for non-Iraqi, except otherwise mentioned by a law.

Chapter III Fundamental Rights and Duties

Article 19 [Equality]

- (a) Citizens are equal before the law, without discrimination because of sex, blood, language, social origin, or religion.
- (b) Equal opportunities are guaranteed to all citizens, according to the law.

Article 20 [Criminal Trial]

- (a) An accused is presumed to be innocent, until proved guilty at a legal trial.
- (b) The right of defense is sacred, in all stages of proceedings and prosecution.
- (c) Courts sessions are public, unless it becomes secret by a court's decision.

Article 21 [Penalty, Punishment]

- (a) Penalty is personal.
- (b) There can be no crime, nor punishment, except in conformity with the law. No penalty shall be imposed, except for acts punishable by the law, while they are committed. A severer penalty than that prescribed by the law, when the act was committed, cannot be inflicted.

Article 22 [Dignity, Personal Integrity, Arrest, Home]

- (a) The dignity of man is safeguarded. It is inadmissible to cause any physical or psychological harm.
- (b) It is inadmissible to arrest a person, to stop him, to imprison him or to search him, except in accordance with the rules of the law.
- (c) Homes have their sanctity. It is inadmissible to enter or search them, except in accordance with the rules of the law.

Article 23 [Communication]

The secrecy of means of communications by mail, telegrams, and telephones is guaranteed. It is inadmissible to disclose it, except for considerations of justice and security, in accordance with the rules prescribed by the law.

Article 24 [Right to Move]

It is inadmissible to prevent the citizen from the departure from the Country or returning to it, nor to restrict his moves or residence in the Country, except in cases laid down by the law.

Article 25 [Religion]

Freedom of religion, faith, and the exercise of religious rites, is guaranteed, in accordance with the rules of constitution and laws and in compliance with morals and public order.

Article 26 [Expression, Association]

The Constitution guarantees freedom of opinion, publication, meeting, demonstrations and formation of political parties, syndicates, and societies in accordance with the objectives of the Constitution and within the limits of the law. The State ensures the considerations necessary to exercise these liberties, which comply with the revolutionary, national, and progressive trend.

Article 27 [Education]

(a) The State undertakes the struggle against illiteracy and guarantees the right of education, free of charge, in its primary, secondary, and university stages, for all citizens.

Article 28 [Educational Goals]

Education has the objective of raising and developing the general educational level, promoting scientific thinking, animating the research spirit, responding to exigencies of economic and social evolution and development programs, creating a national, liberal and progressive generation, strong physically and morally, proud of his people, his homeland and heritage, aware of all his national rights, and who struggles against the capitalistic ideology, exploitation, reaction, zionism, and imperialism for the purpose of realizing the Arab unity, liberty, and socialism.

Article 29 [Progress]

The State undertakes to make available, the means of enjoying the achievements of modernization, by the popular masses and to generalize the progressive accomplishments of contemporary civilization on all citizens.

Article 30 [Public Office]

(a) Public office is a sacred confidence and a social service; its essence is the honest and conscious obligation to the interests of the masses, their rights and liberties, in accordance with the rules of the constitution and the laws.

(b) Equality in the appointment for public offices is guaranteed by the law.**Article 31 [Armed**

Forces]

(a) The defense of the homeland is a sacred duty and honor for the citizens; conscription is compulsory and regulated by the law.

(b) Armed Forces belong to the People and are entrusted with ensuring his security, defending his independence, protecting the safety and the integrity of the people and territory, and realizing his national and regional objectives and aspirations.

(c) The State alone establishes the Armed Forces. No other organization or group, is entitled to establish military or para-military formations.

Article 32 [Right, Honor, and Duty to Work]

(a) Work is a right, which is ensured to be available for every able citizen.

(b) Work is an honor and a sacred duty for every able citizen, and is indispensable by the necessity to participate in building the society, protecting it, and realizing its evolution and prosperity.

(c) The State undertakes to improve the conditions of work, and raise the standard of living, experience, and culture for all working citizens.

(d) The State undertakes to provide the largest scale of social securities for all citizens, in cases of sickness, disability, unemployment, or aging.

(e) The State undertakes to elaborate the plan to secure the means necessary, to enable the working citizens to pass their vacations in an atmosphere, which enables them to improve their health standard, and to promote their cultural and artistic talents.

Article 33 [Health]

The State assumes the responsibility to safeguard the public health by continually expanding free medical services, in protection, treatment, and medicine, within the scope of cities and rural areas.

Article 34 [Right to Asylum]

(a) The Iraqi Republic grants the right of political asylum for all militants, persecuted in their countries because of defending the liberal and human principles which are assumed by the Iraqi People in this Constitution.

(b) The extradition of political refugees is prohibited.

Article 35 [Taxes]

Payment of taxes is the duty of every citizen. Taxes cannot be imposed, nor modified, nor levied, except by a law.

Article 36 [Prohibited Activity]

It is prohibited to exercise any activity against the objectives of the People, stipulated in this Constitution. Every act or behavior, having for purpose to crumble the national unity of the popular masses or to provoke racial, sectarian, or regional discrimination among them, or to be hostile to their gains and progressive achievements.

Chapter IV Institutions of the Iraqi Republic

Section I The Revolutionary Command Council

Article 37 [Supreme Institution]

The Revolutionary Command Council is the supreme institution in the State, which on 17 July 1968, assumed the responsibility to realize the public will of the people, by removing the authority from the reactionary, individual, and corruptive regime, and returning it to the people.

Article 38 [Competencies]

The Revolutionary Command Council exercises the following competencies by a two-third majority of its members:

(a) Electing a President from its members, called President of the Revolutionary Council, who is President of the Republic.

Article 39 [Oath]

The President of the Revolutionary Command Council, the Vice-President and the members take the following oath before the Council:

"I swear by God Almighty, by my honor and by my faith to preserve the Republican system, to commit myself to its Constitution and laws, to look after the independence of the Country, its security and territorial integrity and to do my best earnestly and sincerely to realize the objectives of the Arab Nation for Unity, Freedom and Socialism."

Article 40 [Immunity]

The President of the Revolutionary Command Council, the Vice-President, and the members enjoy full immunity. No measures can be taken against any of them without a priori permission of the Council.

Article 41

(a) The President, the Vice-President, or one third of the members can call a meeting of the Revolutionary Command Council. Meetings held are presided by the President or the Vice-President and are attended by the majority of the members.

(b) Meetings and debates of the Revolutionary Command Council are closed. Disclosing it, invokes constitutional responsibility before the Council. Decisions of the Council are declared, published and communicated by the means specified in this Constitution.

(c) Laws and decisions are ratified in the Council by the majority of its members, except otherwise stipulated by the Constitution.

Article 42 [General Competencies]

The Revolutionary Command Council exercises the following competencies:

(a) Issuing laws and decrees having the force of the law.

(b) Issuing decisions indispensable for applying the rules of the enacted laws.

Article 43 [Majority Competencies]

The Revolutionary Command Council exercises the following competencies by the majority its members:

(a) Ratifying matters of the Ministry of Defense and Public Security, elaborating the laws and taking the decisions in whatever concerns them from the point of view of

organization and competencies.

(b) Declaring the public mobilization totally or partially, declaring the war, accepting the truce, and concluding the peace.

(c) Ratifying the draft general budget of the state, independent and investment budgets annexed to it, and ratifying final accounts.

(d) Ratifying treaties and international agreements.

(e) Elaborating its internal rules of procedure, determining its competencies, ratifying its budget, appointing its officials, determining rewards and remunerations of the President, the Vice-President, its members and officials.

(f) Elaborating the rules regarding the prosecution of its members, concerning the formation of the court and the procedures to be followed in it.

(g) Vesting its President or the Vice-President with some of his competencies prescribed in this Constitution, except legislative competencies.

Article 44 [Presidential Competencies]

The President of the Revolutionary Command Council undertakes:

(a) Presiding over the meetings of the Council, representing it, controlling its sessions, and issuing orders for expenditure.

(b) Signing all laws and decisions issued by the Council and publishing them in the Official Gazette.

(c) Supervising the activities of Ministries and organizations in the State, calling Ministers to discuss matters concerning their Ministries and questioning them in case of necessity, and notify-

Article 45 [Responsibility]

The President of the Revolutionary Command Council, the Vice-President, and its members, each is responsible before the Council, for violating the Constitution or for breaking the constituencies of the constitutional oath, or for any action or behavior, considered by the Council as disgracing the honor of the responsibility which he assumes.

Section II The National Council

Article 46 [Composition]

The National Council is composed of the People's representatives from various political, economic, and social sectors. Its formation, membership, work procedures, and its jurisdiction are determined by a special law, called the National Council Law.

Article 47 [Sessions]

The National Council must be held in two ordinary sessions every year. The President can call it for an extraordinary meeting in case of necessity, and the meeting is restricted to matters which necessitated calling the meeting. Sessions of the National Council are held and dismissed by a decision of the Revolutionary Command Council.

Article 48 [Publicity]

The meetings of the Council are public, unless it is decided that some are to be held closed according to rules specified in its law.

Article 49 [Indemnity]

- (a) Members of the National Council are not censured for opinions or suggestions expressed by them in the performance of their task.
- (b) No member of the Council can be pursued or arrested for a crime committed during a meeting session without

Article 50 [Organization]

The National Council undertakes:

- (a) Elaborating its internal statute, determining its competencies, deciding its budget, and appointing its employees. Rewards and remunerations of its President and members are determined by a law.
- (b) Elaborating rules for accusing and prosecuting its members, in case of committing one of the actions stipulated in Article [55](#) of this Constitution.

Article 51 [Command Council Bills]

- (1) The National Council considers the draft laws proposed by the Revolutionary Command Council within fifteen days from the date of their delivery to the office of the Presidency of the National Council. If the Council approves the draft, it is sent to the President of the Republic, to be promulgated; but if it is rejected or modified by the National Council, it is returned to the Revolutionary Command Council. If this latter approves the modification, it sends the draft to the President of the Republic, to be promulgated.
- (2) If the Revolutionary Command Council insists upon its point of view, in the second reading, it is returned to the National Council, to be reviewed in a common meeting between the two Councils; the decision taken by a two-thirds majority, is considered final.

Article 52 [Presidential Bills]

The National Council considers within fifteen days the draft laws presented to it by the President of the Republic.

- (1) If the Council rejects the draft, it is returned to the President of the Republic with the reasons which justified the rejection.
- (2) If the Council approves the draft, it is sent to the Revolutionary Command Council and becomes issuable after that Council approves it.
- (3) If the National Council modifies the draft, it is sent to the Revolutionary Command Council and becomes issuable if that Council approves it.
- (4) But if the Revolutionary Command Council opposes to modifying the draft, or if it makes another modification, it is once again returned to the National Council within a week.
- (5) If the National Council approves the point of view of the evolutionary Command Council, it sends the draft to the President of the Republic for promulgating it.
- (6) But if the National Council insists, in the second reading, upon its point of view, a

common meeting of the two Councils is held and the draft issued by two-thirds majority is considered definite and is sent to the President of the Republic to be promulgated.

Article 53 [National Council Bills]

The National Council considers the draft law presented by a quarter of its members, in other than military, financial matters, and public security affairs.

- (1) If the Council approves the draft law, it is sent to the Revolutionary Command Council to be considered within fifteen days from its delivery to the Council's Office.
- (2) If the Revolutionary Command Council approves it, the draft is sent to the President of the Republic to be promulgated.
- (3) If the Revolutionary Command Council rejects the draft, it is returned to the National Council.
- (4) If the Revolutionary Command Council modifies the draft, it is returned to the National Council.
- (5) If this latter insists upon its point of view, in the second reading, a common meeting for the two Councils is held, presided over by the President of the Revolutionary Command Council or the Vice-President. The draft issued by two-thirds majority is considered definite and is sent to the President of the Republic to be promulgated.

Article 54 [Debate]

- (a) Vice-Presidents of the Republic, Ministers, and those at their rank, have the right to attend the meetings of the National Council and to participate in its debates.
- (b) The National Council, with a permission of the President of the Republic, has the right to call Ministers for the purpose of clarification or investigation.

Article 55 [Responsibility]

The President of the National Council and every member of it, is responsible before the Council for violating the Constitution or for breaking the constituencies of the constitutional oath or for any action or behavior, considered by the National Council as disgracing the honor of the responsibility which he assumes.

Section III President of the Republic

Article 56 [Head of State, Supreme Command]

- (a) The President of the Republic is the Head of the State and the Supreme Commander of the Armed Forces, and he exercises the Executive Authority directly or by the assistance of his Deputies and Ministers, according to the rules of the Constitution.
- (b) The President of the Republic issues the decrees necessary for exercising his competencies stipulated in this Constitution.

Article 57 [Competencies]

The President of the Republic exercises the following competencies:

- (a) Preserving the independence of the Country, its territorial integrity, safeguarding its internal and external security, and protecting the rights and liberties of all citizens.
- (b) Declaring the state of total and partial emergency and ending it according to the law.
- (c) Appointing the Vice-Presidents of the Republic and relieving them of their posts.

- (d) Appointing the governors, the judges, and all civil and military State employees, promoting them, terminating their services, placing them on disponsibility, and granting badges of honor and military grades, according to the law.
- (e) Elaborating the draft general State budget, the independent and investment budgets annexed to it, and ratifying the final accounts of these budgets and referring them to the National Council to discuss them.
- (f) Preparing the general plan of the State in all economic and social affairs, elaborated by competent Ministries and referring it to the National Council.
- (g) Contracting and granting loans, supervising the organization and administration of money and credit.
- (h) Supervising all the public utilities, official and quasi-official organizations and public sector organizations.
- (i) Directing and controlling the work of Ministries and public organizations and coordinating them.
- (j) Conducting negotiations and concluding agreements and international treaties.
- (k) Accepting the diplomatic and international representatives in Iraq and demanding their withdrawal.
- (l) Appointing and accrediting the Iraqi diplomatic representatives in Arab and foreign Capitals and in international conferences and organizations.
- (m) Issuing special amnesty and ratifying judgements of capital punishment.
- (n) Supervising the good enforcement of the Constitution, the laws, decisions, judicial judgements, and developmental plans in all parts of the Iraqi Republic.
- (o) Conferring some of his constitutional competencies to one or more of his deputies.

Article 58 [Control]

Vice-Presidents of the Republic and Ministers are responsible for their functions before the President of the Republic. He has the right to bring any of them to trial according to the rules of Constitution, for functional errors committed by him, for exploiting the authority, or for misusing it.

Article 59 [Oath]

Vice-President of the Republic and Ministers take the following oath before the President of the Republic, before assuming the responsibilities of their functions:

"I swear by God Almighty, by my honor and by my faith to preserve the Republican system, to commit myself to its Constitution and laws, to look after the independence of the Country, its security and territorial integrity, and to do my best earnestly and sincerely to realize the objectives of the People."

Section IV The Judiciary

Article 60 [Independence, Recourse]

- (a) The judiciary is independent and is subject to no other authority save that of the law.
- (b) The right of litigation is ensured to all citizens.
- (c) The law determines the way of court formation, their levels, jurisdiction, and conditions for the appointment, transfer, promotion, litigation, and dismissal of judges and magistrates.

Article 61 [Prosecution]

The law determines the posts of public prosecution, its agencies and conditions for the appointment of the attorneys general, their deputies, rules of their transfer, promotion, litigation, and dismissal.

Chapter V General Provisions**Article 62 [Revolutionary Command Council Office]**

(a) To be member of the Revolutionary Command Council or Vice-President of the Republic or Minister, a person must be Iraqi by birth, born of two Iraqi parents, by birth also.

(b) It is inadmissible for Members of the Revolutionary Command Council and Vice-Presidents of the Republic and Ministers, during their term of office, to pursue any private professional or commercial work or to buy any State property or to sell or exchange with the State any of their own properties.

Article 63 [Permanent Constitution]

(a) The rules of this Constitution are enforced till the Permanent Constitution is promulgated.

(b) This Constitution cannot be modified except by the Revolutionary Command Council and by a two-thirds majority of its members.

Article 64 [Publication of Laws]

(a) Laws are published in the Official Gazette and are put into force, effective the date of publication, unless otherwise stipulated.

(b) Laws have no retroactive effect, unless otherwise stipulated. This exception does not include penal laws, tax laws, and fiscal fees.

Article 65 [In the Name of The People]

This Interim Constitution and all laws and judiciary judgements are promulgated and put into force, in the name of the People.

Article 66 [Continuity of Laws]

All laws and decisions of the Revolutionary Command Council, enacted prior to the promulgation of this Constitution, remain in force and cannot be modified or abolished except in accordance with the procedures prescribed in this Constitution.

Article 67 [Promulgation, Publication]

The President of the Revolutionary Command Council undertakes promulgating this Constitution and publishing it in the Official Gazette.

APPENDIX 5

Constitution of the United States of America (excerpted)

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article III Section 1

Article. III.

Section. 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

APPENDIX 6

Constitution of the Republic of South Africa - Excerpts

PREAMBLE

*We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity.
We therefore, through our freely elected representatives, adopt this Constitution
as the supreme law of the Republic so as to -
Heal the divisions of the past and establish a society based on democratic values,
social justice and fundamental human rights;
Lay the foundations for a democratic and open society in which government is
based on the will of the people and every citizen is equally protected by law;
Improve the quality of life of all citizens and free the potential of each person;
Build a united and democratic South Africa able to take its rightful place as a
sovereign state in the family of nations.
May God protect our people.
Nkosi Sikelel' iAfrika. Morena boloka setjhaba sa heso.
God seën Suid-Afrika. God bless South Africa.
Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.*

Chapter 2: Bill of Rights Sections 9-11

Equality

- 9.** (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

Human dignity

- 10.** Everyone has inherent dignity and the right to have their dignity respected and protected.

Life

11. Everyone has the right to life.

Chapter 8: Courts and Administration of Justice Sections 165 - 167

Judicial authority

- 165.** (1) The judicial authority of the Republic is vested in the courts.
(2) The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.
(3) No person or organ of state may interfere with the functioning of the courts.
(4) Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.
(5) An order or decision issued by a court binds all persons and organs of state to which it applies.

Judicial system

- 166.** The courts are -
- a. the Constitutional Court;
 - b. the Supreme Court of Appeal;
 - c. the High Courts, including any high court of appeal that may be established by an Act of Parliament to hear appeals from High Courts;
 - d. the Magistrates' Courts; and
 - e. any other court established or recognized by an Act of Parliament, which may include any court of a status similar to either the High Courts or the Magistrates' Courts.

Constitutional Court

- 167.** (1) The Constitutional Court consists of a President, a Deputy President and nine other judges.
(2) A matter before the Constitutional Court must be heard by at least eight judges.
(3) The Constitutional Court -
- a. is the highest court in all constitutional matters;
 - b. may decide only constitutional matters, and issues connected with decisions on constitutional matters; and
 - c. makes the final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on a constitutional matter.
- (4) Only the Constitutional Court may -
- a. decide disputes between organs of state in the national or provincial sphere concerning the constitutional status, powers or functions of any of those organs of state;

- b. decide on the constitutionality of any parliamentary or provincial Bill, but may do so only in the circumstances anticipated in Chapter 4 or 6;
- c. decide that Parliament or the President has failed to comply with a constitutional duty; or
- d. certify a provincial constitution in terms of section 144.

(5) The Constitutional Court makes the final decision whether an Act of Parliament, a provincial Act or conduct of the President is constitutional, and must confirm any order of invalidity made by the Supreme Court of Appeal, a High Court, or a court of similar status, before that order has any force.

(6) National legislation or the rules of the Constitutional Court must allow a person, when it is in the interest of justice and with leave of the Constitutional Court -

- a. to bring a matter directly to the Constitutional Court; or
- b. to appeal directly to the Constitutional Court from any other court.

(7) A constitutional matter includes any issue involving the interpretation, protection or enforcement of the Constitution.

APPENDIX 7

Constitutions and Constitutional Resources

Constitutions discussed herein may be found in their entirety along with other valuable constitutional resources at: www.iraqiconstitution.org, accessed on May 8 2005.