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Toward an Understanding of Media Policy and Media Systems in Iraq: A Foreword and Two Reports

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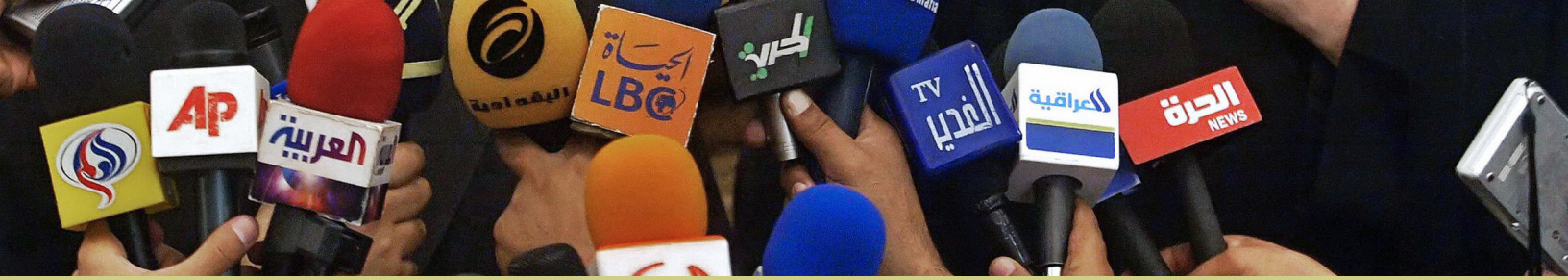
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Abstract

In the avalanche of analyses about what went wrong in Iraq, one area should be of particular interest to communications scholars: the development of a media system in Iraq. The emerging media system incorporates many significant strands: the conflict-related and post-conflict actions concerning media policy, the considerable growth of faction-related and entrepreneurial broadcasters after the conflict, the efforts by interests in the region (Iran, Saudi Arabia, Lebanon and others) to affect the media environment, interventions by the United States and other Western countries, and their complex and often inept media-related reconstruction initiatives, the effort of non-government organizations (NGOs) to repeat or adopt practices from other conflict zones.

There's a tendency in the communications studies literature to be concerned with particular U.S.-centric frames of discussion: access by Western journalists to information, depiction of the United States on Al-Jazeera and other satellite broadcasters, the combination of media and Islam as a mode of altering general public attitudes. I focus here — as an introduction to the two accompanying papers — on the emerging structure of media or media influences domestically in Iraq to understand the influence of the successor to Saddam's state television, the relationship between external state-sponsored influences, and pluralism within, and what consequence "media policy" or subsidy and private or party patronage has had on media institutions there. Finally, it will become increasingly important to understand the relationship between these media institutions and the actuality of continuing conflict and search for political solutions within Iraq.

This "Occasional Paper" includes two reports. The first is a paper written by Ibrahim Al-Marashi, one of the few scholars systematically tracking media developments within Iraq. Dr. Al-Marashi was a Visiting Scholar at the Annenberg School for Communication at the University of Pennsylvania in 2006 and has, for the last year, been an Open Society Institute (OSI) Policy Scholar at the Center for Policy Studies at Central European University in Budapest. He has recently joined the faculty at Koç University in Istanbul. The second was commissioned by the Republic of Iraq Communications and Media Commission (CMC), the agency established first under the Coalition Provisional Authority (CPA) then maintained by the Iraqi governing authorities, and presented at a conference at UNESCO in January 2007. The report is the result of a contract between the CMC and the Stanhope Centre for Communications Policy Research in London.

Toward an Understanding of Media Policy and Media Systems in Iraq: A Foreword and Two Reports

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Table of Contents

FOREWORD

Monroe Price [*]

Iraq and the Making of State Media Policy

In the avalanche of analyses about what went wrong in Iraq, one area should be of particular interest to communications scholars: the development of a media system in Iraq. The emerging media system incorporates many significant strands: the conflict-related and post-conflict actions concerning media policy, the considerable growth of faction-related and entrepreneurial broadcasters after the conflict, the efforts by interests in the region (Iran, Saudi Arabia, Lebanon and others) to affect the media environment, interventions by the United States and other Western countries, and their complex and often inept media-related reconstruction initiatives, the effort of non-government organizations (NGOs) to repeat or adopt practices from other conflict zones.

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1   Alternately referred to as the INCMC or NCMC (http://www.ncmc-iraq.org/).
2   A few words about Stanhope would help. Stanhope (www.stanhopecentre.org) is what might be called a virtual center for the conducting of policy research and training. I founded Stanhope and have served as its chair. One of its original functions was to focus on media in conflict zones and it was involved in a study with the Crisis States Research Centre at the London School of Economics (see "Why Templates for Media Development do not Work in Crisis States," available at http://www.crisisstates.com/download/publicity/FINAL.MEDIA.REPORT.PDF).
     Stanhope became the home of the Iraq Media Newsletter, a collection of materials about emerging Iraq media. That material is archived at http://www.stanhopecentre.org/2007/index.php?option=com_content&task=view&id=31&Itemid=9.
         In 2002-2003, I helped prepare materials about media law and policy in the Middle East for Internews, the major media-related NGO, and later worked with them in preparing a conference—the Athens Conference discussed in the Foreword—from which came a group, financed by the British Foreign and Commonwealth Office, that worked (and still works) in Iraq on these questions. I advised them informally and even made a one-week trip to Baghdad in March 2004. I pretty much stayed in the highly-protected Green Zone. I was there in what now seems like a bit of a golden era: before

The principal contributors to the fulfilling of this contract and the writing of the draft report were, in addition to me, Douglas Griffin, a Fellow of the Stanhope Centre and subsequently a Director of Albany Associates, and Al-Marashi. Siyamend Othman, the Chief Executive Officer of the CMC, authorized the study and determined the version published here.

I.

My own involvement with Iraq media policy started through a request from Internews—the large international media NGO—to conduct a survey of media laws and policies in the Arab Middle East.[3] Ultimately this study became part of the input for a June 2003 conference in Athens that had the goal of providing a framework for post-conflict media policies in Iraq. This conference was important for several reasons, largely its link to the broader perspective of "democratization in the Middle East," an alternate and emerging justification for the Iraq war. The Athens meeting sought to jump-start a different kind of rhetoric and direction for Iraq media from what was already emerging in an unguided and harsh post-conflict environment. In those still optimistic times, goals for post-conflict Iraq included the flowering of instruments of communication, engendering speech, and providing a model for the region. This was to be all about civil society and the roles that non-government organizations play. Because the Athens conference was to emphasize media democratization in the region, it included representatives of various Arab journalist associations as well as government officials. Ironically, or perhaps tragically, it was hard to include indigenous Iraqi journalists, partly for security reasons, partly because of early concerns that they would be considered to be collaborating with the Occupier. One key participant at Athens was Simon Haselock, who became significant to the unfolding story. Haselock is a retired Royal Marine who served as spokesperson for the Office of High Representative in Bosnia and a principal architect of media policy there,[4] and then became Temporary Media Commissioner in Kosovo. He was, perhaps, the person most experienced (in terms of post-conflict contexts, working with international governmental organizations and thinking about media development and its relationship to conflict zones). In Athens, Haselock took charge of drafting a background paper and model law, which would be the underpinning for his assignment from the British Foreign and Commonwealth Office to continue, with the CPA, the work of structuring media policies and media entities in Baghdad. Based on his work in Kosovo and Sarajevo, he believed that standards for broadcaster performance needed to be articulated, but there also had to be due process. It was his view that one needed a mechanism with autonomy and a clear and impartial hearing and appeals process.

Much of what is contained in the two documents published here, especially the CMC report, depicts what has happened since Athens. It will be helpful, in reading the papers here published, to suggest some stages in the process:

- The period of preparation for the invasion and preparation for the government that would succeed that of Saddam Hussein
- The stage of actual war and the selection of targets

Falluja, before the real bite of the insurgency, but at a time when safety was already a dominant and fearful concern. Of course, nothing here has the blessing or involvement of the Media Development Group or other entities involved.

3   For references to literature on participation, media and governance in the Arab Middle East, see Initiative on Good Governance for Development in the Arab Countries, http://www.arabgov-initiative.org/english/publications/index.asp?tid=6.

4   Monroe E. Price, "Information Intervention: Bosnia, the Dayton Accords and the Seizure of Broadcasting Transmitters," *Cornell International Law Journal* 33 (2000): 67.

- The initial post-war period—during the period of United States Office of Reconstruction and Humanitarian Assistance (ORHA) and Jay Garner
- The CPA period and the making of CPA Orders 65 and 66, establishing the regulator and seeking to transform Iraq state media into a public service broadcaster
- The increase in insurgency and the handover to the Interim Iraqi Government and Prime Minister Allawi
- Finally, the elections and successive governments and the rising sectarian conflict or emerging civil war

Each of these stages is marked by elements of an evolving media policy and new forms of media on the ground.   And throughout there were at least two areas of concern: a) the creation of a competitive broadcast market and a domestic regulatory agency—an Iraqi FCC—and b) the transformation of Iraqi state television. One involves shaping an administrative structure for licensing and regulation of content and the burgeoning of non-state media. The other involves deciding what kind of institutions should emerge from the ashes of the former state monopoly. As the following two reports indicate, the Saddam regime had a monopoly over media and imagery and satellite reception was barred.[5] It is, however, misleading to think of the Saddam period as wholly without voices, political differences, journalist capability and infrastructure or sources of creativity for a post-conflict process.

As far as preplanning, we do not yet know specifically what was considered for post-conflict media efforts. In April 2005, *The Washington Post* reported a RAND study more or less condemning the planning process for civil administration after gaining control over Iraq.[6] The study concluded that stabilization and reconstruction issues "were addressed only very generally." Planning for the invasion's aftermath rested with the Defense Department rather than with the State Department or the National Security Council, and the report concluded, "Overall, this approach worked poorly." The Pentagon lacked the expertise, funding authority and contacts with civilian aid organizations for the job. When the insurgency arose, the RAND report concluded, U.S. authorities failed to understand its nature and implications, and how it differed from past "wars of national liberation" or from a "classical guerrilla-type campaign." I have not seen the volumes prepared by the Iraq Planning Group, but the consensus is that they were probably inadequate and, at any rate, were more or less ignored by those implementing policy. The overall expectation of what post-conflict Iraq would be like—what it would mean to be liberators—must have affected media policy planning just as significantly as it affected the entire creation of a civil administration.

United States and other military policy during and immediately after the conflict was also important. There was not much ambivalence about how to deal with the Ministry of Information and Iraq broadcasting entities. The Ministry of Information was abolished. Was this like abolishing the Iraqi Army (now generally considered an ill-conceived immediate action that made it more difficult to plan in the aftermath of the invasion)? This question has not been sufficiently analyzed or discussed, partly because of the widely-accepted notion that Ministries of Information are primarily tools of authoritarian regimes.

During the invasion itself, there were slightly conflicting strategies with respect to facilities and bombing patterns: one goal was to maintain facilities that could serve as the basis of post-war administration, but another was to restrict Saddam's ability to use broadcasting outlets for "command and control" functions

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5   An August 2004 Freedom House special report, "Liberated and Occupied Iraq," available at http://www.freedomhouse. org/uploads/special_report/34.pdf, provides details from this period.

6   Bradley Graham & Thomas E. Ricks, "Pentagon Blamed for Lack of Postwar Planning in Iraq," *The Washington Post*, April 1, 2005: A03.

or to have a medium that would encourage resistance during the war. The Coalition adopted the now-customary approach of trying to put the existing stations out of service and then broadcast over their frequencies through a Commander Solo aircraft circling over Baghdad and the rest of Iraq. As it happened, many domestic Iraqi terrestrial transmitters were destroyed in the April 2003 bombing campaign. I have heard, informally, that these transmitters made easy targets and increased the statistical success rate for pilots, so that when the war ended, much of the infrastructure for transmission lay in ruins.

Two other immediate facts affected the capacity to develop post-conflict broadcasting. One was the vast post-war looting which led to the destruction of most major facilities, the trashing of video libraries, the laying waste of studios, the elimination of much that could be the basis of a broadcasting system. There were no cameras, cameramen, video libraries, nor storehouse of knowledge. Partly this was because of the second fact: the process of de-Ba'athification, including the erasing of the Ministry of Information. In the vacuum, there were very weak efforts to develop local capacity and too much reliance on U.S. personnel and expatriate Iraqis. Almost immediately, the Coalition launched an ineffective service called Toward Freedom, which carried, among other things, ABC or NBC Nightly News and a two-hour feed produced in the United Kingdom, sent by satellite to Washington for review, from there to Kuwait for post-production, and finally to the Commander Solo for broadcast to Iraq.

In May 2003, the U.S. Civil Administrator in Iraq, Retired Lt. Gen. Jay Garner, suggested his disappointment with the lack of progress made in establishing a television and radio broadcast system for Iraq. "We haven't done a good job… I want TV going to the people, with a soft demeanour—programmes they want to see."[7] A Radio Netherlands observer stated:

> Somebody needs to get a grip and set up an interim regulatory authority, otherwise it will be anarchy on the Iraqi airwaves. The regulators need to include people with technical, administrative and programming backgrounds as well as those who understand the political and ethnic complexities involved. You won't create a democratic broadcasting system by allowing 20 or 30 groups of people with different agendas to have a station each. People will only listen to the ones that reflect their own views. Nor is it satisfactory to fill the airwaves with non-Iraqi voices, however well-intentioned these efforts are. It would make much more sense to me if the Iraqi journalists currently working for Radio Sawa, Radio Free Iraq and other such stations were to go to Iraq and teach fellow Iraqis how to make good quality radio programmes. Then they would be making a real and lasting contribution to Iraqi society. Otherwise, instead of discussion and debate you'll get a lot of people shouting into the ether, to very little positive effect.[8]

Very little of this order happened.

In the post-war chaos, there were areas of self-help, some protean broadcasters that emerged spontaneously, versions of what might be called pirate radio or slightly better. Groups, sometimes city governments, sometimes clusters of interest, found parts of transmitters and other equipment and began to send signals into the ether. Undoubtedly, in this moment, entities that later become more significant—as indicated in the Al-Marashi paper—began media operations. This chaos had its creative element, and perhaps should have been encouraged. Some was tolerated, but at one point, the Administrator announced that all old equipment, property of the Ministry of Information, had automatically become property of the CPA; in a few instances, soldiers went out to reclaim equipment from rogue groups that were using pieces of

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7   "Iraqi Leaders Expected Mid-May," BBC News, May 5, 2003, http://news.bbc.co.uk/2/hi/middle_east/3000845.stm.
8   World of Radio, DX Listening Digest, May 6, 2003, http://www.worldofradio.com/dxld3078.txt (remarks of Andy Sennitt, Strategic Adviser, Clandestineradio.com).

old transmitters to launch their enterprises. Other developments in the vacuum included Al-Alam, an Iranian government channel, which established a transmitter near the Iraqi border and beamed a signal that reached Baghdad. For a while, it was said to be the most watched terrestrial signal in Iraq. And, of course, people, starved for information, began to buy satellite dishes and watch Al-Jazeera and other satellite channels.

In May 2003, the first restrictive move against a television station took place, illustrating another little-recognized aspect of emerging media policy. In addition to the policy made in Baghdad by the Coalition, particular military commands had the authority to develop policy. The British had a media policy in Basra in the south of the country; the 101st Airborne had a media policy in the northwest. There the Army issued orders concerning Mosul's only television station. The directive came from the 101st Airborne Division's commander, actually one of the great and distinguished figures of the war, Maj. Gen. David Petraeus, who in early 2007 was elevated to Commander of Multinational Forces, Iraq. When a local officer raised questions about the Army's dedication to free speech in postwar Iraq and refused to execute the order, she was relieved of duty. Because of General Petraeus' now key role in Iraq, and because the Mosul station raised such interesting questions, it is useful to refer to a contemporary account of events by Walter Pincus in *The Washington Post*, under the headline, U.S. General May Censor Iraqi TV Station's Programs.[9]

> The action was interesting particularly because of part of the justification: concern over rebroadcasting the news channel Al-Jazeera. Al-Jazeera had already become a *bete noir* for the Coalition, and even in these early months the characterization of Al-Jazeera was being set in bureaucratic stone. In May 2003 Ahmad Chalabi, the oft-discredited head of the Iraqi National Congress and a close adviser to the Department of Defense, said that "Al-Jazeera is completely infiltrated by Iraqi intelligence."[10]

In addition to the interventions by the military by ORHA and then CPA and others, policy towards emerging media was also made through large-scale government contract, part of the reconstruction effort. Future scholars should look at the actual contracts entered into by the Department of Defense to reboot the old Iraq state conglomerate. The first contractor for this phase was Science Applications International Corporation (SAIC),[11] which in March 2003 was given the task of reshaping the Iraq State Television channel into the Iraqi Media Network (IMN). This was a more than $80 million contract that would run for approximately a year. As it turned out, the operation of the contract was pretty much a disaster.[12] By December 2003, it became clear that an alternate contractor would have to be found. A complex process of announcement and

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9   "Control over the content of a television station in Mosul has become a sensitive issue for the commanding general of the 101st Airborne Division who is running that part of northern Iraq. The station, which broadcasts as many as five hours a night to the city of 1.8 million, lost its cameras to looters and was forced to turn to outside programming sources to fill its broadcasts. That content now ranges from Arab-language Al-Jazeera news reports, talks and speeches by local personalities and interviews with the newly elected mayor to U.S. military announcements about avoiding unexploded shells or arranging plans for the wheat harvest.
    Fearing that local politicians and returning exiles have bullied their way onto the air, often to promote themselves and sometimes to incite violence, the 101st commander, Maj. Gen. David H. Petraeus, said yesterday in a telephone interview from his Mosul headquarters that he is considering putting a U.S. Army officer and a translator in the station to monitor what goes on the air. . . . ."I want to be certain that nothing is shown that would incite violence in a city that was extremely tense when we took over two-and-one-half weeks ago, and which still has folks who are totally opposed to what we're doing and are willing to do something about it," Petraeus said. . . . ."Yes, what we are looking at is censorship," he said, "but you can censor something that is intended to inflame passions."
Walter Pincus, "U.S. General May Censor Iraqi TV Station's Programs," *The Washington Post*, May 9, 2003: A24.

10   "Chalabi: Iraq Agents Work at Al-Jazeera," *Associated Press*, April 29, 2003.

11   SAIC is a contractor that does a wide range of large-scale military contracts. It describes itself as "[a] leading systems, solutions and technical services company . . . [that] offers a broad range of expertise in defense modernization efforts, intelligence, homeland security, logistics and product support, health and life sciences, space and earth sciences and global commercial services." SAIC, Corporate Fact Sheet, http://www.saic.com/news/pdf/corporatefactsheet.pdf.

12   An account of the SAIC involvement appears in Donald L. Bartlett and James B. Steele, "Washington's $8 Billion Shadow," *Vanity Fair*, March 2007.

bidding led to the selection of Harris Corp., as part of a consortium including the Lebanese Broadcasting Corporation (LBC). Administration under Harris was improved, but difficulties of security and purpose, and conflict over management philosophy, plagued its fulfillment of the contract as well. The contract terms spelled out a specific number of channels, the amount of news that should be broadcast, a schedule for relative independence and a host of objectives. These objectives were as unobtainable and hard to implement as were those in the previous contract with SAIC. In June 2003, Index on Censorship reported as follows:

> Contradictions fly everywhere. Having invested $20 million dollars over three months in the rebuilding of Iraqi state TV & radio, the U.S. officials in charge of the [SAIC] contract began balking at the new network's news output immediately after it went on air. Managers were told to drop the readings from the Koran, the 'vox-pop' man-in-the-street interviews (usually critical of the U.S. invasion) and even to run their content past the wife of a U.S.-friendly Iraqi Kurdish leader for a pre-broadcast check." The first director resigned, and now runs a talk radio station.[13]

In those complex early months, the need for an improved "rule of law" approach also became clear. On June 10, 2003, Coalition Order 14—an "Order" derived from the President as Commander and the Coalition as Occupier—was invoked.[14] As in early missteps in the wake of conflict in Kosovo, the clumsy invocation of power to stifle speech generated outrage and passion against those engaged in the suppression. The Order's failure to provide a sufficient process for determining whether there was an actionable violation, and the means of its execution, would become a ground for changing media policies. The history of these developments is covered in the background provided in the CMC document that is published following this Foreword.

For those engaged in helping to design policy, particularly the Media Development Team (MDT) established by Haselock, the period from summer 2003 to March 2004 was grueling. It involved bureaucratic infighting over the shape of regulatory agency-to-be, as well as competing visions of broadcasting in Iraq, including the future of the Iraqi Media Network. This could be capsulated into a drawn-out competition between a British perspective (established by the Media Development Team), primarily that of Haselock, and the views of a floating group of people who were part of the CPA, operating in one of Saddam's palaces. Originally, Paul Bremer, Administrator of the CPA, had come to an informal understanding with Haselock, but as time went on, new voices came into the bureaucratic fray from Washington. Ultimately, despite complex maneuvering over frequency allocation, the MDT initiated an interim licensing system, seeking, broadly, to license all who were already using the airwaves (though consulting with the Iraqi Governing

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13   Rohan Jayasekera, "US Military Hesitates over Free Speech," Index on Censorship, Nov. 6, 2003, http://www.indexonline. org/en/news/articles/2003/2/gives-with-one-hand-takes-away-with-the-othe.shtml.

14   The Freedom House report summarizes related developments:
    Order 14 gave Ambassador Bremer the sole authority to close media organizations; the only process set up for media organizations to protest a closure by the CPA was a written appeal with evidence to that same CPA Administrator, Ambassador Bremer.
    CPA officials said that the main objective of the order was to enhance civil stability and prevent irresponsible journalists from inflaming an already volatile and tenuous situation. Critics of the order expressed concerns that it could open the door to arbitrary and unnecessary censorship.CPA Order 14 was cited to justify the closure or temporary ban of a number of newspapers and media outlets. One of the earliest instances of its implementation came in July 2003, when U.S. troops and Iraqi police raided the Baghdad offices of the Al-Mustaqila newspaper and detained the newspaper's manager, Abdul Sattar Shalan. CPA officials said that Al-Mustaqila had published an article proclaiming the killing of spies who cooperate with the United States to be a religious duty, echoing messages issued by armed groups who had been conducting attacks against Coalition forces.
    "Liberated and Occupied Iraq: New Beginnings and Challenges for Press Freedom," Freedom House (2004), http://www.freedomhouse.org/uploads/special_report/34.pdf.

Council). Among the (fairly uninteresting) issues were the following: Should the regulatory agency be converged (*i.e.* have jurisdiction over telecommunications as well as broadcasting) or over broadcasting alone? Should there be a powerful director general, or should power reside in the Commission? Should the Iraqi Media Network become privatized and licensed?

Both the United Kingdom and the United States saw broadcasting and media policy through the prism of their own experiences. 'Models' or ideologies were influential, though chaos and personality conflicts were at least as powerful in getting in the way of shaping policies to specific needs. The United States seemed to emphasize independent players; the United Kingdom seemed to foresee a strong public service version of Iraqi's state broadcaster, though this is a bit too reductionist. There were few means of fitting broadcasting policy to the political realities in Iraq, such as the Kurdish autonomy issue. (For good and sufficient reasons, complex solutions such as the Dutch pillarized or Lebanese confessional approach, with assured representation in media control for specific groups in society, were rejected).

The difficulties faced by non governmental organizations during the period were highly significant. Athens had been the acme point for NGO involvement, but key NGOs decided, either for valid security reasons or because of fundamental disagreement with the war, to reduce their expected operations, to function largely outside of Iraq, or to avoid involvement at all. Some might have become more engaged if the State Department and USAID had been in charge of media development. But these NGOs had an antipathy to working with the Department of Defense. This was an important characteristic of planning and implementation in comparison to Bosnia and Kosovo, in which NGOs played a far more active role. NGOs bring civil society into the picture, they make the bureaucracy more responsive, they bring more perspectives to bear, and they help increase the legitimacy of the result. Little of this occurred in the elaboration of the process in Iraq.

Also significant was the virtual absence of Iraqis from large parts of the process of planning. Partly this was because of the security situation; the participants hardly went out of the Green Zone. The Iraqi Governing Council, or IGC, as it was then denominated, largely appointed or selected by the CPA, lacked legitimacy. More than that, the IGC was preoccupied with other questions (its own survival and succession) and did not have a great enthusiasm for the details of the architecture of broadcasting (of course, there always is interest in who will get valuable frequencies). There was an exception: a Media Committee in the IGC which was very active and approved all the interim licenses. The Committee was chaired by Samir Sumiadi Shaker, later Ambassador to the United States. He mediated between the MDT and members of the Committee who desired a much more censorial approach.

Out of this process came Order 65 and Order 66 (in which the Media Committee had a hand as well). The Order 65 structure—for the Communications and Media Commission—provided for nine commissioners, with power lodged largely in the hands of a Chief Executive Officer. Very little was provided in terms of specific depiction of content standards, leaving much to the development of Codes of behavior that would be self-regulatory or imposed by the CMC. Through a system of stakeholder participation, Order 65 sought to establish a "self-regulatory" and regulatory distinction between print and broadcasting; it borrowed from Kosovo the idea of a hearings board and an independent appeals board, but made it purely Iraqi as opposed to inserting an international judge. But because of the continued conflict, absence of a civil society, and problems of legitimacy of the Occupation, a new factor of significance arose: It was hard to staff these bodies. It was hard to find the requisite number of appropriate commissioners and governors for the Commission and the public service entity simultaneously created under Order 66, which established the governing entity for the "public service broadcaster." Iraq lacked an abundance of

candidates satisfactory to constituencies (and to the Coalition) for the key positions, and it was difficult to achieve political consensus. This continues to plague the process until this day.

The period after the issuance of the Orders, in March 2004, had a number of characteristics, including the difficulty of establishing the administration of the regulatory agency and the administration of licenses issued earlier to validate broadcasters who were already on the air, as well as the question of revisiting frequency allocation and assignment. But just after the issuance of Order 65, after Falluja, after the period of kidnappings and videos of beheadings, in the wake of Najaf and the actions of Muqtada al Sadr, the CPA closed two papers under Order 14. This was a significant turning point. It meant that side by side with the regulatory agency, the CPA still saw the regulation of broadcasting as a military necessity. For the Media Development Team, the consequences of "arbitrary" newspaper closings demonstrated the urgency of introducing due process but also the difficulty of assuring adherence, either by military or civil authorities, to the rule of law. The closing reflected, as well, the deep ambivalence in the CPA between a policy of "no regulation" and one of hard-hitting military necessity. Debates over Al-Jazeera, which had begun in this period, reflected this ambivalence.

A critical event was the almost sudden dissolution of the CPA and the handover of authority to the Iraqi Interim Government (IIG) and Prime Minister Allawi. Soon after the handover, signs appeared that the predictable was occurring: the assertion of authority by an authoritarian government, a breaking down of the "autonomy" that the Orders sought to capture. As the IIG developed over time, there appeared an entity called the Higher Media Council (HMC). Iyad Allawi had apparently asked Ibrahim Al-Janabi, an old friend, to be his media adviser. In July 2004, Al-Janabi sought power over both the commissions established under Order 65 and 66. The status of the members appointed by the CPA seemed to be in jeopardy.[15] In November 2004, the HMC warned news organizations to reflect the government's positions in their reporting on that month's U.S.-led attack in Falluja or face unspecified action, invoking a 60-day state of emergency declared by Iraq's U.S.-backed interim government ahead of the assault on the city. There were some quiet remonstrations by the U.K. government and the U.S. government concerning the role of the HMC. A difficult question arose, however: which was more consistent with emerging self-governance aspirations—to have somewhat thuggish Iraqi control asserted by an HMC appointed by a "democratic government" or to have autonomy and independence for an agency that was largely the creature of the CPA?

The problem of the defense contractor and Al-Iraqiyya (the name given to the evolved Iraqi Media Network's television channel) persisted. On November 18, 2004, Jalal Al-Mashta, who had been appointed as general director of Al-Iraqiyya in May 2004, resigned, claiming he had no control over the channel's management and that the budget was being wasted on buying costly foreign programs while salaries were not being paid.

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15   By June 2005, there appeared to be some clarification of the issue. The Stanhope Iraq Media Developments blog, an
      adaptation of the earlier Iraq Media Newsletter, noted:
           There has been a loose resolution of the issue of a Higher Media Council and its relationship to the National
           Communications and Media Commission and the Iraqi Media Network. The reconstituted Council will
           serve, and is serving, as a senior advisory group that assists in developing policy for the government, that
           evaluates and assesses performance, that charts new directions, and that helps to identify opportunities.
           How this will work out in practice depends on the strength of the NCMC and the IMN. The NCMC, with
           Siyamend Othman as CEO, has recruited a deputy, held training sessions for journalists in preparation for
           the election, and has been preparing tenders for national channels....
      http://www.stanhopecentre.org/blogs/iraqmedia/archives/ncmc/index.html.

II.

The narrative of media policy making in Iraq is about many things. It is about the relationship between force and law, the complexity of building institutions in the midst of conflict, and issues of legitimacy and authority. Because these discussions are about media institutions, the story is also about mythmaking and storytelling. The narrative of media policy-making concerns ideas of "freedom of the media" and realization of "rights" in the midst of bitter, tough, angry combat. As a result, the story concerns that most important of issues, the relationship of words on the page and law in practice. The account of media policy in Iraq is about humans and their capabilities in an environment where the mere statement of law does not mean its absorption into reality.

The notion of media assistance developed in the post-Soviet transitions, where there was special attention to Russia and Central and Eastern Europe. Because of relatively peaceful handovers, in these countries there was a functioning state or a path to a functioning state. The question was how media could help create a public sphere and consolidate progress toward democratic values. But since the late 1990's or even before, other contexts have come to the fore. Failing states or weak states, or states where media dominates over the state, have risen to the forefront of public attention. In some post-conflict states at the early stages of development, media policy is designed to contribute to stability, help create a national identity, and represent minorities, all as part of state building. To draw broad strokes, Iraq presents, in its immensity, a third category for media development, where there is the destruction of the state and the painful, incomplete process towards its reconstruction. The story of media assistance or intervention in Iraq became, in its implementation, different from the Occupation model of post-war Germany and Japan (with the media development story there), but what emerged in the stead of those historic models is still very much an unsatisfactory blur.

In preparing this Foreword, I came across some of my notes of the period. They express a kind of qualified optimism (perhaps insufficiently qualified), and I look upon them nostalgically: "The nature and control of the media following a peaceful or forceful change of regime in Iraq will signify the scope and character of the new political reality. What goes on the air in place of Iraqi state television and radio will symbolize a change in power and the end of Ba'ath Party control, while giving a transitional government the ability to communicate with the entire population." I noted some recommendations:

A. *"Plan for post-regime stability*. In the immediate wake of change, there should be a plan, easy to implement, that underscores political stability, assists in the delivery of services and provides a framework for moving forward.

- To implement this, it would be important to have a reservoir of skilled journalists, managers and on-camera personalities who can immediately be brought into play. These can be drawn from existing professionals in Iraq, from those involved in satellite broadcasting and skilled personnel now working for international broadcasters. An analysis of such a skill bank should immediately be put together.
- A mechanism should be established for a link between the U.S. military or allied forces and the civil administration responsible for post-regime change media strategy.

B. *Develop a policy for regional satellite broadcasters*. Because the region is characterized by the presence of multiple satellite broadcasters, it should be determined, in advance, how these will be deployed or permitted. Will there be a policy concerning distribution of satellite

dishes, or the assembly of bouquet of channel services to be delivered by satellite and reflecting various sectarian needs?

C. *Provide specific training program for interim broadcasting environment immediately following regime change.*

D. *Provide analysis and criticism of available post-conflict models*:
- Bosnia-Hercegovina: pluralistic national public service broadcaster and sectoral specific entity broadcasters, supplemented by independent stations
- Afghanistan: management in hands of Ministry of Information
- Russia: modification of existing state broadcasters coupled with growing private sector
- Central Asia: reliance, in the short term, on state broadcaster during immediate post transition period
- Germany, Japan: "denazification" model and imposition of Occupation media system
- Carter-Sagalayev Commission on Radio and Television Policy, established in 1990: put together group of professional Iraqis and Americans on an advisory Commission on Radio and Television Policy that would recommend approaches to a) licensing policy, b) transition for state broadcaster; c) election related policies; d) content rules; e) funding possibilities."

Like any collection of notes, this can be looked upon as reflections of unrealizable hopes or a misunderstanding of what was about to occur: the mixed goals, flawed human resources and indescribable limitations that would suddenly loom into being. As Al-Marashi's paper suggests, a complex media system has emerged. The connection between that system and the regulatory and planning inputs (described in the CMC paper) are far from clear or linear.

This loose collection of thoughts may be helpful in reading the two reports published with this Foreword. But I should add one more point: I approach this discussion with a particular view of how to think about aspects of media intervention—purposeful entry into a market by public as well as private players to affect structures, policies and public opinion. A more limited definition would confine media intervention to capture a deliberate effort by one state (or a combination of states) to affect the way in which images are produced and circulated in a specified area. My partly idiosyncratic, partly obvious model, adapted from a book I published a few years ago called *Media and Sovereignty*,[16] suggests the following: that a fundamental of traditional media policy is that there was a "bubble of identity" coterminous with the boundaries of the state, with the state seeking to regulate images within the bubble, and restricting what images can come into the bubble from outside. I argued for a shift in thinking to reflect a shift in realities: understanding that the media in one state (let's call it, infelicitously, the "target state"), is the product not only of the state's own actions but of others, sometimes neighbors, sometimes powerful global actors. India tries to influence the media space of Pakistan, the United States seeks to influence the media space of Cuba. War is the clearest occasion for such intervention. In general, states use force, technology, law, negotiation and subsidy, among other things, to alter the flow of images and messages in a target state. They may act

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16   Monroe E. Price, *Media and Sovereignty: The Global Information Revolution and its Challenge to State Power* (Cambridge, Mass.: MIT Press, 2002).

unilaterally or with others, and sometimes they seek the consent of the target. Iraq is a laboratory for these kinds of interactions with the United States, Saudi Arabia, Iran, the United Kingdom, France, Turkey, and others seeming to have a stake in the emerging mix of images.

What are the goals of these intervenors? Why does one society wish to affect the flow of imagery in another state? It may be altruistic or instrumental or both. It may be to increase markets; it may be to reinforce regional alliances. It may be to produce stability or instability. It may be to further a more democratic regime. Media intervention often includes "media assistance," which I would describe as support, usually financial or expert, in creating the "enabling environment"[17]—the legal framework, technical infrastructure, production system—in a target society. In this way, media intervention and media assistance can mean involvement in the actual distribution of content or in the shaping of the political economy of the media. The CMC paper published here is an example of the product of media assistance, though in this case it was funded by the CMC itself. This process of media intervention and media assistance can be studied in a wide variety of places and contexts. In the 1940's, this process could be labeled an element of propaganda. In the 1950's and after, it was an essential part of the Cold War. In the 1990's it was a strong element of the post-Soviet transitions. But these were warm-ups for the media interventions in Bosnia-Hercegovina, in Kosovo and in Iraq. So severe a series of interventions by public and private parties as in Iraq lays the process bare. Iraq represents a pathology of media intervention, and, as with any pathology, its study helps in dealing with more healthy organisms.

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17   Peter Krug and Monroe E. Price, "The Enabling Environment for Free and Independent Media," *Cardozo Law School, Public Law Research Paper No.27* (2000).

Policy Recommendations Concerning Broadcasting in Iraq

Communications and Media Commission of Iraq [*]

Part One: The Iraqi Broadcasting Sector and the Regulatory Environment in which it Exists

This study was commissioned by the Communications and Media Commission of Iraq (CMC) as part of its efforts to stimulate debate on ways to improve the broadcasting sector in Iraq. The most immediate goal of this document is to describe the current regulatory framework in Iraq and to make policy recommendations for change for use by the CMC, Iraqi policy makers and international and local donors and implementing organizations. This draft was presented at a conference on Iraqi media funded by the CMC and co-hosted by UNESCO and UNDP, with the support of Official Development Assistance of Japan and the European Union. This conference took place at UNESCO headquarters in Paris in January 2007.

A future goal of the study will be to provide a snapshot of the Iraqi broadcasting sector as it is today. A more comprehensive version of this study addressing this aim is being prepared and is to be published by the CMC at a later date. The subsequent draft will take into consideration comments submitted on this draft. It is important to note that the CMC's commissioning and publication of this report does not mean it endorses its content or its recommendations. It remains a working document pending further discussions.

The CMC would like to express its gratitude to the Stanhope Centre for undertaking this important study in very challenging circumstances.

I. Introduction

This is a key moment (though in the complexities of recent Iraqi history, almost all moments are significant) to evaluate the developing media environment in Iraq. With the possibilities so finely balanced between the potential for a comprehensive political settlement and the danger of enhanced conflict, the role of the media will increasingly be a matter for public debate. Indeed, one major question for the future will be how a national political settlement affects media structures and media regulation.

This is only one of many challenges facing the Iraqi media sector as it expands after more than thirty years of state control and censorship. The proliferation of numerous media outlets is a positive development. At the moment, however, a significant number of the new media are controlled by religious and ethnic parties, or powerful religious, political and business leaders who utilize a network of television and radio stations and newspapers, essentially their own "media empires," to advocate particular agendas. This is a somewhat different model for political development from a system that emphasizes objective, "independent" voices and broad and general interests.

This report is primarily designed to give policy advice to the Communications and Media Commission of Iraq (CMC), but it is also necessary to take note of the ongoing violence that seriously affects the state of the media. Just recently, gunmen invaded the office of Al-Shabbiya and killed eleven of its staff, including its founder, on the eve of its commencement of programming. Violence is its own form of regulation, and, in

a context like Iraq, who constitutes the "regulator" in this sense, and what relationship exists to official and semi-official figures is murky at best. At a time when journalists and broadcasters are threatened, where insecurity may predominate, the nuances of official regulation may seem distant and almost insignificant. Yet, even in the midst of instability, the search for the stable proceeds. Institutions, with mandates, exist, and the manner in which an emerging government relates to the rule of law will be of great importance.

A prerequisite for the advance toward a stable democracy in Iraq is the emergence of a professional and independent media that are able to impart reliable information and foster national debates from a variety of viewpoints, inclusive of Iraq's diverse ethnic and sectarian communities. In a country relatively new to independent media, there are many areas where suggestions can be made for improvements, and this draft report seeks to make policy recommendations for the CMC and other stakeholders.

<p align="center">*   *   *   *   *</p>

It is within this setting—which is very briefly set forth here, providing only a glimpse of a number of the many complexities that define and confront Iraq and Iraqi media today—that the challenges to the CMC, and the policy recommendations made here, should be viewed.

II. Brief Introduction to Iraqi Broadcast Media

Iraqi broadcast media have evolved tremendously since the Ba'athist period. Elements of the Iraqi media provide venues for Iraqi citizens to call in and vent their problems and opinions of the nation's political and socio-economic development. The media are beginning to serve as a means of furthering participation by civil society. Iraqi stations, including the publicly-funded Al-Iraqiyya, serve a Fourth Estate role of challenging the government for its shortcomings, though the extent this function is performed varies among channels and from time to time. Most channels have social advocacy programs to demonstrate the plight of Iraqi citizens and how the government can alleviate their situation. The Iraqi media increasingly criticize the government and address issues such as corruption in the government or how various ministries should do more to alleviate poverty and unemployment. Entertainment is emerging on various channels, particularly programs that use humor to help relieve the stresses of Iraq's post 2003 war society, and serves as an outlet to criticize the situation and the government itself for the nation's maladies. Indeed, the diversity of opinion in the Iraq media is a positive sign since the fall of the Ba'ath, when there were only five state-owned dailies and a single government channel.

The Iraqi media landscape is currently dominated by particular ethno-sectarian and political factions or media personalities. Powerful media are coalescing around ethno-political groups in Iraq who have print, radio and TV media at their disposal. Iraqi Kurdish, Turkmen, Arab Sunni and Arab Shi'a factions all have their own means of communicating to their ethno-sectarian constituencies in Iraq and abroad in the Iraqi diaspora. Other independent media with no ethno-sectarian affiliation do exist, but do not have access to the funds, or the physical protections, that political parties can provide. The problem of sectarianism reflected in the Iraqi media poses a challenge for other Iraqi media outlets which seek to reflect the developments in Iraqi society according to international journalistic standards.

This fragmentation along sectarian, ethnic and ideological lines is not problematic in and of itself; indeed, it could be seen to reflect the pluralism viewed as desirable in most media landscapes. It is clear, however, that Iraq's politicians and sectarian groups continue to view the media as a tactical tool, one duty-bound to support the government, the parties or the groups that sponsor them. Sectarian divisions are potentially

worrisome in a society with increased incidence of violence along ethnic and religious lines, and Iraq seems to be heading down this road more swiftly every day. Care will have to be taken in discouraging Iraq's diverse and representative broadcasters from contributing to this situation.

While freedom of the press is a feature of the industry in Iraq, this freedom has been utilized in ways that stretch an implicit compact that suggests internal standards for professionalism. Media affiliated with political groups do not necessarily practice the principles of free press stated or adopted within their organizations. The current situation has various implications for the nascent Iraqi media and whether the media can foster a national Iraqi public sphere.

Various ethno-sectarian media outlets could prove problematic. In terms of quality of journalism, critical and analytic reporting are developing in Iraq, yet at the same time, other media outlets serve as the "stenographers of power," which at this juncture have reserved their use of the "language of hate," but are in a position to employ it in the future. Such an arrangement can only further the gap between Iraq's communities, developing identities along ethno-sectarian lines, and weakening any kind of national belonging. If the security situation were to worsen, the political factions would be in the position to use the media as mouthpieces to exacerbate the conflict. So far, these factions have used their media to stress unity among Iraq's communities, but they nevertheless have the potential to instigate conflict with these means if it suits their interests.

As for the independent media, journalists face the challenge of reporting on other parties critically. Those journalists face difficulties getting information from politicians who are more inclined to give access to their own media affiliated with their own organizations. Journalists who are too critical of other factions often have been subjected to blackmail and death threats, if not death itself.

It is obvious from reading current headlines that being a journalist in Iraq is one of the most dangerous professions in the world today. A recent report of The Committee to Protect Journalists states that 129 media workers have been killed since the war began in 2003; more than 80 percent of these fatalities were locals.[1] According to a September 6, 2006 *New York Times* editorial, "journalists in Iraq face death threats from all sides."[2] The most significant threat comes from the insurgency and religious extremists. In early August 2006, two Iraqi journalists were killed by militants. More recently, the office of the daily newspaper, *Al-Sabah*, was torn apart by a bomb killing at least two people and wounding twenty. In October 2006, gunmen invaded the office of Al-Shabbiya and killed eleven of its staff the night before it was to begin programming. Journalists also face attacks by the Iraqi police and other authorities, as well as additional hardships, including low salaries and lack of training.

Although journalist safety and conditions are not the focus of this report, these topics must be addressed whenever the issue of Iraqi media is discussed. We, therefore, asked the International Federation of Journalists (IFJ)—an international association of journalists committed to promoting journalists' unions and protecting the safety and well-being of journalists worldwide (www.ifj.org)—to submit a background paper on these issues. This paper provides an important perspective, that of journalists (print journalists in particular), working in the difficult and dangerous environment of Iraq. Issues discussed in the paper include existing journalists' unions and efforts to organize them, the state of professionalism, special issues faced by women, and self-regulation. The paper sets forth a number of conclusions and recommendations.

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1   "Attacks on the Press in 2006: Middle East and North Africa," Committee to Protect Journalists, http://www.cpj.org/attacks06/mideast06/iraq06.html.

2   Ali Fadhil, "Iraq's Endangered Journalists," *The New York Times*, September 6, 2006: A19.

III.   Regulatory Framework for Media in Iraq

A. Background

Until 2003, the media in Iraq was subject to draconian state control. The government and the state Ba'ath Party tightly controlled and owned all news agencies and broadcast media, and the sole mission of the Iraqi News Agency and the Iraqi press was to relay state propaganda. Systematic suppression of any alternative voices was the norm and all indigenous media was the preserve of the state. Iraq's press and broadcasters were controlled through the Ministry of Information, essentially allowing the Ba'ath party to dominate the media landscape. In the aftermath of the 2003 Iraq War, the restrictions placed by the Ba'ath on public discourse literally disappeared overnight and a plethora of newspapers, radio stations, and television networks emerged from the bonds of Saddam's Iraq, free to debate and criticize the fate of their nation.

Laws enacted during that era broadly restricted expression and punished violations harshly. There was no regulation of the media independent of the government, and no legal protections for the profession. After the fall of the regime, the regulatory framework had to be built from scratch.

In June 2003, approximately eighty experts, journalists and freedom of expression advocates from around the world, including Iraq and other countries in the region, met in Athens, Greece to discuss how to encourage the development of a free, impartial, professional and independent media in Iraq. The conference adopted a framework document for reform known as the Athens Framework, which was widely endorsed by leading international media development organizations, UNESCO and the European Union. This framework document proposed establishing an independent broadcasting regulator and public service broadcaster and set forth a template for legislation and regulation.

B. Communications and Media Commission

1. Establishment, Legal Framework, Mandate and Structure

The initial law that established the CMC was drafted after a long consultative process that lasted for nearly six months and included a wide range of independent international and Iraqi experts. This law, which draws on international conventions and current best practice, was issued by the Coalition Provisional Authority (CPA) as Order 65 on March 20, 2004.[3] After further consultations with civil society and telecommunications and media professionals, the CMC's first three Commissioners and its Chief Executive Officer (CEO) were appointed a month later, with the remaining six Commissioners appointed and Chairperson elected just prior to the handover from the CPA to the Interim Iraqi Government at the end of June 2004. The Commissioners were all chosen on the basis of their political independence, professional expertise and broad public representation.

Order 65 gives the CMC exclusive authority to license and regulate telecommunications, broadcasting and information services in Iraq and provides that the CMC is an administratively and financially independent

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3   Generally speaking, only the aspects of Order 65 relevant to broadcasting and other media (and not telecommunications) will be discussed in this report.

agency, subject to limited oversight by the Iraqi parliament. The CMC receives its funding from fees paid by licensees. All funds in excess of the CMC's approved budget, and all fines received by the CMC, are to be transferred to the Iraqi national treasury.

Pursuant to Order 65, the CMC acts through its CEO and is supervised by a nine-member Board of Commissioners who are to meet once a month. The Board is to provide strategic guidance on operational matters and adopt the CMC's codes, rules, regulations and other substantive documents. In addition, the Board is to receive and adopt the CMC's operating budget, which is to be presented to parliament for formal approval. Six members of the Board must be present and vote for quorum rules to be satisfied. At the time of the drafting of this report, three of the original nine members no longer serve on the Board, which means that the Board has exactly the number of Commissioners required to take formal action. New Board members are nominated by the Prime Minister and approved by a majority of the parliament. Conflict of interest rules apply to all Board members and the CEO, and no one may be a political party official or hold public office.

Order 65 requires that the CMC enact rules, regulations and codes applicable to its operations and those of the industries that it regulates, and establishes the framework for a procedure for enforcing them. Under that process, the CMC is responsible for investigating any potential wrongdoing, determining whether a violation has occurred, and imposing any sanctions. Serious cases are referred to the CMC's Hearings Panel, which can convene an open hearing and recommend a ruling and sanctions to the CMC. The Hearings Panel is a five-member specialized panel of lawyers and other relevant professionals who are appointed by the CMC's Board. Less serious cases may be decided by the CMC's CEO.

Decisions of the CMC's CEO or Hearings Panel may be appealed to a three-member specialized panel known as the Appeals Board. One member of the Appeals Board must be a judge, and the other two must be lawyers or other relevant professionals. Members of the initial Appeals Board are to be appointed by the Prime Minister. Subsequent new members are to be appointed by the Minister of Justice. Evidentiary sessions and decisions of the Appeals Board are generally open to the public. To encourage independence from the CMC, members are to be remunerated by the Ministry of Justice.

Order 65 also:

- Requires the CMC to encourage freedom of expression and professionalism of the press by working with the Iraqi press community to develop a code of ethics for the press and, in consultation with the industry and relevant professional journalists' associations, developing a system to implement the code through self-regulation;
- States that the written press shall not require a license to operate within Iraq;
- Charges the CMC with planning, managing, allocating and assigning radio-frequency spectrum and publishing a radio-frequency usage plan for Iraq;
- Charges the CMC with establishing and maintaining a license fee system for both broadcasting and telecommunications;
- Sets forth the sanctions that the CMC can impose and requires that they be proportionate to the offense committed; and
- Requires that the CMC propose a law to replace Order 65. The CMC has prepared a draft to submit to the national legislature (see Part Two, Section II.A.1 for comments on this draft).

2. Rules, Regulations and Codes

The CMC has promulgated a number of rules, regulations and codes, including the following:

- Rules of Procedure (which expand upon the enforcement process set forth in Order 65);
- Licensing Rules;
- Spectrum Regulations;
- Interim Broadcasting Programme Code of Practice;
- Code for Media During Elections;
- Guidelines on Accuracy and Balance;
- Guidelines on Incitement;
- Guidelines for Reporting Sensational Events; and
- Guidelines on Equitable Access.

Due to security issues, most of these documents were issued on a temporary or interim basis without first fully consulting the industry.

Order 65 expressly requires that the CMC issue codes of practice in two media-specific areas: broadcasting responsibility and media activities during elections. In July 2004, the CMC enacted an Interim Broadcasting Programme Code of Practice that establishes minimal content restrictions for broadcasters. These restrictions include prohibitions on inciting violence or public disorder, transmitting terrorist messages, and knowingly airing false material.

In December 2004, prior to the commencement of the campaign period for the January 2005 elections, the CMC issued a Code for Media During Elections, which establishes special rules governing media coverage during campaign periods officially announced by the Independent Electoral Commission of Iraq (IECI). The Code purports to respect international best practices and was developed in consultation with Iraqi media outlets, the IECI and international organizations and experts. It requires broadcasters to provide equitable access to political parties, to show balance in news programming, and to air voter education information requested by the IECI. The Code contains additional requirements for Iraq's publicly funded media of the Iraqi Media Network and places minimal requirements upon all media outlets, such as a media silence period 48 hours before polling, rules on paid political advertising and prohibitions on incitement to violence.

Under the CMC's Rules of Procedure, complaints against media outlets for violating CMC code generally can be initiated by the CMC itself, any member of the public (including media companies), or by the government and are to be resolved through the process described in Section III.B.1. Pursuant to an understanding between the CMC and IECI, complaints against political parties and candidates concerning their misuse of media during elections are to be administered by the IECI.

Both the Interim Broadcasting Programme Code of Practice and the Code on Media During Elections were widely published in Iraqi newspapers when they were issued, and press releases about the codes were issued to international and local press. In order to give the public and media a better idea of how the codes would be applied, the CMC issued four sets of guidelines further explaining them (referenced above). These guidelines were published in Iraqi newspapers as well. Both codes and the guidelines also appear on the CMC's website (www.ncmc-iraq.org).

3. LICENSING

a. Pre-CMC

After the fall of the previous regime, the CPA took over the licensing of broadcasters, and apparently many mistakes were made early on in this process. For instance, broadcasters were reportedly asked to submit sizable non-returnable application fees, whether they received a license or not. In addition, the mechanism through which the CPA initially collected and recorded fees was ad hoc, cash-based and ignored common financial controls. Moreover, some broadcasters received licenses without supplying even the most basic information about their operations, funding, staffing and program schedules.

This process seemed to be driven by the notion that the best way to promote free media would be to give anyone that applied the opportunity to broadcast. While this is a reasonable aim, it led to chaos in the frequency spectrum. The airwaves filled up rapidly, especially in Baghdad and other heavily-populated cities, leading to a situation where a large number of broadcasters conflicted with each other. Faced with interference, some broadcasters moved to a 'clearer' frequency or channel thus interfering with frequency spectrum assigned to others and further contributing to disorder.

In the early part of 2004, leading up to the establishment of the CMC, the Media Development Advisory Team (MDAT) funded by the United Kingdom's Foreign and Commonwealth Office took control of broadcast licensing, and contractors employed by the U.S. State Department and USAID began focusing on telecommunications issues. The MDAT compiled a database of broadcasters, designed an application form and produced a new license, all based on international models. The new license included terms and conditions holding broadcasters accountable for violating license terms.

b. Licensing under the CMC

After the CMC was established in June 2004, it adopted a multi-phase licensing scheme. During Phase One, the CMC would incorporate the system developed by the MDAT into its interim license procedures, would continue to license those on air based on minimal criteria and filter out applicants deemed to be unsuitable for technical and financial reasons, and would use the licensing process as a way to gather as much information about broadcasters for use in developing its permanent license policy.

Under this interim regime, broadcasters generally were granted short-term provisional licenses valid for six months. These initial licenses have been renewed and extended since they originally expired. In late 2005, the CMC issued a blanket statement stating that all broadcasters operating under a CMC license could continue to operate beyond the date of expiration. This decision was designed to give the CMC more time to take full stock of the broadcasting sector, consult with the industry and decide what actions to take in any future licensing policy.

The CMC has apparently taken considerable strides in staffing its licensing department. However, the task of contacting and processing all broadcasters across Iraq has proven to be an extremely difficult one. As a result, a number of broadcasters remain unlicensed, and thus are illegally on the air.

The Kurdish media have yet to come under the regulatory umbrella of the CMC. Contrary to legal requirements of Order 65, broadcasters in the Kurdish Region are not, in practice, licensed by the CMC, but rather through the regional authority. Unlike in the rest of Iraq, newspapers in the Kurdish Region are also required to have a license.

The CMC plans to continue Phase One through some time in 2007. It then plans to move on to Phase Two, in which it will (a) develop a more detailed body of regulations that address specific problems of broadcasting in Iraq and (b) issue long term licenses to qualifying stations based on competitive criteria.

The CMC's stated goals in licensing are as follows:
- Investigating further licensing and regulatory requirements for religious and political broadcast stations;
- Working with authorities in the Kurdish Region to encourage cooperation and inclusion in the national regulatory framework;
- Taking action against unlicensed broadcasters to bring them under regulatory control of the CMC or to close down their operations;
- Supporting the creation of a fair and legal commercial media market;
- Stamping out copyright theft and piracy;
- Clearing the current high level of interference between broadcasters;
- Setting standards for advertising on radio and television;
- Allowing for the establishment of national commercial networks through a competitive tender;
- Increasing professional and technical assistance to guide stations in proper operating techniques that minimize interference, providing a minimum technical standard that may be used in the licensing process to exclude unqualified stations; and
- Considering fair and equitable license fee structures for long-term licensing.

4. FREQUENCY PLANNING

The CMC spent considerable energy during its initial months in a jurisdictional conflict with the Ministry of Communications for the right to allocate radio frequency spectrum and license telecommunications operators, despite the fact that Order 65 clearly gives such authority to the CMC. Eventually spectrum allocation was brought into the purview of the CMC. Partially as a result of this struggle, there is frequent interference among stations (most of which is not officially reported to the CMC). For example, some licensed broadcasters have moved frequencies without permission, causing a knock-on effect as they interfere with other broadcasters who are then, in turn, forced to move. For instance, for a period of time Radio Monte Carlo was broadcasting without a license on or near frequencies authorized for six licensed broadcasters, thus forcing these six stations to move to other frequencies. Other technical interference problems are the result of stations using sub-standard equipment or operating transmitters incorrectly due to a lack of technical know-how. Moreover, the fact that certain stations have taken on the character of regional networks—not through a competitive process based on quality or audience appeal, but rather through political connections or by commandeering more frequencies without applying for a license—has contributed further to improper frequency crowding and interference.

5. ELECTIONS

In connection with the issuance of its Code for Media During Elections in December 2004, the CMC commissioned the production of a thirty-minute film explaining standards for elections coverage and the importance of adhering to them. The film addressed such themes as fair reporting, rumors and falsification, and incitement to violence. The film also included interviews with international experts in elections and campaign coverage, the aim being to bring international expertise to audiences in Iraq, something that

would have been very difficult otherwise given the security situation prior to elections. The CMC screened the film at a number of conferences for Iraqi broadcasters prior to the start of the campaign period, and at the joint press conference with the IECI where it presented the Code for Media During Elections. An edited version of the film was produced for screening by Iraqi television stations.

For both the January and December 2005 elections, the CMC's Monitoring and Research Department monitored major media sources to assess the quantity and quality of the coverage of candidates and parties and general adherence to the Code for Media During Elections. The CMC focused primarily on television, both terrestrial and satellite, but monitored some radio and print media as well. In doing so, the CMC looked at the space or time given to the presentation of the parties and relevant political personalities, the manner in which they were portrayed, and the degree to which bias was reflected in coverage. Television monitoring focused on prime-time news programs and special editions of election-related programs and political commentary. In addition, an assessment was made of gender balance in election-related stories. Findings and conclusions were published by the CMC.

Significant effort has gone into building the capacity of the CMC's Monitoring and Research Department, which includes a number of staff members and is headed by a lawyer. For example, prior to the January 2005 elections, members of the department attended a week-long training in media monitoring organized by the BBC World Service Trust in London. This course covered the development of manuals, templates and check-lists for monitoring broadcasters' output as it related to the election campaign and the CMC Code for Media During Elections. During that visit, the team also met with professionals experienced with broadcasting regulation in the UK. In addition, prior to the December 2005 elections, the team attended a week-long training course in Amman where they developed a training methodology and strategy. This was followed up a few weeks later with more training where the team viewed recorded examples of elections coverage and discussed how they might be treated under the CMC Code.

6. ENFORCEMENT

The CMC has not received or initiated any complaints under the Interim Broadcasting Programme Code of Practice or the Code on Media During Elections since their promulgation. To date, the CMC has focused largely on monitoring broadcaster compliance, such as during the 2005 elections. In addition, it has sent letters to a number of broadcasters for broadcasting on the wrong frequency and broadcasting without a license. Enforcement beyond sending such correspondence has been difficult, however, especially given other pressing security challenges. Even international broadcasters have been flouting the CMC's licensing rules and ignoring its correspondence. For example, for some time, despite numerous contacts from the CMC, the BBC failed to broadcast on its assigned frequencies, and Radio Monte Carlo continued to broadcast without a license.

7. CONSULTATION

The CMC has taken positive steps toward consulting the broadcasters it regulates, gradually increasing its profile and becoming more accessible to broadcasters over the past two years. In its initial months, its consultation activities were limited primarily to holding press conferences, addressing broadcasters at conferences hosted by others, and issuing occasional press releases. Over the past couple of years, the CMC has become more interactive with the industry by, for example, hosting a conference for broadcasters in Baghdad in June 2005 and a major international conference in Paris in January 2007 with the cooperation of UNESCO and UNDP. These conferences have brought together broadcasters, newspaper editors, Iraqi

policy makers and international experts to discuss a number of themes concerning Iraqi media and needs for its development. Moreover, the CMC has made efforts to develop and train its public relations department and now publishes a magazine for wide distribution, *Tawasool*, that discusses important issues in Iraqi media. The CMC has also planned roundtables where broadcasters will be invited to discuss such key policy issues as license fees; the categorization of broadcasters into religious, political and community stations; plans for long-term licensing and fee structures; and codes of practice.

8.   Overall Regulatory Effectiveness

As the discussion above shows, the CMC has not succeeded fully in fulfilling all of its goals and responsibilities as a national regulator of broadcasting. Attacks by various political entities and the Ministry of Communications have required the CMC to spend considerable time and energy defending its existence and its remit under the law. Additionally, security concerns have meant that efforts to consult with the industry have suffered. Furthermore, due to lack of qualified staff and capacity, the CMC has often been overwhelmed and unable to respond as effectively as required, particularly when faced with competing issues and events in telecommunications and broadcasting at the same time. It is very possible that the CMC, through the long process of developing capacity, may be forgoing the opportunity to demonstrate what an independent agency can do, even in difficult circumstances, to provide legitimate regulations (especially in a conflict environment) and administer them with due process. It is these deficiencies that Part Two of this draft report aims to address.

C. Iraqi Media Network

The Iraqi Media Network (IMN) was the consequence of one of the most significant events in the development of the Iraqi media, the dismantling of the Iraqi Ministry of Information and the transformation of its assets into public service media. The IMN now includes two terrestrial TV channels and the Al-Iraqiyya satellite channel, which make up the Al-Iraqiyya network, two radio stations, and *Al-Sabah*, its newspaper.

1.   Establishment, Legal Framework, Structure and Mandate

As with the CMC, the initial law establishing the IMN, Order 66, was drawn up after a long consultative process and was issued by the CPA on March 20, 2004. It also draws largely on international conventions and current best practice.

Pursuant to Order 66, the IMN is supervised by a nine-member Board of Governors and is managed by a Director General. The Board is charged with protecting the interests of the public and ensuring that the IMN is meeting its public service remit, *i.e.*, that it is entertaining, informing and educating the diverse and various populations in Iraq. The Board is also obligated to serve as a buffer from government influence. Board members must be nominated by the Prime Minister and approved by two-thirds of Parliament. A three-member Financial Committee advises the Board on financial issues and must approve all expenditures in excess of 150 million dinar (USD$118,000). Conflict of interest rules apply to all Board and Financial Committee members and the Director General, and none may be a political party official or hold public office. Order 66 also states that the IMN may receive funds from any source, including Iraqi government and international grants, advertisers, subscription fees, and taxes.

Order 66 stipulates that IMN broadcasters air programs in the variety of languages spoken in Iraq, including Arabic, Kurdish, Assyrian and Turkmen. It requires certain specific types of programming, such as:

- Programs that entertain, inform and educate;
- Programs of news and current affairs;
- Coverage of sporting, religious and cultural activities;
- Children's programming;
- Coverage of national government activities, as determined by the responsible editor;
- Indigenous Iraqi production;
- Programming that facilitates and encourages citizen participation in democratic processes;
- Programming and a programming structure that reflects the diversity of Iraqi society; and
- Programming that encourages understanding of issues of gender, age, disability, race, religion, membership in a political group or membership of a minority community in Iraqi society.

Order 66 also generally requires that the IMN do the following:
- Inform the public on all political, economic, social, health, cultural, educational, scientific, religious, ecological, sporting and other developments, events and phenomena in the country and abroad, as well as ensure open and free discussion on all issues of public interest;
- Foster, encourage, and develop all forms of domestic audio-visual creativity that contribute to the development of Iraqi culture, art and entertainment, and to the international representation of the Iraqi cultural identity;
- Broadcast programs intended for members of the Iraqi community outside Iraq;
- Inform and educate the citizens in all aspects of the preservation of cultural heritage;
- Inform and educate the citizens in all aspects of the protection of environment, as well as promote the right of all to a healthy environment; and
- Foster and encourage the development of civil society and the rule of law.

The IMN is also required under the law to encourage respect for and promote fundamental human rights and freedoms, including freedom of expression, democratic values and institutions, and the culture of public dialogue; and respect and encourage public understanding of political and religious pluralism. It also must treat impartially all political, economic, social, health, cultural, educational, scientific, ecological and other issues, and not advocate the positions or interests of any particular political, religious, commercial or other party. In doing so, the IMN must ensure the public is aware of different points of view in order to create informed public opinion.

Order 66 further requires that six members of the Board be present and vote for quorum rules to be satisfied. At the time of the drafting of this report, there are four vacancies on the Board, which means that the Board does not have the requisite number to take decisions.[4] From discussions with senior IMN representatives, it is apparent that this paralysis of the Board is significantly preventing the Board from dispensing funds and making key decisions, thus allowing political officials to influence the station and preventing adequate management oversight.

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4   It is rumoured that the Prime Minister may have appointed individuals to fill these vacancies in February 2007. Under Order 65, however, these appointments will not be valid until approved by the Parliament. Such approval had yet not occurred by the time of the publication of this report.

2.   Rules, Regulations and Codes

Apparently due to a lack of quorum within the Board of Governors, the IMN has not yet issued any internal rules addressing the Board's procedure or the IMN's management or operations. It reportedly published an internal journalistic code of ethics prior to the December 2005 elections.

D. Other Legal Provisions Affecting Expression and Media

1.   Constitution

In a number of ways, the version of the Iraqi Constitution approved in October 2005 is a positive step forward for freedom of expression and independent regulation. In particular, it names the CMC as one of the independent federal commissions, thus preserving its existence, and states that the CMC is under the purview of the parliament, rather than the government. It also includes basic guarantees—"in a way that does not violate public order and morality"—of "freedom of expression using all means [and] freedom of press, printing, advertisement, media and publication."

2.   Iraqi Penal Code

The CMC has conducted a review of Iraqi legislation in effect prior to the June 2004 handover to the Interim Iraqi Government and has determined where such laws violate international standards for freedom of expression. For example, a number of provisions in Iraq's Penal Code of 1969 punish speech that incites violence or public disorder with life imprisonment. Additionally, paragraph 226 of the Penal Code punishes any person who "publicly insults" government institutions or officials with imprisonment of up to seven years. Paragraphs 433 and 434 of the Penal Code address defamation and insult respectively, and state that these offenses are punishable by detention of up to one year. Under paragraph 433, truth appears to be a defense to any prosecution for defamation of a public official, but what constitutes "truth" has apparently been construed very narrowly by Iraqi courts. In all cases, terms used to define prohibited acts and speech are broad and vague. Paragraphs 226, 433 and 434 of the Penal Code are attached at Appendix A.

Today, three years after the fall of Saddam, journalists are reportedly increasingly becoming the targets of government enforcement of the Penal Code provisions punishing defamation and insult. For example, a September 2006 *New York Times* article[5] reported that three journalists from a small newspaper in southeastern Iraq are being tried, under Article 226, for accusing local officials of corruption. Similarly, journalists working for three different media outlets (not mentioned by name due to fears of reprisal) claim that the government has threatened spurious cases against them under paragraphs 433 and 434. In the Kurdish Region, Suleimaniyah Court recently sentenced a writer for the Hawlati newspaper, Twana Osman, to six months in prison and fined the newspaper 75,000 dinar (USD$59) following the publication of an article stating that the Kurdish Regional Government's Prime Minister had two telephone company employees fired for cutting his phone service after he failed to pay his bill. It is understood, however, that the sentence may have been cancelled and government representatives have promised to advocate for the decriminalization of defamation following pressure from public opinion.

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5   Paul von Zielbauer, "Iraqi Journalists Add Laws to Their List Of War's Dangers," *The New York Times*, September 29, 2006: A12.

3. CPA Order 14

The introduction of repressive laws continued during the days of the CPA, which attempted to curb speech inciting violence or disorder by enacting Order 14. This order allowed the imposition of severe sanctions, including up to one year in prison or fines of up to USD$1,000. Most notoriously it was used to close the newspaper *Al-Hawza*, mouthpiece of the Sadrist movement, which some say was the catalyst for much of the violence that followed.

From the viewpoint of international law and best practices, Order 14 is problematic for a number of reasons, including the following:

- It fails to define "incitement" so that it meets generally-accepted international standards;
- It allows the government to impose sanctions directly on the media;
- It does not establish fair enforcement procedures or guarantee adequate due process protections; and
- It includes the sanction of imprisonment.

The CPA subsequently enacted Order 100 to give the Prime Minister, post-handover, the authority to enforce Order 14 and impose sanctions directly against the media. Under Order 100, the Prime Minister may refer a matter to the CMC for the imposition of additional sanctions, which may include revocation of a license. Although this law has not been enforced since the days of the CPA, the fact that it is still in effect may be leading to self-censorship among journalists.

IV. Human and Institutional Capacity Building

In 2006, a panel of Iraqi journalists told the International Research and Exchanges Board (IREX) that there are few substantial local training opportunities for young and mid-career journalists. Many Iraqi nongovernmental organizations focused on the media are reportedly mismanaged and plagued with cronyism and corruption. The IREX panel explained that although there are journalism courses at the College of Mass Communications of Baghdad University and elsewhere in the country, the faculty's curriculum and equipment have not been significantly updated since the end of government control of the media, and they are struggling to meet the new needs of students preparing for a rapidly changing media sector. Moreover, Baghdad University reportedly has no facilities to train working journalists, as communications facilities and faculty are accessible only by journalism and communications students.

There is at least one active local Iraqi media training institution, known as the Iraqi Journalists' Rights Defense Association (IJRDA). IJRDA was established in 2005 with the goal of raising awareness among Iraqi journalists. It has more than six offices throughout Iraq. IJRDA operates mainly as a local voice to protect journalists and support their goals and occasionally organizes training events for journalists. The IJRDA does not reveal its funding sources.

In the absence of sufficient viable local training facilities, international organizations from places such as the United Kingdom, the United States, Canada, Denmark and the Czech Republic, as well as the U.S. and UK governments and intergovernmental organizations such as UNESCO and UNDP, have provided Iraq with media experts and resources. Some have developed training programs for Iraqi journalists, the vast majority of which are conducted in neighboring countries. The training experience of journalists at Aswat

Al-Iraq, an independent Iraqi news outlet, might be seen as typical. According to its editor-in-chief, Zuhair Jezairy, the outlet is funded by the UNDP in cooperation with Reuters Foundation. Journalists working for him have been involved with many training courses sponsored by international organizations, including courses run by Reuters in Amman, Jordan and Beirut; a program run by the Canadian Réseau Liberté in Beirut; and a program run by the Danish NGO International Media Support (IMS) in Iraq. IMS has published a comprehensive report of media development efforts by international organizations from 2003 through June 2005. The report can be found on the IMS website's Iraq page (www.i-m-s.dk).

Other civil society organizations in the country are devoted to assisting journalists in other ways. For example, the Journalistic Freedoms Observatory (JFO) (www.jfoiraq.org) claims to be a group of Iraqi journalists who identify, monitor and fight against violations of press freedoms in Iraq. JFO states that it is ready to provide, free of charge, media lawyers and experts to defend journalists, and its website provides contact information for legal consultation. The website also contains information about women in the media and a number of research papers. The sources of JFO's funding are unknown.

The IFJ background paper contains additional information about capacity-building efforts and needs for Iraqi journalists.

Part Two: Policy Recommendations

I. Introduction

As we conclude from Part One, the Iraqi broadcasting market has many of the surface characteristics that regulators and planners wish to achieve: pluralism, lack of concentration, relative independence from the state, a regulatory framework designed to encourage independent media, and a regulator that refrains from censorship. But there are definite signs of complications. As Iraq remains a zone of conflict and post-conflict, the tendency for control and stability is great. There is increasing evidence of intervention by the government or at least threats of intervention. With respect to some media, links are being made between insurgents and programming. Because of the uncertainty concerning the overall political settlement, how media will or should be regulated is not yet clear.

Neither the specific surface pluralism nor the actual complexity of the situation was planned or the consequence of a series of intended actions by the CPA, the successor governing authorities or the regulator. Now, there is an opportunity to consider consequences and their relationship to regulation. In Part Two we turn to recommendations that might be considered by the CMC, Parliament, other Iraqi policy makers, and international and local donors and implementing organizations as ways to enhance and improve upon the way the broadcasting sector has developed thus far.

In making such recommendations, we are mindful of the following:

- A regulatory environment that encourages pluralism, experimentation, innovation, and the existence of many voices should be encouraged;
- There is a need for continued monitoring to ensure that a plural media, with stations identified with interests, does not become a vehicle for promoting strife and conflict. This will be a priority if inter-sectarian violence continues to escalate;
- There is a need for care, both in terms of the IMN and the structure of the private broadcasting industry, to ensure that there is a sense of inclusion, so that all sectors feel that they are appropriately represented in the public sphere;
- Iraq is not yet a vibrant market economy, given current elements of conflict, lack of security and uncertainty, but it is a society that could and should develop in a way that supports a strong consumer sector. A media sector should emerge that can easily adjust to a growing commercial market;
- In the near and medium term, a strong public service broadcaster is necessary to reflect societal choices about the structure of Iraq, to reinforce consensus, and to help to define and reinforce an Iraqi national identity (as that is defined through constitutional and other processes). Such a public service broadcaster should reflect traditional international standards for public service broadcasting, as tailored for the Iraqi context; and
- Some consequences for the regulatory structure will arise in the political settlement that evolves among the many competing interests within Iraq.

In order to encourage pluralism, to protect the broadcasting sector from ossifying into sectarianism, and to prepare for a more market-oriented economy, policy decisions and other actions could be taken in the following areas:

- The legal framework governing media is due to undergo significant changes;
- The CMC will be reviewing changes in its approach to regulating the broadcasting sector;
- The IMN should be reviewed to determine whether it is fulfilling its public service obligations; and
- Other media development efforts might be considered by the CMC, other Iraqi policy makers, and international donors and implementing organizations.

II. Legal Framework

A. Legislation

1. NEW CMC LAW SUBMITTED TO PARLIAMENT

A draft law was submitted to Parliament by the CMC earlier this year to replace Order 65. The passage of such a law is a necessary step in legitimacy: Order 65, issued by the CPA, should be supplanted. Having the CMC remit codified through an Iraqi law will enhance the institution in the eyes of the government, the public and the industries the CMC regulates. There is no indication of when this law will be debated. Parliament went into recess on August 15 until after Ramadan, and, at the time of the writing of this report, there are a large number of other laws likely to be considered before the law on the CMC. Stanhope has reviewed the draft, and believes that the following comments should be considered as the law is debated and perhaps revised in Parliament:

- It should be made clear that the CMC has sole and exclusive authority over licensing and regulating telecommunications and broadcasting throughout all of Iraq;
- The law should make clear that any regulations, rules or codes passed by the CMC pursuant to Order 65 and licenses issued under Order 65 will remain in force until superseded by the CMC;
- It may be helpful to clarify the role of government (and perhaps specifically the Ministry of Communications) regarding the CMC and broadcasting policy;
- If the CMC is to retain some authority over non-broadcast media (which is normally not the case for independent regulators under international best practices), it should be made clear that its authority over print media and Internet extends only to developing and protecting these industries, rather than licensing and regulating them. It should be explicit that no licenses shall be required to practice journalism or to own or operate a print publication or to set up a website;
- All appointments to the CMC board and other bodies should be approved by a majority of Parliament. It is critical that no one branch of the government has excessive control over the CMC;
- Attention should therefore be given to the nomination process and the approval process. For example, one could nominate twice as many members as are needed and rank the choices,

with Parliament going down the list until the requisite number is chosen. In such a scenario, to fill three vacancies, one would nominate six names. If any of the first three on the list were rejected, the next name on the list would be proposed until three were approved. It may be advisable for the law to require that Parliament approve the requisite number from the list (rather than allow it to reject more than half of the names altogether) in order to prevent a delay in the appointment process;

- If the law sets forth quorum requirements, it should require that quorum be satisfied with a minimum number of Board members (somewhere near two-thirds of the total number of possible members is considered best practice), rather than merely a majority of Board members. Otherwise, if there were only a very small number of Board members at any given time (if members have resigned and not yet been replaced, for example), two or three individuals would have significant power;

- Care should be taken not to require too much management by the Board. The legislation should recognize that significant authority should be delegated to CMC staff. For example, it may be advisable to give the CEO the authority to issue some licenses, at least of a certain scale, without Board approval, within guidelines established by the Board (which should include procedures requiring the review and approval of certain CMC staff, including the legal and licensing departments, before a license can be issued). One option would be to define clearly the Board's powers and to keep them appropriately supervisory and then state that the CEO has all powers not reserved to the Board. Powers appropriately reserved to the Board could include establishing and overseeing licensing guidelines and procedures; approving codes, rules and regulations; approving the budget and annual plan and submitting them to Parliament for approval; appointing and removing members of the inquiry and complaints committee; appointing and removing the CEO; and supervising the CEO's performance generally. The value of delegation, however, must be balanced against the need for having a check on the CEO's authority and the need for providing the CEO with political cover, particularly in the dangerous environment of Iraq;

- The Appeals Board should be appointed through an external process (perhaps involving the Ministry of Justice or a group of judges), rather than by the CMC Board, in order to preserve the Appeals Board's independence;

- Decisions by the Appeals Board should be able to be appealed to Iraqi courts. We understand that making the CMC the final arbiter in media disputes was an affirmative policy choice based on the realization that (a) current Iraqi criminal law lacks appropriate due process guarantees and (b) Iraqi courts have little familiarity with the principles of human rights in general, and freedom of expression in particular, and that as yet, they often do not act fairly and independently. Assessing the extent to which this is correct and determining how the judicial system might be reformed is beyond the scope of this report. We do note, however, that authorizing the CMC to act as final arbiter and make quasi-judicial decisions would almost certainly be seen to violate the Iraqi Constitution, namely Articles 94, 95 and 100 which, respectively, provide: "decisions of the Federal Supreme Court are final and binding for all authorities," "the establishment of special or extraordinary courts is prohibited," and, most significantly, "it is prohibited to stipulate in the law the immunity from appeal for any administrative action or decision";

- Penalties should be reasonable and proportionate to the offense, and should escalate in severity (e.g., a violator should be given sufficient warning before moving on to more severe penalties, and revocation should be used only as a last resort). It may be advisable to include

the penalty of seizure of equipment and closure as a remedy for persistent unlicensed broadcasters;

- A right of reply should be considered as a potential remedy where there are complaints of insult or particular kinds of defamation, and should reflect international best practices as set forth in Part Two, Section III.F.1.f below.

- The law should require the CMC to consult with the industries it regulates before issuing rules, regulations or codes of practice applicable to them, and should specify that the CMC must consult with the industry to agree upon and adopt public rule making procedures that will guide the process; and

- The CMC should be required to keep accurate, publicly available records and maintain a website where it publishes announcements, rules and decisions.

2. REPRESSIVE LAWS STILL IN EFFECT

Certain Saddam-era legislation impairing the right to freedom of expression and CPA Order 14, some of which are discussed in more detail above in Part One, Sections III.C.1 and 2, should be repealed (particularly where imposing such excessive punishments as imprisonment) and replaced with laws of general application (meaning that they apply to all and do not single out media specifically), in line with international standards prohibiting defamation, incitement, and hate speech.

Such incitement to violence legislation should, among other things:
- Narrowly define what constitutes incitement to violence;
- Punish only speech that carries a clear and immediate risk of incitement;
- Punish only intentional or reasonably foreseeable incitement;
- Provide that an independent arbiter, e.g., the courts (and not the government), administer complaints in accordance with rules of due process;
- Not include imprisonment as a punishment; and
- Limit imposition of severe sanctions to cases of serious or repeated violations.

Defamation legislation should be as follows:
- It should clearly define what constitutes defamation;
- Liability should be found only where a false statement of fact has been disseminated causing injury to the reputation of the individual or entity bringing the claim, and the alleged defamer was at least negligent.
- Liability for defamation should not be found where the statement was (a) true, (b) the result of a good faith mistake, (c) clearly an opinion, (d) an accurate account of a government statement, or (e) not discovered within a certain period of time of sufficient length, such as three years;
- Public figures and publicly-funded organizations should be required to prove that the alleged defamer acted with intent rather than mere negligence. This is in recognition of the principle that, in order to promote transparency, governments should be subject to greater scrutiny by the media than ordinary members of the public. It also takes into consideration the fact that the government and public figures are less likely than ordinary citizens to need to resort to defamation claims to protect their reputations; rather, they often have or could easily command the attention of the media and thus could attempt to correct misstatements directly in the newspapers and on the airwaves; and

- In accordance with international principles, remedies for defamation should be limited to the following: (a) a requirement that a correction to the false statement be published; (b) compensation for actual damages, defined as provable financial losses resulting from the defamatory statement; and (c) compensation for non-monetary damage to reputation in serious cases.

B. Constitution

As is mentioned above in Part One, the Constitution approved in October 2005 is a positive step forward for freedom of expression and independent regulation because it contains general protections for expression and the media and because it refers to the CMC by name, thus making its survival more likely. However, the provision giving federal authorities jurisdiction over radio frequency spectrum could be more tightly drafted to ensure that broadcasting and telecommunications are licensed and regulated at the federal, rather than regional, level. Article 110 of the Iraqi Constitution currently states that "[t]he federal government shall have exclusive authorities in the following matters," and specifies one such authority in point 6 to be, "[r]egulating the policies of broadcast frequencies and mail." We would recommend replacing such language in point 6 with "establishing policies of radio frequency spectrum and mail." We would also recommend adding immediately thereafter in point 6 the following: "The Communications and Media Commission shall have exclusive authority to license and regulate broadcasting and telecommunications in Iraq." This change would make clear that these functions will continue to be performed by an independent body, and namely the CMC, and cannot be usurped by the government or any other authority.

Together, these changes would preserve the concept of independent converged regulation at the federal level, which has significant advantages, including the following:

- Independent Regulation. It has been well established that independent regulation encourages both better services and increased investment. The World Bank, for example, makes the existence of an independent telecommunications regulator one of its core prerequisites for investment. Communications companies will be more likely to invest in Iraq, and provide high-quality services, if the regulatory framework is objective, consistent, and free from direct political control.
- Converged Regulator. Audio-visual programming has traditionally been delivered through conventional terrestrial broadcasting networks, and more recently by satellite, but new technology has broken these monopolies, and programs can now be delivered through a variety of systems such as cable, the Internet and 3G mobile phones. In a number of developed countries, the blurring of the distinction between media and telecommunications technologies has led to the convergence of regulation in the communications field. Iraq has had the opportunity to establish converged regulation from the outset and thus leapfrog countries where existing separate broadcasting and telecommunications regulators must be merged. The CMC is designed to provide an efficient one-stop shop—one agency with one public rule-making process—for the various communications sectors that share similar legal, technical and economic characteristics.
- Federal Level. It is far more efficient to have one central national regulator licensing and regulating communications services, rather than requiring service providers to comply with a number of different and potentially conflicting regional regulatory regimes and forcing them to patch together multiple regional licenses to provide adequate coverage. Radio frequencies that operators use to transmit their services do not end at regional borders, and neither should licenses that grant permission to use them. In recognition of this, the

International Telecommunications Union will deal only with national telecommunications regulators and refuses to acknowledge regional or local agencies.

Although we recognize the value of recommending only confined changes to the Constitution, we have summarized other changes that might be suggested if more expansive protections of freedom of expression and media were sought (see Appendix B).

III.   Communications and Media Commission of Iraq

The legal basis for the CMC appears to be well established, and our discussions with policy-makers indicate that, generally speaking, there is broad support among the various branches of government for the concept of independent media regulation. However, as discussed above, the CMC needs to improve its capacity and visibility in order to better serve the public and the broadcasters it regulates. Accordingly, CMC goals could include:

- Safeguarding its legal basis and political support;
- Strengthening its operations (staffing, training, strategy);
- Increasing its efforts at communication and consultation with the industries it regulates, including developing processes to improve compliance. Compliance will not be effective until the CMC has developed workable relationships with the sectors it regulates, to include training of broadcasters on regulatory requirements;
- Focusing more on technology and transmission issues;
- Making incremental and realistic proposals for the reshaping of the media and communications landscape, concentrating operationally on doing what can be achieved within the limitations of Iraq today;
- Improving its regulatory and monitoring framework and bolstering enforcement capabilities;
- Building relationships and sharing information with regulators elsewhere, particularly those working in environments facing similar challenges; and
- Perhaps increasing its support for media development efforts to fill voids normally addressed by other institutions and other aspects of society.

A. Legal Basis and Political Support

The CMC could safeguard its legal basis by continuing to advocate for the passage of Iraqi legislation and constitutional amendments, as discussed above in Part Two, Sections II.A and II.B. It could encourage political support by doing any or all of the following:

- The Constitution makes clear that Parliament (the Council of Representatives) has oversight over the CMC. The CMC could reach out to relevant parliamentary committees, such as the Committee for Culture, Media and Tourism, to strengthen relations with them and streamline interaction between the CMC and Parliament;
- Many of the CMC's difficulties in its initial months were due to constant attacks from various officials outside the CMC. Often, these attacks were not borne out of an intentional desire to repress the media, but rather from a misunderstanding of the fundamental principles of freedom of expression and independent regulation. In order to diminish the likelihood of

similar problems in the future, the CMC could engage Parliament and other Iraqi policy makers in dialogue on media practices by, for example, hosting roundtables on important policy issues, or even inviting members of parliament and the government to hear speakers on international best practices; and

- One aspect of how the CMC is regarded at home, though by far not the most important, is how it is regarded abroad. Although the CMC will want to be careful not to play exclusively to international audiences while ignoring the constituency and public that pay its bills, it could increase its visibility, ensure its continued existence across governments, obtain valuable support and advice and improve the image of Iraq abroad by continuing to bolster its international status and connections. The CMC can do this by joining more international organizations, attending international forums and engaging international press.

B. Operations

1. Governance and Staffing

a. *Appointing Three Members to the CMC Board*

Although the Board of Commissioners of the CMC must have nine members, it now includes only six. Until new Iraqi legislation is passed on this subject, the appointment process in Order 65 must be followed. It requires that the Prime Minister nominate three individuals and submit this list of nominees for approval by a majority of Parliament. These individuals:

- Must have senior-level experience in either legal affairs, management, business, regulation, engineering, telecommunications, broadcasting, or journalism and must be of impeccable character;
- Must not hold any executive, legislative or judicial position at any level of government and may not be an official of any political party; and
- Must not have any financial or business relationship with any broadcaster or private telecommunications company.

Having a fully constituted board will make it easier to hold meetings with the requisite quorum of six board members, thus facilitating the decisions that the CMC has ahead of it in coming months. It would be best to make this nomination and appointment process open by publishing an advertisement seeking applicants and keeping the vetting and selection process transparent, rather than allowing it to appear that commissioners are chosen based on behind-the-scenes political deals. One way would be for an independent panel of interviewers, including perhaps someone from the regulator, to interview applicants and select nominees (which could be, as discussed above in Part Two, Section II.A.1, twice the number needed). There could be room in the process for government representatives to nominate their own names for the list, but ideally they would be required to go through the same interview process as other applicants.

b. *Appointing the CMC Appeals Board*

Order 65 requires that the Prime Minister make the initial appointments to the CMC's three-member Appeals Board, and these appointments have never been made. Appointment of the Appeals Board would complete the institutional structure through which the CMC administers proceedings, including those

involving complaints against the media for violating CMC codes of conduct. Order 65 requires that the Appeals Board be composed of (1) a judge, (2) an attorney with communications regulatory experience, and (3) an individual with professional or business experience in the legal profession or another relevant field. The pool of potential attorneys in Iraq with experience in communications regulation is extremely small. Any subsequent law establishing such requirements should take this into account, perhaps requiring only experience in one of the following fields: communications, competition or public law. If, for whatever reason, Order 65 is to remain in effect for some time, it should be amended to account for this. For a discussion of the potential unconstitutionality of mandating the Appeals Board to issue final, unappealable decisions, see Part Two, Section II.A.1 above.

c. Staffing

Operationally, with its CEO and lower-level staff in place, what the CMC needs now is to find mid-level management, improve organizational effectiveness, and train everyone across the board how to work in an independent regulatory agency. Within the context of Iraq, where the idea of independent regulation is completely new, this is not an easy task. Providing comprehensive staffing and organizational advice is well beyond the scope of this report, and would require significant and long-term assistance from experienced advisors. We have, however, observed that the CMC could benefit from assistance with the following:

- Developing and implementing a management plan setting forth goals and budgets for the next fiscal year;
- Determining staffing requirements to fill departments;
- Developing strategies for and recruiting individuals for key posts, such as a deputy CEO and heads of each of department;
- Defining clearly how responsibilities are to be delegated from senior management to department heads, and from department heads to staff, so that individuals in each position understand the types of decisions they can make on their own;
- Designing, developing and implementing a comprehensive training program for all levels of staff;
- Developing the CMC's planning and budgeting capabilities;
- Enhancing internal communications;
- Defining and creating appropriate mechanisms for effective interdepartmental cooperation, and encouraging working in teams and matrix reporting; and
- Developing communications and public information staff and strategies. This communications strategy and plan should incorporate the outreach and consulting efforts discussed below in Part Two, Section III.C. Ideally, the CMC's public relations staff would have responsibility for developing and managing such efforts.

C. Consultation and Compliance Training

The CMC should continue moving in the direction of increased consultation—further increasing its profile, sharing information, and facilitating access by broadcasters and the public—by building on its past consultation efforts (discussed in Part One, Section III.B.5). The CMC might do the following to achieve this:

- Publish notes and guidelines on specific compliance issues;
- Organize training workshops for broadcasters;
- Hold regular roundtables of broadcasters;

- Set up a helpline for broadcasters with compliance questions;
- Develop an advisory board on broadcasting issues, and perhaps working groups on specific issues, comprised of those in the industry, policy makers and experts;
- Expand its public relations department, perhaps with the help of expert consultants or the advice of other independent regulators, and use this department to reach out to the public and the CMC's constituency;
- Hold more frequent press events;
- Improve its website by, among other things, posting more documentation and making it more interactive;
- Open offices in areas other than Baghdad;
- Hold forums where input can be sought from the general public and special interest groups (e.g., those devoted to disabled persons, women, children, and consumer issues);
- Set up and advertise an anonymous complaints mechanism for the general public;
- Start a newsgroup providing frequent email blasts of important information; and
- Facilitate the development of a professional association of broadcasters as discussed in Part Two, Section V.A.3.

D. Assessing the Media Landscape and Developing Licensing Policy

As is discussed in Part One of this report, two of the most striking characteristics of Iraqi broadcasting are (a) the heavy concentration of media owned by political parties and religious groups, and (b) that the distribution of this ownership among different groups appears generally to reflect the demographics of the Iraqi population. The CMC will need substantial time to consider how or whether to address the concentration of religious and political broadcasting. Complex issues include the nature of Iraqi media pluralism and the relationship between terrestrial and satellite delivered channels. The situation may change as the commercial broadcast market strengthens and the identity of the IMN becomes more established. In the meantime, the pluralism of Iraq's media scene could serve as a promising means of providing competing input into national and regional debate. In a context of potential civil conflict, however, the danger exists that media pluralism may lead to intensified potential for violent destabilization, and the CMC should continue to monitor sectarian media closely.

In the short term, terrestrial and satellite appear to be the most important technologies for transmission that the CMC must regulate. Cable and Internet broadcasting require land-based infrastructure (cable and broadband) that is expensive and easily sabotaged. Internet requires cheap broadband, the development of which may be unlikely due to more pressing infrastructure needs of the country. As a result of topography and cost, terrestrial broadcasting will be the most widely available form of broadcasting in Iraq for the foreseeable future.

1. Terrestrial Licensing and Frequency Allocation Policy

a. Short-Term Possibilities

In recognition of the fact that fully assessing the media landscape will take some time, the CMC could decide to leave more far reaching decisions until later and adopt one or more of the following options for licensing terrestrial stations in the short term:

i. Technical Issues with Frequency Spectrum

Clean Up the Frequency Spectrum Across the Country

In the short term, the CMC should map the frequency spectrum and determine who is licensed, who is operating on the correct frequency, and who is prevented from doing so because another broadcaster is illegally broadcasting on its assigned frequency. As part of this process, the CMC could:

- Develop a national frequency plan that includes broadcasting, telecommunications and other spectrum;
- Perform analysis of existing frequency allocation;
- Interact with military and security forces and assess spectrum requirements;
- Develop a set of future projects and spectrum needs;
- Develop databases and records for updating spectrum allocations;
- Participate in international spectrum coordination and ITU conferences;
- Develop standards for signal quality;
- Commission or conduct any other necessary research or engineering studies; and
- Consider the application of new technologies, including digital terrestrial, in terms of use of spectrum, and study proposals for shared spectrum approaches.

Work with Authorities in the Kurdish Regional Government to Standardize
Technical Requirements and Licensing Terms and Conditions and De-Conflict Frequency Spectrum

With the Kurdish Regional Government (KRG) stressing independence and assertion of regulatory authority even in such sectors as oil exploration, the power of the CMC will likely continue to be contested there with respect to communications policy. The CMC is more likely to gain authority in the region through soft diplomacy, by holding periodic consultative round tables and perhaps through media development efforts in the region like those discussed in Part Two, Section III.H below. The federal regulator should, consistent with its general approach to light regulation and registration-type licensing, ensure that stations broadcasting within the KRG hold a license from the CMC. Additionally, as the CMC is able to improve its capacity and better serve its constituency outside of the KRG, broadcasters in the region may recognize the value of coming into the CMC's fold and do so voluntarily.

In the short term, the CMC could focus on developing common standards between the two licensing regimes, rather than attempting to wrestle licensing functions away from authorities in the KRG. In coming months and years, it may not be so important that the CMC does not license broadcasters broadcasting exclusively in the KRG, so long as the same technical and other terms and conditions apply and the CMC can de-conflict the spectrum technically. A compromise could be to obtain agreement from KRG authorities to allow the CMC to intervene technically (regarding spectrum, channels, quality of signal, engineering support) and to incorporate language similar to that in CMC licenses into their own local licenses. This not only would lead to a smoother technical interface between regions and require that all Iraqis have access to broadcasting above a certain quality threshold, but also would facilitate eventual incorporation of the KRG licensing and regulation regime into that of the CMC, and thus make it more likely to happen sometime in the future. An agreement for allocation of licensing authority or cross-licensing would be constructive.

ii. Short-Term Licensing Policy

Issue a Moratorium on Licensing New Stations, While
Bringing All Currently Broadcasting Stations into the System

We would strongly recommend that the CMC make the determination that, at least in the short-term, its primary goal be to bring only stations currently broadcasting into the system in order to find out as much as possible about who is on the air today. Accordingly, it should issue a moratorium on licensing stations not yet on the air, while continuing to work to license those already on the air. The goal of such a moratorium would be to prevent further chaos on the frequency spectrum and focus on gathering information on current broadcasters to use in determining its future licensing policy. This moratorium could be established by drawing a line in the sand as of date X, say, three months' time, which is properly publicized in advance. If unlicensed stations could prove they were broadcasting on that date, they could apply for a license. If not, they would have to wait until the moratorium is lifted to apply.

Continue with an All-Inclusive Licensing Policy

Alternatively, the CMC could continue to grant short-term temporary licenses to all applicants who meet a certain minimum criteria and comply with CMC codes of conduct and technical requirements. Consistent with the emergence of a market in which "external pluralism" exists (*i.e.* a large number of channels reflecting different ownerships and viewpoints), the CMC could encourage applicants in areas where additional viewpoints should be represented. It is, however, vital that the CMC's licensing department liaises properly with the monitoring and other departments to ensure that even temporary licenses are not granted to those who will abuse the airwaves. While licensing new stations, the CMC could reserve spectrum for future commercial, educational and community broadcasters.

b. Long-Term Possibilities

i. Long-Term Licensing Policy

In the long term, the CMC will have to advise whether and how to address ownership by various entities, including foreign investors, political parties (or entities controlled by political parties) and religious entities. Practice in terms of ownership distinctions varies greatly internationally. The political system will undoubtedly decide whether having such an array of stations is desirable and consistent with the growth of democratic processes in Iraq. Some possibilities (varying in degrees of aggressiveness) are as follows:

- Have a policy of external pluralism, i.e., use the licensing policy to ensure that most views are represented and/or that broadcasters as a whole mirror society;
- Have a policy that no new licenses will be awarded to political or religious broadcasters, though that will have the perverse consequence of favoring some such groups over others and driving new groups to broadcasting without a license;
- Monitor and regulate existing religious and/or political broadcasters if their existence is thought overly to bias the political system or heavily skew public discourse. Here it would be useful to consider the varied practice and experience in many other countries;
- Treat religious and political broadcasters like public service broadcasters, by holding them to certain public service requirements. This approach was taken in Bosnia and Herzegovina,

      where the national regulator went so far as to require each such broadcaster to appoint a board broadly representing the various identities of the population receiving the signal, with the composition of each board subject to the regulator's approval;

- Restrict religious and political broadcasters to a lower level of transmitter power; or
- Restrict only political (and not religious) broadcasters in any of the ways described above.

The CMC could also consider other options and issues for the long term:

- How to develop competitive criteria on which to award licenses based on purpose, audience, experience, character, technical capabilities, business plan and financial resources;
- Whether to introduce program criteria into licenses, e.g. public service obligations (see discussion at Part Two, Section III.F.1.b below;
- Whether and how to develop a separate class of community broadcasting;
- Whether and how to license based on public auction, where applicants would need to meet only minimum requirements and licenses would be awarded to the highest bidder;
- Whether and how to license based on economic sustainability, refusing to allow new entrants into markets deemed saturated;
- Whether it would be feasible to issue a nationwide terrestrial commercial license; and
- Practical issues such as the duration of the licenses (research shows that eight to fifteen years seems to be the norm), fees and fee structures, and application procedures.

ii. Fees

The CMC currently has no long-term policy or schedule in place setting forth the fees charged to licensees. Only a small administrative fee is in place. Coming up with a comprehensive policy could be left for the long-term, once the CMC has had the opportunity to conduct necessary research and consult with the industry. However, a basic license and administrative fee schedule should be sorted out as quickly as possible.

License Fees

In almost every country that licenses its terrestrial broadcasters, the licensee pays the regulatory authority a recurring fee. This fee usually goes towards the costs of regulation, although in some countries it is paid to the government who then funds the regulator directly out of the state budget. Research shows that there are many different examples of fee structures around the world, but that they can broadly be summarized as basing fees on one of the following:

- Option One: Use of spectrum as a factor of the power and output of transmitters;
- Option Two: The coverage area determined through audience reach; or
- Option Three: Percentage of gross annual turnover of the licensee.

Generally speaking, in mature regulatory environments, Option Three is the most favored method (*i.e.*, Ofcom of the United Kingdom, the CRTC of Canada, and the FCC of the United States). Research shows that regulators generally charge anywhere from 2.5 percent to 4.5 percent of gross annual turnover. For instance, ComReg in Ireland charges 3.5 percent.

In emerging democracies where little is known about the operations of broadcasters other than the information that they include in their applications (which is generally taken at face value by the regulator), the favored choice is Option Two. This is primarily because the use of ATDI or similar software coupled with census information provides the regulator with a "best reasonable guess." This generally goes unchallenged, as broadcasters tend to use the same sort of software to calculate their own reach. This method is used by a number of European nations, and the Bosnian regulator's recent transformation to it has been considered successful.

Option One proves especially accurate where topography is relatively flat (such as in Iraq) and transmitter reach can be easily compared. However, even then, it has drawbacks. For example, a small broadcasting operation in a large city reaching a massive audience and a rural operator reaching a smaller audience would be charged the same fee if using transmitters of similar power. Nonetheless, this type of calculation has been used in some countries as an interim measure where population numbers and gross annual turnover figures are hard to come by or wholly inaccurate.

The CMC should keep in mind that however it determines its fees, the fee schedule should be fair, simple, flexible and reliable. In addition, international best practices dictate that fees should reflect the underlying cost of administering regulation and no more, and that they should be relevant to operators' activities. In all cases, the regulator must consult widely with the industry and stakeholders to find the best and most relevant option to suit the needs of the market.

Administrative Fees

In addition to recurring license fees, regulators ordinarily charge a small fee for administering applications and other tasks, including substantive changes in license conditions initiated by the licensee and renewals. Such fees should be minimal and proportionate to the amount of administrative effort required to service licenses.

iii. *Community Broadcasting*

Community broadcasting (especially community radio) can be an important part of the broadcasting landscape due to its unique ability to serve small groups that benefit from having a medium for sharing ideas, but are unlikely to attract advertising or sponsorship. Often regulators give community broadcasters a discount on license fees or waive them altogether. Communities served are sometimes limited to a particular geographic area (such as a village or a group of villages), and often in these situations the community itself owns and manages the station. Such stations can be absolutely critical for facilitating participation in local level governance. Other times, communities comprise special interest groups (such as women or minorities) that are typically underserved by other types of media. It is too early for the CMC to develop a comprehensive policy on community broadcasting (especially considering that this policy should depend largely on how the IMN fulfills its public service remit in the future), so this is something to consider for the long term. However, if the CMC decides to continue issuing licenses to new broadcasters rather than impose a moratorium, it would be prudent to reserve a limited band of frequency spectrum for this type of broadcasting.

2. Satellite Broadcasting Licensing Policy

In terms of policy development, the CMC must come to grips with the high useage of satellite-delivered broadcast signals as compared to programs delivered terrestrially. There are difficult questions of jurisdiction and power especially where channel providers are located outside Iraq and use satellites based outside the state. Some considerations include:

- Technical rules for quality;
- Potential establishment of Iraq-specific platform, which might have compulsory carriage of local terrestrial stations, including the IMN, for free or a set fee in order to protect the ability of local stations to attract advertising revenues and provide consumers with local information;
- Extent to which satellite broadcasters are regulated or can be urged voluntarily to comply with CMC rules for content, e.g., compliance with codes of conduct and elections rules; and
- Copyright, redistribution and program exclusivity issues.

E. Technology and Transmission

The CMC should be a center for the improvement of the technology of broadcasting in Iraq. It could, for example:

- Consider the feasibility of transitioning to digital terrestrial broadcasting, perhaps through a phased transition starting first in saturated areas such as Baghdad, as was done in Germany where Berlin was the first to change;
- Consider an Iraq-specific direct-to-home satellite platform to facilitate universal coverage and potential phasing out of some terrestrial analogue spectrum use;
- Determine other modes for the delivery of multi-channel video including telecommunications, Internet streaming and cable; and
- Conduct research and consult with the industry on other new technologies.

F. Regulation and Compliance

As the CMC becomes more sophisticated and better staffed, it may want to consider more how the increase in information offerings from a variety of sources alters its capacity as a regulator and shifts its role to other modes of serving Iraqi society.

1. Regulatory Modifications

As most of the CMC's regulations, rules, codes and license terms and conditions were established on a temporary and short-term basis and without public consultation, all should be reviewed and revised with the input of the public and the broadcasting industry through an open and interactive consultative process. Some specific regulatory modifications that might be considered are introduced briefly below. Any changes adopted by the CMC should be made in consultation with the industry and perhaps after obtaining more comprehensive expert advice. Issues discussed below in subsections a through e could also be considered for broadcast legislation, depending on how responsibility for determining them is apportioned between Parliament and the CMC.

a. Local and Independent Production

The establishment of local and independent production has many benefits. For example, increased local production would allow Iraqis to see more programming made by Iraqis specifically for Iraqis, and would bring all of the economic benefits associated with the development of any industry, including increased employment and tax revenues. Increased independent production, i.e., that produced by an individual or company who is independent of any particular broadcaster, would help to ensure that programming overall reflects a wide variety of views and perspectives. The CMC could encourage local and independent production of programming by including a clause in license terms and conditions requiring that stations use their "best efforts" to air certain percentages of content from local producers and independent producers.

b. Public Service Requirements for Commercial Broadcasters

Public service requirements are sometimes included in commercial broadcasting licenses. For example, commercial broadcasters are often required to broadcast public service messages in times of emergency. Additionally, some regimes require that a certain percentage of commercial broadcasters' programming (perhaps five to ten percent) be devoted to certain types of programming deemed to be in the public interest such as, for example: news and current affairs programming; cultural programming; children's programming; programming for underserved parts of the population, including, for example, women, the disabled, and specific ethnic groups; programming in minority languages; and voter education information. In some countries, there have been proposals for the establishment of a public service fund that would be available to all private broadcasters who wish to bid to perform public service obligations. Where frequency spectrum is no longer seen to be scarce, or where alternate modes of reaching the public in an unregulated fashion appear to be readily available, placing public service obligations into license conditions seems increasingly unlikely to work.

c. Monopoly and Cross-Media Ownership

With a country the size of Iraq, an initial wave of competition seems critical for the ultimate success of a diverse media landscape. One way of encouraging pluralism would be to restrict cross-media ownership (e.g., restricting an owner to just one outlet in each type of media, meaning an entity could own one television station, one radio station and one newspaper). It also may be a good idea to limit the number of broadcast licenses one entity can own, particularly small markets. It likely is too early to address competition law in Iraq, but having effective competition legislation can serve as a complement and backstop to media concentration rules.

d. Copyright

Iraqi copyright legislation, namely Copyright Law No. 3 of 1971, was amended by CPA Order 82 on April 29, 2004, primarily to update it and bring it more in line with international standards. The law as amended expressly includes "works prepared for radio and television." The CMC's Interim Broadcasting Programme Code of Practice refers specifically to this legislation, as amended, and requires broadcasters to adhere to it and also to comply with "generally accepted international conventions and standards for intellectual property protection." As having an effective legal regime for protecting intellectual property rights is a prerequisite for the building of a mature media industry and attracting foreign investment, the legal framework for copyrights should be reviewed to ensure that copyrights are adequately protected.

It would thus be advisable to provide more expansive protections of copyrights in CMC licenses and to develop a code on copyright in consultation with broadcasters to address any shortcomings in the current legal framework. Also, the CMC should address copyright compliance in the workshops discussed in Part Two, Section III.F.2 below.

e. Foreign Ownership and International Broadcasters

In the initial round of licensing, recognition was given to broadcast proposals and channels funded, sponsored and operated by foreign governments, particularly members of the Coalition. These stations can play an important role in supplying news and information and also, in some cases, establishing a standard for broadcasting quality. If the CMC maintains a "light hand" approach to licensing, there is no reason that these licenses should be less favorably viewed than any others. On the other hand, the CMC should take care that the distribution of licenses does not appear to favor government-based international broadcasters over others, unless it can state a society-based justification for doing so. The CMC, together with sponsors of these broadcasters, might wish to conduct its own study of viewing habits, arrangements with FM broadcasters, spectrum use and public attitudes towards these channels as a basis for future planning.

If ownership by non-Iraqi persons and entities were to be limited for some reason, however, it would be beneficial to allow foreign ownership of at least a minority percentage of individual media outlets in order to encourage foreign direct investment in the industry and the infusion of know-how that such investment brings. The United States, for example, allows foreign persons to own up to 25 percent of any individual station.

f. Interim Broadcasting Programme Code of Practice

Generally speaking, the Interim Broadcasting Programme Code of Practice, which was issued immediately after the CMC was established following the handover from the CPA to the Interim Iraqi Government, is a step in the right direction. It makes a clear attempt to comply with international best practices for protecting freedom of expression, while at the same time preventing the types of speech that may be viewed as unacceptable or dangerous within the context of Iraq. For example, its provisions punish incitement to violence (including advocating terrorism) and require special care in programming involving religious groups and for individual privacy. It also requires accuracy and fairness, and offers aggrieved persons a right of reply. The Code works well as a first attempt to regulate broadcast content without excessive restrictions. However, the Code could be improved upon in a number of ways, including the following:

- The Code should be elaborated upon—perhaps best through the types of guidelines discussed in Part Two, Section III.F.1.i below—to provide better guidance to broadcasters on acceptable programming standards, particularly where issues present too many ambiguities. Such guidance could seek to clarify:
- Examples of material that is merely offensive or insulting but does not constitute incitement;
- The meaning of decency and civility;
- That public discussion and debate about religion is permissible;
- What kinds of content violate an individual's privacy and dignity;
- A delineation between acceptable standards for adults and children; and
- What types of speech will violate the ban on statements that advocate terrorism and divert police from their duties.

- The right of reply provision should be redrafted to reflect international best practices. In particular, the Code should set out clearly the narrow circumstances under which the right may be claimed and how it should be exercised. The limitation on claiming a right of reply where other avenues of reaching the public are available should be clarified. The Code should recognize that, where a correction has been given that redresses the harm done, no right of reply should be available. Alternatively, consideration might be given to providing for an enforceable right of correction in the Code as an alternative to the right of reply.

As discussed above, any revisions to the Code should follow consultation with broadcasters.

g. *Advertising*

Currently, the CMC has no advertising rules and regulations in place. As the advertising market develops, and competition for advertising revenues increases, it will be important for the CMC to fulfill its remit to protect the public interest by encouraging better self regulation or, if necessary, setting standards for advertising scheduling, amount, frequency and content. The CMC should include these issues in future consultation with the industry and the public.

h. *Elections*

As is discussed above, the Code for Media During Elections was issued by the CMC immediately prior to the first election and has not been revised since. Some standards in the Code generated a lot of discussion among Iraqi broadcasters and international advisors when they were adopted, such as, for example, the Code's allowance of paid political advertising by candidates and its requirement of "equitable access" (allowing more prominent parties and candidates more coverage) rather than "equal access" (requiring equal time for each party or candidate regardless of their significance in the race) for candidates in broadcast media. The Code also set standards for the printed press during elections, although the CMC has chosen not to regulate print media in other contexts, including with the Interim Broadcasting Programme Code of Practice. The CMC should review the successes and failures of these policies and other provisions of the Code to see if and how they should be changed. For example, the CMC should undertake a consultation to determine whether concepts of "equitable access" apply where there is strong pluralism in broadcast offerings. In addition, IMN-specific requirements (such as hosting debates and airing free slots for candidates) should be reviewed for effectiveness.

The CMC should increase its profile during future elections. In the past, there was considerable confusion as to who—the CMC or the Independent Electoral Commission of Iraq (IECI)—had responsibility for regulating media conduct during elections, despite the fact that Order 65 clearly gave such authority to the CMC. Poorly-drafted IECI regulations and failure of the two agencies fully to coordinate their efforts during elections contributed to this confusion. Accordingly, the CMC should do the following in connection with future elections:
- Well before the next elections, the CMC should review its Code for Media During Elections and any related guidelines as discussed above, through a public consultation process, and make any necessary revisions;
- Well before the next elections, the CMC should begin working with the IECI to encourage it to pass a media regulation more clearly and appropriately defining IECI jurisdiction. A model for such regulation is attached at Appendix C;

- Closer to the next elections, the CMC should publish its Code for Media During Elections widely, perhaps holding a joint press conference with the IECI to announce and explain it immediately prior to the beginning of the campaign period. As the IECI is always highly visible around the time of elections, such coordination will increase the CMC's profile before the public, the industries it regulates and the government; and
- During elections, the CMC should strive for better coordination with the IECI in monitoring and enforcing potential violations.

i.   Guidelines

The four sets of Guidelines issued by the CMC to complement its Interim Broadcast Programme Code of Practice and Code for Media During Elections should be reviewed to see if they adequately provide the detail, context and examples necessary to assist broadcasters in interpreting these codes. It is our understanding that the CMC's research and monitoring department watched and listened to a number of broadcasters throughout each of Iraq's campaign periods and prepared detailed reports summarizing their findings. Real-life examples from these reports, explaining where content could be deemed to be in violation of CMC codes, should be incorporated into the guidelines to give broadcaster guidance as to how the codes will be interpreted. Perhaps the CMC's research and monitoring department could be charged with developing guidelines for existing and new CMC codes.

j.   Rules of Procedure

The CMC's Rules of Procedure were drawn up in its first days of operation, and thus do not reflect its current organizational structure or the breadth of its functions. For example, under both Order 65 (currently in effect) and new legislation that the CMC has proposed, the CMC's Appeals Board has the judicial functions of providing a determination of whether a violation was committed and sanctions for such violations of its codes of conduct (for a discussion on the potential unconstitutionality of having Appeals Board decision be final and unappealable to Iraqi courts, see Part Two, Section II.A.1). As such, the Rules of Procedure should contain basic protections provided to defendants in court, such as clear evidentiary rules, clarity on the standard of proof, the ability to call witnesses and examine witnesses brought against them, and the right to legal assistance if necessary. Currently, the Rules fail to provide clear guidance as to how the CMC would itself bring claims against those violating its rules, and instead seem to anticipate only third parties bringing adverse actions. Moreover, provisions in the Rules regarding general administration do not appear to reflect current practices. Moreover, many of its provisions seem to apply better to matters involving telecommunications rather than broadcasting issues. Accordingly, the Rules should be reviewed and revised to provide clear procedures covering all aspects of the CMC's operations.

2.   COMPLIANCE

The CMC could improve compliance by training broadcasters as to how to comply with its codes and regulations. Broadcasters need to be told how the regulator expects them to behave, so that they know what is and what will not be considered acceptable. Even in the United Kingdom, where broadcasting has been regulated for decades, broadcasters generally welcome initiatives by the regulator to give guidance and training on how to comply with its requirements. Workshops could be organized for broadcasters, perhaps with significant input and participation of the research and monitoring department, particularly if it is involved in drafting guidelines. Such workshops could either be held centrally at CMC facilities or at

broadcasters' premises. In addition to improving compliance, this would be an excellent way for the CMC to raise its profile and reputation with licensees.

3. REDIRECT MONITORING EFFORTS

The CMC should consider its statutory monitoring responsibilities to ensure that the sector *as a whole* contributes to tasks of informing and educating as well as entertaining and that the sector furthers Iraqi creativity. Given the partiality of most broadcasters, the CMC might be advised to spend fewer resources monitoring individual services for impartiality, and more on assessing plurality and access issues across the whole sector, asking whether any significant voices are being unreasonably excluded.

4. INCREASED ENFORCEMENT

As the CMC becomes more sophisticated, finds itself in a more stable political situation, and is better staffed, it will likely want to review its enforcement scope and implementation. One key step that needs to be taken before the CMC can shape a convincing strategy is the further hiring and training of a legal department that can draft correspondence, create files, gather evidence, interpret CMC rules and codes, apply international best practices, and eventually defend CMC positions in open hearings and court. We understand that it is virtually impossible to find local talent with the training and experience necessary to perform these highly-skilled functions. As such, developing a proper legal department will entail focused recruiting efforts and extensive training, possibly requiring the CMC to hire international consultants or send its legal staff abroad for courses or mentoring by a foreign independent regulator. Perhaps a national institute for the training of agency staff (such as that set forth in Part Two, Section V.C.1) could assist in this capacity-building stage.

Once the CMC's legal and other staff are in place, the CMC should renew enforcement efforts by focusing on clear incidents so as to give meaning to the rule of law. If rules remain in place with no attention to enforcement, the rules will be perceived as a mockery. The CMC could first identify and then reach out to stations broadcasting without a license or on the wrong frequency. Enforcing these more clear-cut cases would give staff the experience and confidence needed to enforce more sensitive and factually complicated rules. A reasonable goal could be to have the legal department prepared to handle high-profile and contentious proceedings by the time of the next Iraqi elections.

G. Relationships with Other Regulators

Among the best advisors that the CMC could have are other independent broadcast regulators. Attending forums where regulators discuss common issues, visiting their offices, sending staff for on-site training, and even developing informal relationships where staff can call or e-mail other regulators with questions or share documents and other information could prove a cost-effective and efficient way to improve the CMC's operational capacity and obtain key policy advice. This is particularly true of regulators operating in environments where similar challenges are faced, such as regulators in other parts of the Middle East or those in other conflict or post-conflict areas.

H. Expanding Media Development Efforts

It may be possible, and even desirable, for the CMC to take a far more active and direct role in media development—perhaps by supporting a number of the initiatives discussed in Part Two, Section V below. Even though the CMC is first and foremost a regulator, and its primary responsibility to broadcasters and the public is to master the nuts and bolts of licensing and regulating broadcasters, it has been charged under current law with some extra-regulatory functions touching upon media development. Furthermore, it could be argued that broadcasting and the Iraqi public as a whole would benefit if the CMC were successfully to push a stronger media development agenda and, as a result, create a generation of media professionals and advocates who can move the landscape in a more positive direction.

"Media development" in this context could mean many different things. It could mean reinforcing efforts at professionalization, improved programming, training of station management, or better insights into technology. It could mean improving the role Iraqi media play in the development of the Iraqi economy, by supporting broad-based education programs or interplay between broadcasting and the Internet. It could mean supporting the development of Iraqi film or television production capability.

The CMC may be, even by default, the only organization in Iraq with the remit and budget to contribute to media development in any meaningful way. Sustainable media initiatives involving locally run, long-term programs would be best conceptualized or even implemented by a local player intimately involved with the media such as the CMC. Indeed, international implementers and donors have largely favored short-term projects in Iraq, often opting for one-time training programs held outside of Iraq rather than long-term sustainable activities in the country. Also, in the short term until the CMC can tackle the big, politically sensitive issues such as ownership by political and religious groups, initiating media development efforts may be one of the best ways that it can contribute affirmatively and significantly to the development of a viable commercial broadcasting sector.

There may, however, be significant hurdles to taking this approach. First, with no real revenues currently coming into the CMC from broadcasting license fees, any money spent on media development efforts from the CMC's budget would have to come from telecommunications revenues. Telecommunications providers are likely to question why their fees are going to fund media, and may call the CMC's legitimacy and integrity into question. Indeed, the European Union has strict guidelines on cross-subsidizing between sectors within the regulator. For instance, in the overall budget considerations for a regulator, it is against EU guidelines for the usually high telecommunications sector fees to bolster normally lower broadcasting fees. In other words, although broadcasting fees are generally lower, they must not be made so low that the telecoms operators are subsidizing the administration of the regulation of broadcasting. The subsidization of media development efforts would likely be viewed as even more suspect. Although there are no similar cross-subsidization restrictions applicable in Iraq, telecommunications providers are likely to be aware of this principle, and violation of it could cause problems for the CMC in the future. Second, if the CMC gets involved in too many extra-regulatory functions, it could be seen as losing its way, particularly given other pressing issues such as sorting out the frequency spectrum and solving its own staffing and capacity problems.

The CMC could choose to bypass or ignore these possible complications, as follows:
- The CMC could support and seek funding for (but not actually fund) special media development projects, working with universities, donors or NGOs within or outside Iraq;
- The CMC could make the policy decision to take a more active role in media development and even use its revenues for these efforts notwithstanding the potential problems, perhaps

defining a limited period for such activities. It could argue that this is not the EU: in Iraq, there is no viable advertising market and commercial sector development needs significant assistance. However, if this route is taken, the CMC should advocate that this function is set forth in new legislation on the CMC so that the legal basis for it is clear, and should be aware that there is likely to be significant resistance from the sectors it regulates; or

- The CMC could wait until there are sufficient revenues from broadcasting to pay for such activities. Again, this function should be expressed in legislation.

In any case where license fees are to be used to pay for extra-regulatory projects, those who pay the fees should be consulted.

IV. Public Service Broadcaster

A successful and independent IMN wholly fulfilling a public service remit, providing all things to all Iraqis, is an ambitious goal. Such a system would serve many needs including decreasing the need for a sectarian or party ownership of existing broadcasters, which can ultimately be divisive. We are not yet at the day when the IMN is credited for reporting that is truly balanced, when the IMN has independent and guaranteed revenue streams, and when it is thought effectively to hold the government accountable. It is currently not designed to resist direct and indirect political pressure. A full analysis of whether and how the IMN could become such a more "ideal," efficient, independent, publicly accountable and responsive public service broadcaster is beyond the scope of this report. Perhaps the CMC, the IMN or the Iraqi government could commission a separate comprehensive needs assessment for the IMN. However, below are a few issues that could be considered in such a paper, or by the CMC, the IMN or others in the meantime.

A. Fulfilling its Public Service Obligations

As is discussed above, the IMN, as Iraq's publicly-funded media, has an obligation to inform, educate and entertain Iraq's diverse population in a fair and balanced way. Current law also places significant specific programming and other general public service requirements on the IMN. It would be advisable to review the law to determine whether these obligations make sense within the context of Iraq, and how new legislation might define the role of the IMN.

In the meantime, the IMN could be reviewed to gauge the extent to which it is fulfilling the obligations currently required by Order 66. Perhaps one way to ensure that the IMN is attempting to reach and serve various Iraqi audiences would be to aim for internal pluralism—the inclusion of women and representatives of Iraq's various ethnic, religious and political groups—among members of its board and management and among its reporters and on-air personalities. The hope would be that this internal pluralism would then be reflected in its programming. The IMN could also try to meet these goals by increasing its interaction with the public and improving its responsiveness to it in the following ways:

- Holding regular open forums in various markets where management can address the public and solicit input;
- Holding roundtables with representatives of various populations;

- Consulting with existing citizens' groups (such as the Iraqis for Independent Public Broadcasting which monitored IMN programming during the December 2005 elections) and encouraging the creation of other similar groups;
- Conducting audience surveys, as discussed in Part Two, Section V.A.1; and
- Establishing and publicizing a hotline and email address where the public can contact the IMN with complaints, praise or comments about programming.

B. Legislation to Replace CPA Order 66

As with the CMC and Order 65, much suspicion of the IMN and Order 66, which governs it, can be attributed to the fact that Order 66 was developed and imposed by the CPA. In fact, like Order 65, Order 66 generally reflects international best practice. Because of its history, however, it would be advantageous to replace Order 66 with an Iraqi law once such a law can be properly addressed by Parliament (the language of Order 66 requires that it be replaced by an Iraqi law). A new law could address the following issues:

- The types of programming and services that the IMN should be required to provide to the public. (See the discussions of the IMN's public service obligations in Part One, Section IV.B.1 and Part Two, Section IV.A.)
- There has been substantial confusion as to who—between the IMN Board of Governors and its Financial Committee—has the final say over decisions involving expenditures in excess of 150 million Iraqi dinar (USD$118,000). New legislation could either clarify the relative roles of these bodies, or perhaps do away with the Financial Committee altogether. The concept of a Financial Committee was apparently originally introduced not so much as a requirement of good governance, but as a protection for investment by international donors (it included an international representative). Now that there is no international support for the IMN, the relevance of the committee is questionable. If the Financial Committee is disbanded, however, it would be a shame to lose the experience and expertise of the two Iraqi members of the committee, as they have served since the IMN was established, and thus have much-needed experience and provide important continuity. Perhaps one or both of them could advise the Board or eventually be appointed to it; and
- The requirement that one Board member be an international should be reconsidered, particularly now that there is no international funding. There are alternative ways to stay in touch with international best practice, such as participation in informal and formal networks and attendance at international conferences and forums.
- It may be a good idea for the law to prohibit the IMN from receiving advertisements or perhaps to limit the amount of advertisements that the IMN can air. As the IMN is subsidized with public funds, important issues are raised about its potential to "crowd out" commercial competitors, especially in the market for advertising. How to determine what actions by the public service broadcaster are "unfair" and which are not is inordinately complex. Certainly, the advertising market is limited, particularly in Iraq, and any advertising revenues taken by the IMN could in theory have been used to support a commercial station. Additionally, it would be advisable to require that the rate card for the public broadcaster, showing the amount it charges for advertisements, be made publicly available. Such requirements could be achieved through the law replacing Order 66, or, alternatively, the CMC could attempt to establish them through the license that the IMN is required to obtain from the CMC under current law.

C. Board, Management and Staff

1. BOARD

For months now, the IMN's Board of Governors has had only five members, though the law requires it to have nine. As six members are necessary for quorum, the board has been unable to make decisions and supervise management effectively. Having additional members appointed to the board is perhaps the most critical issue facing the IMN.

Pursuant to Order 66, the Prime Minister must nominate four new members and submit this list of nominees for approval by a two-thirds vote of Parliament. These individuals:

- Must be Iraqi citizens, except for one member who must be a non-Iraqi with international experience in broadcast regulation;
- Must be drawn from Iraqi civil society, represent a cross-section of the viewing public, and be individuals of impeccable character and reputation;
- May not hold any executive, legislative or judicial position, whether appointed or elected, at any level of government, or be an appointed, elected or voluntary official of any political party during their term on the Board; and
- Must not be involved in any IMN matter that will affect his or her financial interests or the financial interests of certain related persons or entities.

2. SENIOR MANAGEMENT

The effectiveness of senior management could be improved by hiring an executive or executives with senior management experience, perhaps but not necessarily in media, either for key positions at the IMN or to shadow senior managers and provide consultancy advice. Hiring someone at this level, particularly to work in Iraq, would be expensive, but would likely pay off over the long term.

3. STAFF

A common complaint heard from those in senior positions at the IMN is that it is impossible to retain quality staff. The IMN has been paying its staff as civil servants, and thus much below the market salary paid to those in the commercial sector. The IMN has in effect been serving as a human resource pool and training ground, as its hires are often lured away to commercial stations by salaries several times the amount paid by the IMN.

This is due in part to a misunderstanding that the IMN is required by law to tie its wages to the civil servant scheme. In fact, to the contrary, Order 66 expressly excludes IMN employees from the system for civil servant remuneration. The IMN could thus revise its salary structure to bring it more in line with the market at any time. It would be a good idea to make clear in any future legislation governing the IMN that its employees are not salaried as civil servants.

D. Other Issues

- The IMN might consider privatizing its newspaper, *Al-Sabah*, in order to focus its efforts on broadcasting.

- Having independent and guaranteed revenue streams is critical to maintaining the independence of any publicly-funded media. The IMN should improve upon and clarify the way it is financed, how it is to receive money from the government, the budgeting process and the funding settlement process.

- The IMN may want to consider expanding the development and management of its terrestrial transmission network so that it could sell its transmission services to the whole broadcasting sector in Iraq. It is understood that the IMN currently leases a portion of its network to another station, and it could lease its network more widely. As the transmission towers currently used by the IMN are in optimal locations for the provision of national coverage, this could have a significant and positive impact on the entire broadcasting sector as well as raise revenue for the IMN.

V. Other Efforts to Enhance the Media Landscape

The possible efforts discussed below could be initiatives of the CMC under an expanded media development remit as discussed above in Part Two, Section III.H, or could be taken on by the Iraqi government, other parts of Iraqi society including civil society organizations, or international implementing organizations and donors.

A. Commercial Sector Development

1. Audience Surveys

Developing a vibrant commercial sector will depend largely upon the development of an advertising market to provide revenues independent from government, political parties and religious groups. Each commercial broadcaster obviously wants to sell as many advertisements as possible while charging as much as advertisers are willing to pay for advertising time. The advertiser's goal is to buy time in programs whose audience contains as many people as possible in the demographics that buy the most of its products.

Advertisers will want to buy more ads and pay more for them if they can be assured that the desired demographic is being reached. Reliable audience research—detailing such factors as age, sex, income, household size, ethnicity, religion, and geographic location of people watching and listening to programs— helps advertisers choose where to spend their money. Commercial broadcasters thus need to have this audience information in order to appropriately market themselves to potential advertisers.

There are very few, if any, Iraqi institutions conducting audience surveys for Iraqi broadcasters. The CMC or others might encourage the development of audience research capacity in any of the following ways:

- Develop the capacity of a department of the CMC to start conducting, and perhaps selling, audience research. Outside consultants could be hired for this capacity-building project;

- Encourage the development of such local capacity elsewhere, perhaps at Iraqi universities or companies that conduct similar research;

- Make this a function of a local media institute (see Part Two, Section V.C.1); and

- Hold workshops or distribute information to commercial broadcasters as to how to conduct simple but fairly reliable audience research in-house using such methods as diaries, phone interviews and postal surveys.

2. Fund to Support Commercial Stations

The CMC or others could encourage the establishment of a fund to provide private sources of financing for commercial broadcasters. The first of this kind was set up as the Media Development Loan Fund (MDLF) in Prague (www.mdlf.org) to provide low-cost capital, in-depth training and long-term advice and support, including assistance with management training, business plans and accounting. By providing financing and capacity-building as a package, it helps news outlets committed to responsible journalism strengthen their operations and become commercially sustainable. It does not give grants, but rather operates like a bank, making loans only where it expects them to be repaid. As such, it has not yet approved the provision of loans in Iraq, where security and other risks are too great to meet its criteria.

MDLF has, however, assisted in the establishment of other funds based on the same model, and perhaps this is something that could be replicated for Iraq. Specifically, MDLF helped create the South African Media Development Fund (SAMDEF) (www.samdef.com), which funds media entrepreneurs in the Southern African Development Community with resources from the Open Society Initiative of Southern Africa (OSISA) and Free Voice of the Netherlands. Perhaps international donors and other sources with a particular interest in Iraqi media, who are willing to incur the additional risk associated with investment in Iraq, could set up a fund and develop a set of criteria for financing new commercial media enterprises. More on SAMDEF can be found at Appendix D.

3. Professional Association of Broadcasters

The development of a professional association of broadcasters could be encouraged. Having one group representing the interests of all or a significant group of broadcasters would improve consultation among broadcasters and the CMC and would also provide a forum where broadcasters could discuss common issues. It would also help the industry to reach out with collective strength to other groups, including potential advertisers (such as multinational companies) and to the local, regional and national governments in Iraq.

The National Association of Broadcasters (NAB) in the United States (www.nab.org) could serve as a model. The NAB professes to do the following:
- Promote and protect the interests of radio and television broadcasters in the United States and around the world;
- Serve as broadcasters' voice before all branches of the U.S. government;
- Liaise with international broadcasters and associations;
- Keep members apprised of policy issues, technology and management trends;
- Provide bulletins with news relevant to broadcasters, industry research and legal expertise;
- Provide member stations resources, products and financial services to assist them commercially;
- Help educate policymakers about the realities of radio and television; and
- Hold conventions where members can discuss common issues.

4. OTHER EFFORTS

Other efforts that could contribute to development of the commercial broadcasting sector might include:

- Marketing the Iraqi broadcasting sector to Iraqi, regional and international venture capitalists and other investors and companies that may have an interest in investing in Iraqi media;
- Sponsoring trade shows in order to bring together, for example, players in the advertising market in various regions and cities, or commercial broadcasters and potential advertisers; and
- Holding management training and other workshops providing guidance as to how broadcasters might, for example, staff stations more efficiently and effectively, develop viable business plans, and market themselves to potential advertisers.

B. Encourage Iraqi Production

In addition to the regulatory methods discussed in Part Two, Section III.F.1.a above, the CMC or other policy makers or international donors or implementing organizations could consider other mechanisms that might jump-start the Iraqi programming production industry, such as the following:

- A Content Development Fund, conceptually similar to the Media Loan Development Fund (discussed in Part Two, Section V.A.2 above), but providing loans or grants solely for the local production of programming, both for local consumption and for export;
- Increased bi-lateral co-production agreements between local and foreign production companies or local production companies and media companies abroad who want but cannot find locally-produced Iraqi content;
- Direct grants for independent production; and
- Sponsoring festivals or other competitions for original Iraqi programming within Iraq or abroad.

C. Human and Institutional Capacity Building

1. LOCAL COMPREHENSIVE TRAINING INSTITUTION—IMTI

There is a clear consensus among the Iraqi media and communications community that training and other professional support is needed at all levels. Unfortunately, there are no home-grown institutions in Iraq capable of providing focused technical support. A strong independent communications development institution—run by and for Iraqis—is needed to provide broad-based, long-term training, resources and capacity building programs for Iraq's nascent media, broadcasting, telecommunications and regulatory institutions.

The CMC has developed a proposal for the establishment of an Iraqi Media and Telecommunications Training Institute ("IMTI") in Baghdad with regional affiliates, and there appears to be broad-based support across all sectors of broadcasting and telecommunications for such an institute. The IMTI would provide a forum for courses, debates and conferences about important issues. It would have meeting rooms, computers and libraries. It also would serve as a center for excellence and would strive to improve the professionalism of all aspects of the media by providing programs to improve technical skills and increase awareness of ethical responsibilities. Goals would include equipping the Iraqi media to better convey reliable facts and support responsible debate and helping the media to better reflect the country's

ethnic, religious and political diversity. The IMTI would also devote efforts to conducting research that would be critical to the development of Iraqi media and communications policy.

Donors should consider funding the IMTI, and the CMC should continue to shop it around aggressively. It would provide a much more sustainable, locally-driven and responsive resource than the one-time journalist training programs that have been a primary focus of donors in Iraq over the past few years.

2. Professional Organizations

a. Journalists' Associations

The IFJ report discusses the importance of strong journalists' associations in improving not only professionalism and quality of reporting, but also the conditions journalists face.

b. Broadcast Announcers' Association

Iraqi broadcast announcers could start a professional association to address issues applying only in the broadcasting sector. An example of such a group in another country is the Jordanian Announcers Association (JAA), which, according to a report by IREX, was formed to fill a void in representation for broadcast professionals, who were ineligible to join press or artists' associations. JAA has developed into a professional society, but aspires to become a full-fledged trade union for broadcast professionals. JAA activities include training events, legal defense of journalists and support for developing professional training programs in local universities.

3. Other Mechanisms

Human and institutional capacity building could also be furthered in the following ways:
- Encouraging the development of communications, media and journalism faculties at Iraqi universities. University studio equipment could be provided or upgraded, and other training and technical support could be provided to modernize the faculty's broadcast training program. Universities could be encouraged to set up student-run radio and/or television stations. Exchange programs could be developed whereby Iraqi academics could spend time at universities abroad;
- Encouraging mid-career training to be provided at existing universities or otherwise. Instruction could include such topics as objective and balanced reporting; conducting investigative reporting and research in hostile environments or situations where it is difficult to obtain information (such as in countries without freedom of information legislation); covering parliamentary, judicial and other government processes; and sector-specific training to encourage better reporting in areas such as economics, business and health. Specific training could be provided for editors and management;
- Encouraging the development of vocational schools to provide such instruction;
- Translating and publishing books discussing relevant issues such as international best practices and technical know-how;
- Developing a series of training videos and DVDs for easy distribution throughout the country; and

- Sponsoring Iraqis to attend programs in communications and media abroad (such as that run by the Programme for Comparative Media Law and Policy at Oxford University, http://pcmlp.socleg.ox.ac.uk/).

Appendix A:
Selections From the Penal Code of 1969

Offences Affecting the Constitution

Paragraph 226 – Any person who publicly insults the National Assembly or the government or the courts or the armed forces or any other constitutional body or the public authorities or official or semiofficial agencies or departments is punishable by a term of imprisonment net exceeding 7 years or detention or a fine.

Defamation and Insult

Paragraph 433 - (1) Defamation is the imputation to another in public of a particular matter which if true, would expose such person to punishment or cause him to be scorned by society.

Any person who defames another is punishable by detention plus a fine or by one of those penalties. If such defamation is published in a newspaper or publication or other press medium it is considered an aggravating circumstance.

(2) Such person is not permitted to establish the proof of his imputation unless that imputation is directed at a public official or agent or public deputy or he is carrying out an act in the public interest or if such imputation is connected with the office or employment of the aggrieved person but if he establishes the proof of all imputations made, then there is no offence.

Paragraph 434 - Insult is the imputation to another of something dishonorable or disrespectful or the hurting of his feelings even though it does not include an imputation to him of a particular matter.

Any person who insults another is punishable by a period of detention not exceeding 1 year plus a fine not exceeding 100 dinar or by one of those penalties.

If such insult is published in a newspaper or publication or medium it is considered an aggravating circumstance.

Paragraph 435 - If the defamation or insult is directed at the victim in private or during a telephone conversation or if it is sent to the victim in writing or communicated to him by other means, the penalty will be a period of detention not exceeding 6 months plus a fine not exceeding 50 dinar or by one of those penalties.

Paragraph 436 - (1) It is not an offence if a complainant or his representative defames or insults the other party orally or in writing while defending his rights before a court, investigating. authority or other body as long as it is within the necessary limits of his defense.

(2) There is no penalty for any person who has defamed or insulted another while in a state of anger following an unjust assault on him by such other person.

Disclosure of Confidential Information

Paragraph 437 - Any person who by reason of his office, profession, trade or the field of nature of his work is privy to confidential information and who discloses such information in circumstances other than those prescribed by law or uses it to his advantage or to another's advantage is punishable by a period of detention not exceeding 2 years plus a fine not exceeding 200 dinar or by one of those penalties. However, there is no penalty if he has been authorized to make such disclosure or if, by such disclosure, he intends to report a felony or misdemeanor or prevent the commission of such offence.

Paragraph 438 - The following persons are punishable by a period of detention not exceeding 1 year plus a fine not exceeding 100 dinar or by one of those penalties:

(1) Any person who publishes in any way a picture, remark or information in respect of the private or family life of another, even though such information is true and such publication causes him offence.

(2) Any person other than those mentioned in Paragraph 328 who is privy to information contained in a letter, telex or telephone conversation and he discloses such information to a person other than for whom it is intended and such disclosure causes harm to another.

Appendix B:
Iraqi Constitution:
Freedom of Expression and Independence of Media

I. More Extensive Suggested Modifications to Language

The following language could be introduced in the following areas.

A. Freedom of Expression

(1) Every individual shall be guaranteed the right to freedom of expression. This right may be subject only to such restrictions as are provided by law and are strictly necessary and proportionate in a democratic society for the protection of public order and ethics.

This right shall include:

    A.   Freedom to seek, receive and impart information and ideas of all kinds and regardless of frontiers.

    B.   Freedom of press, publication, media, announcement, distribution, academic and artistic activity, and scientific research.

    C.   Peaceful demonstration and freedom of assembly.

    D.   The forming and joining of associations and political parties.

    E.   The right to access any information held by or on behalf of a public body or body that undertakes a public function.

(2) The Government[1] shall respect media independence and shall not interfere with the editorial, managerial or personnel decisions of any media, including publicly funded media. Neither the establishment of a media outlet nor the practice of journalism may be subject to prior permission. Prior censorship shall not be allowed.

(3) Freedom of mail, correspondence, telegrams, telephonic and electronic communications are guaranteed. It is not permissible to monitor, bug, or expose them except for reasons of legal and security necessity and by judicial order.

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1   The capitalized term "Government" refers to the executive authority.

B. Communications and Media Commission

The regulatory commission known as the Communications and Media Commission is financially and administratively independent and is ultimately accountable to the Council of Representatives. This commission has the authority to regulate and license[2] communications and the broadcast media. The Government shall respect the independence of this commission and shall not interfere with it or its licensing decisions. A law shall regulate its work.

II. Reasoning

A. Freedom of Expression

- The legal test under international law for restrictions on freedom of expression (i.e., that any such restrictions should be expressly set forth in the law and may restrict speech only to the extent necessary in a democratic society to advance a legitimate state interest) should be incorporated into this section.
- The right to freedom of expression should include the right to seek and receive information as is required by international law.
- International law provides that the freedom of expression includes the right for the public to access information held by public bodies, and a provision expressly guaranteeing such access should be included.
- The independence of the media is a fundamental part of the right to freedom of expression, and the constitution should expressly require that the Government respect the independence of all media, including publicly funded media.
- Although broadcast media may be licensed due to the scarcity of radio frequency spectrum, a system requiring prior permission for print media and the practice of journalism would violate international law and should be expressly prohibited.

B. Communications and Media Commission

The CMC's relationship with the Council of Representatives and the Government should be clear. The CMC should not be too closely connected with any part of the Iraqi government in order to preserve its independence. The Council of Representatives should be responsible only for ultimately holding the CMC broadly accountable to the Iraqi public, and the Government should be expressly required to respect the independence of the CMC.

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2   Each of the terms "regulate" and "license" has a specific legal meaning in this context, and any translation should attempt to capture these meanings as accurately as possible.

Appendix C:
Model IECI Regulation on Media During Elections

Preamble

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

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

Section 1
Terminology

1.1.   "Campaign Period" means the period prior to an election, defined by the IECI as the period during which the Political Entities and Coalitions may conduct their election campaigns.

1.2.   "Coalition" means a group of Political Entities that has submitted a joint list of candidates for an election.

1.3.   "IECI" mean the Independent Electoral Commission of Iraq, as established by [CPA Order number 92].

1.4.   "Media" means entities that provide news, information or entertainment to the general public, or on a subscription basis, using means including, but not limited to, printed material, film, video, audio, recordings or communications services.

1.5.   "CMC" means the Communications and Media Commission of Iraq, as established by [CPA Order number 65];

1.6.   "CMC Election Code" means the Code for Media During Elections issued by the CMC on 14 December 2004.

1.7.   "Political Entity" means any organisation, as defined under [CPA Order number 97, section 2 and IECI Regulation [03/2004]].

Section 2
Regulation of Media by the
Communications and Media Commission

As is authorized and required by [CPA Order number 65], the CMC shall draft and publish, in consultation with the IECI, a code of conduct that will be legally enforceable by the CMC with respect to all Media in Iraq during any and all Campaign Periods (the "CMC Election Code").

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Section 3
[Political Advertising]

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[All political advertising by Political Entities and Coalitions, and their candidates, shall be accurate and fair. No Political Entity or Coalition, nor any of their candidates, shall engage in distortion, falsification or misrepresentation with respect to political advertising.] [Note: This may be covered elsewhere in IECI regulations, and thus may not be necessary here.]

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Section 4
Misuse of Media by Political Entities

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4.1   Political Entities and Coalitions that, and their candidates who, participate in violations of the CMC Election Code shall be subject to sanctions by the IECI.

4.2   Political Entities and Coalitions, and their candidates, may not circumvent the CMC Election Code by using foreign or other Media not under the jurisdiction of the CMC. Accordingly, Political Entities and Coalitions that, and their candidates who, use Media not under the jurisdiction of the CMC in a way that would violate the CMC Election Code if such Media were under the jurisdiction of the CMC shall be subject to sanctions by the IECI.

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Section 5
Media Presence at IECI Premises

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5.1   Members of the media who wish to enter IECI premises such as the national, regional and governorate elections offices must first seek permission from the person in that office designated for media liaison.

5.2   Members of the media who wish to enter registration centers, polling centers, and counting centers must seek IECI media accreditation, which will be issued according to procedures to be developed by the IECI.

5.3   No photographs or filming of anyone attending such premises may be made without the express permission of those individuals being filmed or photographed. Even with the permission of a voter, the film or photograph may not reveal the intention of a voter in the polling booth.

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Section 6
Violations of this Code

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6.1   In case of violation of Sections 3, 4 or 5 of this regulation, the IECI may apply any of the [following sanctions: [_____]/sanctions available to it under the law].

6.2   Any sanctions applied pursuant to this regulation shall be proportionate to the violation committed.

Section 7
Entrance in Effect

7.1   This regulation enters into force on [__].

Appendix D:
South African Media Development Fund (SAMDEF)

Based on SAMDEF's 2004 annual report, and from video
and text on the company's website (www.samdef.com).

Principal Activity

SAMDEF provides development finance and credit facility lines to emergent independent media in Southern Africa to help them grow and become self-sustaining.

Fundraising

In 2004, SAMDEF negotiated a three-year revolving grant from the Open Society Initiative of Southern Africa (OSISA) in the sum of USD$6 million. It also obtains financial support from the Communication Assistance Foundation (CAF), now known as Free Voice and based in the Netherlands. SAMDEF's income for 2004 included a USD$1.4 million grant from OSISA and a USD$61,000 grant from CAF.

Organizational Structure

SAMDEF was incorporated in the Republic of Botswana on 27 April 2000 as a company limited by guarantee. It was previously a company limited by shares. SAMDEF, which is owned by the Media Institute of Southern Africa (MISA) Trust Fund Board, had a twelve-member board of directors and ten employees as of 31 March 2004. SAMDEF's cooperating partners include: CAF, OSI, USAID, Interfund, Netherlands Institute of Southern Africa (NIZA), Media Development Loan Fund (MDLF) and PTA Bank.

Loan Management

In March 2004, SAMDEF reported giving USD$1.3 million in long-term loans to various organizations at interests rates of between 10 percent and 16 percent on the outstanding capital balance. Its gross loans of USD$3.2 million are divided between media outlets in Botswana (the highest concentration of gross loans), Zambia, Zimbabwe, Tanzania and the rest of Southern Africa (the lowest concentration of gross loans). The loans have varying repayment periods.

Selecting Loan Recipients

SAMDEF provides loans to entrepreneurs who wish to create a media start-up or consolidate existing media businesses. Duly registered independent media entities and citizens, residents or partners of Southern African developing countries can qualify for loans. Outside proposals that show prospects for viability are also considered.

Applicants may receive loans, debentures, equity, quasi-equity preference shares, loan guarantees, syndication or co-funding, referrals and investment advice.

The entire loan application process usually takes no longer than three months and involves the following steps:

1. An initial concept paper detailing the proposed business is sent to SAMDEF investment officers. This concept paper describes the type of media business proposed, whether it is a start-up or expansion project, the location of the investment, the amount of loans sought and the backgrounds of the key applicants.

2. Upon receipt of the concept paper, the SAMDEF investments team carries out an initial appraisal and gives its response to the applicant in seven days.

3. If the concept needs to be pursued further, a business proposal is requested with specific guidelines, depending on the media sector chosen. At this stage, the process requires a due diligence study, which may call for additional information from the applicant. Site visits referral checks are conducted at this stage.

4. A comprehensive internal proposal complied by the SAMDEF investments team is then presented to the company's Investments Committee for final approval. Applicants may be invited to defend and or explain their proposal. Appropriate guarantees, collateral securities and contributions are usually requested from the applicant to secure the investment.

Examples of Supported Media Outlets

Mmegi. Established in 1984, the newspaper purports to be the only daily independent newspaper in Botswana. Over the past ten years, Mmegi (www.mmegi.bw) won the Institute of Bankers' "Newspaper of the year Award" nine times. With the support of SAMDEF, the newspaper reportedly moved from a weekly to a daily and increased its circulation by 25 percent.

Yarona FM. Yarona 106.6 FM (www.yaronafm.co.bw) came into the Botswana market in 1999. SAMDEF invested and bought a 25 percent stake in the radio station. SAMDEF helped Yarona build its corporate structure. It is the first privately owned commercial radio station to go on air in the country.

SOICO, Lda. Based in Mozambique, SOICO is the first independent media group in the country. The company has invested in television, advertising, radio and a newspaper. SAMDEF has gone where other traditional banks have not by investing in SOICO. It has helped the media group upgrade its software and television studio equipment, which has improved its satellite connection.

The Dynamics of Iraq's Media

Ibrahim Al-Marashi [*]

Ethno-Sectarian Violence, Political Islam, Public Advocacy, and Globalization

A recurring theme in debates on the future of Iraq is that the state is facing an imminent civil war among ethnic Kurds, Turkmens and Arabs, and among the Sunni and Shi'a Muslim sects. As tensions continue to escalate, the Iraqi media will play a crucial role in these developments. The pluralization of a private media sector in post-Ba'athist Iraq has served as a positive development in Iraq's post-war transition, yet this has also allowed for the emergence of local media that are forming along ethno-sectarian lines. The Iraqi media have evolved to a stage where they now have the capability of reinforcing the country's ethno-sectarian divisions. This policy paper examines the evolution and current state of Iraq's media and offers recommendations to local Iraqi actors, as well as regional and international organizations, as to how the media can counter employment of negative images and stereotypes of other ethno-sectarian communities and influence public attitudes in overcoming such tensions in Iraqi society.

Introduction

Overview

Few analyses of the Iraqi media have been conducted despite the emergence of hundreds of newspapers and several satellite channels in the nation, in stark contrast to the five state owned dailies and single satellite channel that existed during the Ba'ath era. This policy paper addresses the need for a proactive analysis of the Iraqi media and their portrayal of ethno-sectarian differences in Iraqi society.

Before offering policy recommendations, it is important to describe the media scene itself: What media outlets are owned by political ethno-sectarian factions? How are ethno-sectarian differences and conflicts, both rhetorical and violent, represented in the Iraqi media? Do media outlets exacerbate Iraq's ethno-sectarian relations? Are there any Iraqi media outlets seeking to address these relations in a positive manner? What kind of programs are Iraqis watching? What efforts are there to provide a space for the public to communicate and express its grievances? Do the media try to produce local entertainment, as compared to relying on foreign entertainment for Iraqis to "escape" the grim realities of daily life in their country? What recommendations can be made to ensure that Iraq's media serve a constructive role in its post-war dynamics, rather than exacerbating the state's current internal tensions?

Observers of the situation in Iraq often predict the nation faces an imminent civil war among ethnic Kurds and Arabs, and among the Sunni and Shi'a Muslim sects, while others argue this civil war has already begun. Differences between various ethnic and sectarian groups have been ever-present in Iraq, but they were rarely articulated in official, public debate, nor used as a basis by politicians or religious and community leaders to criticize the others. Even in Ba'athist Iraq, while members of every community may have suffered discrimination, at least the media rarely employed the terms "Shi'a," "Sunni" and "Kurd" in a negative manner as it would harm national unity. Following the 2003 Iraq war, the emerging media mentioned such ethnic and sectarian terms for Iraq's people, but in the context of calling for national unity.

However, the debates prior to the adoption of the Iraqi Constitution in October 2005 and the December 2005 election of a permanent Iraqi Assembly marked an emerging trend in Iraq's politics—a divisive ethnic and sectarian discourse that has now proliferated into the media.

Following the February 2006 bombing of the revered Shi'a Al-Askariyya shrine in the city of Samarra, a spiral of violence consumed the center of Iraq, including Baghdad where sectarian killings between Arab Sunni and Arab Shi'a groups have become daily phenomena. These tensions manifest themselves in the political sphere, as certain Arab Shi'a parties have advocated a federal entity in the predominantly Shi'a south as a means of separating themselves from the violence-ridden center. Another conflict that receives scant attention is that of the future of the oil-rich city of Kirkuk, contested by Arabs, Kurds and Turkmens. This conflict, often marked by violent clashes, also represents itself in the political sphere, as Kurdish parties have called for placing Kirkuk under their federal jurisdiction, which Arab and Turkmen communities oppose.

In post-war Iraq, private Iraq media, with ownership in the hands of competing political factions, have emerged, reflecting the country's conflicting ethno-sectarian agendas. At the same time, media have also emerged independent of Iraq's political mosaic, and seek to provide a public space for education, entertainment and cathartic release for the daily violence that dominates Iraqi public life.

The media have taken on a public advocacy role as well, pressing policy makers to address deficiencies and shortcomings in providing security and infrastructure needs by highlighting these problems and giving Iraqi citizens a platform to express their views. Ethno-sectarian channels conduct public advocacy as well, but primarily on behalf of their communities.

The media in Iraq cannot isolate themselves from global trends in international media, and Iraqis can watch media produced outside of the region, ranging from the British series "Mr. Bean" to cartoons, music shows and films produced in the Arab World or the United States. The desire for Iraqis to produce content that reflects their aspirations has resulted in the adaptation of several foreign program formats, such as reality TV, to a local Iraqi context. These Iraqi entertainment programs can provide an alternative to the "Iraq" that the Iraqis usually witness on TV; that of the news depicting unrelenting violence in their country. The literature on conflict resolution and the media stresses that entertainment programming is one method to reduce tensions in a deeply divided society. Both state and private media can play important roles in using entertainment for this goal.

Though this study focuses on the content of local Iraqi media, regional channels are also important to the story. Although data on the rate of consumption of local Iraqi media or regional channels are not yet available, there were general observable trends in how the Iraqis consumed media based on my experience in the country. Satellite dishes were forbidden under the Ba'athist government, and many Iraqis sought to purchase them after the war ended in 2003. At this time, Al-Jazeera and Al-Arabiyya were the only outlets for regional news free of state control and ironically, for domestic Iraqi news. Due to Iran's proximity, the Iranian Arabic language Al-Alam was able to broadcast terrestrially into Iraq and could be picked up by

television sets without the need for a costly satellite dish. By 2004 and 2005 two trends were emerging in Iraq vis-à-vis the regional channels. First, certain Iraqis, including those politicians in the transitional government, were offended that Al-Jazeera and Al-Arabiyya referred to the Iraqi insurgents as the "Iraqi resistance" (*al-muqawwama al-'iraqiyya*) thus bestowing on them some sort of regional legitimacy. Second, Iraqis desired news and entertainment created by Iraqis, reflecting their concerns and desires.

Iraqi channels proliferated within the period of 2004 to 2005, but were often unprofessional in terms of news coverage, forcing many Iraqis to continue to depend on the regional channels for news. At the same time, a number of Iraqis were also growing tired of the ethno-sectarian nature of the Iraqi media, and preferred getting their information from these Arab satellite channels, which did not have the "ethno-sectarian" commentary that usually accompanied the news on Iraqi channels.

A professional and independent media that can allow views expressed by all of Iraq's communities is an important step towards establishing a viable democracy. Nevertheless, in a country relatively new to independent media, freedom of expression can be abused.[1] This paper concludes that Iraq's ethno-sectarian media are providing the psychological groundwork for bitter divisiveness and conflict, with one channel already making direct exhortations for violence against other Iraqi communities. It also concludes that the media need to be addressed for the sake of Iraq's long-term stability. Media divided along ethno-sectarian lines have the potential to further the gap between Iraq's communities and weaken any kind of national belonging. Whether the state of Iraq will survive division is debatable, but the nation is already on a course of partition in terms of identity, helped by media which encourage this trend.

It is urgent to address these matters before more political factions decide to use their media as mouthpieces to exacerbate the conflict, whipping up ethnic and sectarian feelings or even directing the conflict. So far, most political factions have used their media to stress unity among Iraq's communities, but they nevertheless have the potential to instigate conflict with these means if it suits their interests. The ultimate aim of this policy paper is to address this growing problem in Iraq: how the media exacerbate cleavages in Iraqi society, and how, rather, it can be used to facilitate a positive attitude in bridging the differences among its communities.

Methodology

An overview and assessment of the media in Iraq is needed, and it is crucial to reflect the literature of media in other deeply-divided societies. This policy paper will examine ownership and financing of the various media and how this is linked with the ethno-sectarian discourse emerging in Iraq. It is based on hours of viewing the programs of Iraqi satellite channels that are consumed by Iraqi audiences,[2] supplemented by interviews with Iraqi journalists and questionnaires delivered to the channels. According to various surveys, more than ninety percent of Iraqis receive most of their information, whether it is news or entertainment, from satellite TV stations. In one statement found in a report on the Iraqi media, "Many people do not buy newspapers because the satellite channels communicate every single piece of news."[3] The proliferation of

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1   An important study in this subject in the Balkans is Izabella Karlowicz's "The Difficult Birth of the Fourth Estate: Media Development and Democracy Assistance in Post-Conflict Balkans," in Miklos Sukosd and Peter Bajomi-Lazar eds., Reinventing Media: Media Policy Reform in East-Central Europe (Budapest: Central European University Center for Policy Studies, 2003).

2   For those who can read Arabic, a link to all the Iraqi channels (and their programs) discussed in this policy paper can be found on the project's website http://www.policy.hu/almarashi/. Otherwise detailed English summaries of these satellite channels and their programs can be obtained via BBC Monitoring or the Open Source Center (OSC).

3   International Media Support, "Media Development in Post-War Iraq Report," April 2003.

Iraqi channels that broadcast by satellite also demonstrates another important factor: media owners are sending their messages to local Iraqi audiences, the Arab world and the large Iraqi diaspora, which still provides financial support for many of Iraq's political parties.

This policy report is based on four sets of data:

1. An investigation of which independent and political factions own the TV media in Iraq (with a brief overview of their print and radio media).

2. Questionnaires distributed to Iraqi media in coordination with the Stanhope Centre for Communications Policy Research in London.

3. An analysis of programming content dealing with entertainment, locally produced and imported.

4. A discourse/content analysis of programming of the stations deemed as having a potential for affecting ethno-sectarian tensions.

The last set of data provides most of the information for this policy paper. Examining the programs and their content helps determine the priorities and audiences for these stations. The analysis examines media content beginning with a national event that had ramifications for all of Iraq's communities: the bombing of the Shi'a Muslim Al-Askariyya shrine in the city of Samarra, in February 2006. Iraqis attribute the spark in intense inter-communal conflict in Iraq to this event, and at this juncture a sample of prominent Iraqi media representing all societal groups had emerged.

The programming content of various Iraqi satellite channels was analyzed by "frames" the stations used. In the context of this paper, I have used Snow and Benford's definition of a frame: "an interpretive schemata that simplifies and condenses the 'world out there' by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one's present or past environment."[4] By examining satellite media channels in Iraq, the analysis seeks to determine how prominent Iraqi media, both political and independent, frame ethno-sectarian violence.

The Target Audience

The state of the Iraqi media provides the need for recommendations to address three areas: media regulation, media education, and media institutions. The policy recommendations are directed to actors on the local and international level.

On the local level, this report seeks to address the Iraqi regulatory body, the Communications and Media Commission of Iraq (CMC), as well as the Iraqi National Assembly and policy makers involved with the media. On a societal level, this paper addresses educational facilities, such as Baghdad University's Department of Communications, as well as journalist associations in Iraq. It also addresses international donors, including foreign ministries and NGOs who have had experience in providing aid to media in post-conflict societies, as well as organizations such as UNDP and UNESCO, which have experience with the Iraqi media.

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4   D.A. Snow and R. Benford, "Master Frames and Cycles of Protest," in A.D. Morris and C.M. Mueller, eds., Frontiers in Social Movement Theory (New Haven: Yale University Press, 1992), 137.

This policy paper also targets an audience of policy makers and non-governmental organizations who simply seek to gain a broader understanding of the underlying dynamics of the ongoing violence in Iraq. To this general audience interested in Iraqi affairs, this report seeks to demonstrate that violence in Iraq is not simply fought on the streets, but is represented in the tele-visual and thus socio-cultural sphere. In this regard, the paper demonstrates how the media's public advocacy programs serve as an alternative means of political participation in Iraq, and how various forms of entertainment serve as alternatives to violent media, as well as a possible means of overcoming divisions in Iraqi society.

Defining the Problem of Media and Conflict

The media have the capability of affecting vast audiences and in a time of conflict become important actors, at times on par with the actual combatants themselves. Media often serve as a means of transmitting hostility, directly or indirectly, whether it is between states or ethnic groups, and can exacerbate tensions by spreading misperceptions or exaggerations. The question that first needs to be answered is whether conflict media, or in other words media that engender conflict, can emerge from within the Iraqi context.

According to the conflict resolution literature, the constructive transformation of a conflict can only occur if it affects the mentalities of either an individual or a society. The media have the potential to play a significant role in this transformation, by building confidence among the parties and challenging misperceptions. However, this is the exception rather than the norm. While a review of the literature on media and conflict resolution (a sample is provided in the "References" section) demonstrates isolated cases where the media have had a constructive role in conflicts, in most instances the media have exacerbated conflict rather than resolved it, with the situation in Rwanda illustrating one of the most extreme scenarios.

Have the media in Iraq reached a point where they can be characterized as conflict media? To answer this question I have appropriated a model from the Rwanda context, as that is the case that has most vividly demonstrated the role of media and conflict. In the 1990s, Radio Rwanda, a state-controlled station, was used by the Hutu-dominated government to mobilize troops and ordinary citizens against the Tutsi Rwandan Patriotic Front. At the same time, another radio entity was emerging, backed by the Rwandan President's close circles and extremist Hutu militias and practicing undisguised hate-speech against the Tutsi. *Radio Télévision Libre des Mille Collines* (RTLM) emerged as a private radio station, financed by individuals who had high level positions in the government before and during the genocide. RTLM played a direct role in the killings of moderate Hutus and Tutsis by broadcasting information on where to manage road-blocks; identifying individuals who were supposed to be eliminated; providing address and license plate details for these individuals, and asking listeners to give information to help find specific persons; and asking Hutus to join their militias. The relation between Radio Rwanda, whose owners, editors and journalists were also involved in the establishment of RTLM, has some ramifications for the Iraqi context. Extremist elements in Rwanda were able to infiltrate the official state media, while keeping their own private media as well.[5] I do not want to suggest that a Rwanda-like genocide can occur in Iraq, but rather seek to illustrate the structural similarities between the media in both countries.

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5   Mel McNulty, "Media Ethnicization and the International Response to War and Genocide in Rwanda," in T. Allen and J. Seaton, eds., *The Media of Conflict: War Reporting and Representations of Ethnic Violence* (New York: Zed Books, 1999), 274-276.

Four factors are developed in an International Media Support (IMS) Report to explain the emergence of a conflict media in Rwanda.[6] These four factors can be adapted to any scenario where conflict and media are intertwined, and I have adopted the IMS model for Iraq by placing the factors in sequential order. In other words, I argue that a process needs to occur for media to evolve into conflict media. The four factors are:

1. A strong ideology
2. Control over a mass medium/media
3. Psychological preparation to hate
4. A call to violence

This policy paper seeks to address where the Iraqi media fall within this framework and what recommendations can be made to prevent the Iraqi media from being transformed into a conflict media.

The first factor, a strong ideology, is propagated by prominent academics, journalists or politicians who develop theories of their ethnic or sectarian group. Such theories in the media portray their group as a "stronger race" and "a race with a glorious past," or as "victims" who have to unite in order to deal with a threat posed by other groups so that they will not be "eliminated" from the political process or "annihilated" from within the state altogether. In the final case, violence conducted by one community against the other is portrayed as a "matter of self-defense."

Once an ideology is framed, there is a need to articulate it, which brings in the second factor: control over strong mass media to disseminate the message. According to the conflict resolution literature, differences between ethnic and sectarian groups are not in themselves a precursor to conflict. Rather, it is the leaders or political movements representing the ethnic and sectarian groups who mobilize their communities to "gear up" for a conflict. In conflict and post-conflict environments, journalists and editors are in many instances non-professionals whose priority is advocating an agenda rather than informing the public. The spread of a conflict media through control over mass media is a key step in conflict escalation.

The third step, after a faction consolidates both an ideology and control over a media outlet, is the most crucial. It is this step—the psychological preparation to hate, which seeks to prepare the audience for a violent conflict—where the media are transformed into a tool of conflict. Such preparations include misinformation, as an uninformed audience is easier to manipulate. Usually rumors or conspiracies are presented as the opinion of the "ordinary man" of that particular ethnic or sectarian group. This preparation also seeks to sow division, by framing peace with other groups as "impossible" and framing those who seek reconciliation as "traitors." This step also seeks to use demonizing frames of the opponent by dehumanizing the other group or groups.

The fourth factor in the emergent conflict media begins when media outlets make direct exhortations to violence. The media emerge with the omni-presence of violent frames. "Enemy," "accomplice," "traitor," "massacre," and "murder" are examples of violent frames; lists of killed victims are presented as "victories," while the perpetrators of massacres would be deemed as "heroes," which would encourage even more killings.

We now turn to the Iraq media scene to analyze its evolution in terms of the conflict-related evaluative grid.

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6   Monique Alexis and Ines Mpambara, "IMS Assessment Mission: The Rwanda Media Experience from the Genocide," International Media Support Report, 2003.

Ownership, Programming and Content in Iraqi Media

Ethno-sectarian "media empires" have formed in Iraq and are quite a pervasive element in Iraq's Fourth Estate. The extent of these media empires is illustrated in the appendix, to demonstrate how powerful media have coalesced around ethno-political groups in Iraq who have print, radio and TV communications at their disposal. Ethnic factions among the Arabs, Kurds and Turkmens, and religious-sectarian factions among the Sunni, Shi'a and Christians all have their own means of communicating to their ethno-sectarian constituencies in Iraq and abroad in the Iraqi diaspora. Independent media, with no ethno-sectarian affiliation, exist, but do not have access to the funds that the political parties can provide. If Iraq is to truly consolidate democratic foundations, its media will need to include objective and independent outlets that represent a broad spectrum of Iraq's society. By dividing Iraq's media into five categories, I seek to assess if the Iraqi media are furthering democratic consolidation or becoming an arena for the political ethno-sectarian divisions in the country. I categorized the Iraqi media into the following groups:

1. Media owned by the Iraqi state
2. Media owned by political Islamist groups (religious/sectarian factions)
3. Media owned by ethnic political parties
4. Media owned by entities calling for violence
5. Media owned by independent entities The findings of this policy paper are based on the programs and media content of a selection of Iraqi satellite channels that represent each of these five groups. For each of these, the programming and content of news, political, socio-cultural, religious and entertainment programs are analyzed.

In each of these five categories of media, I examine the channel's representation of issues of ethnicity and portrayal of differences between Arabs, Kurds and Turkmen. Additionally, the coverage of Islam, particularly political Islam in Iraq, is examined to determine whether the media's portrayals exacerbate sectarian Shi'a-Sunni divisions. The channels are also analyzed by how they report on violence in Iraq and whether the channels encourage violence among Iraq's various groups, or whether they seek to bridge the differences.

The channels are also examined as to whether they may provide an alternative space for overcoming differences amongst Iraq's divisions. This section examines how some channels provide a space for civic involvement in political affairs through various talk shows and call-in programs. In this area, channels often serve a public advocacy role, by providing a means to present the citizens' demands to the government.

Finally, I examine how the channels appropriate foreign genres in a local context and how they contribute to democratic consolidation or ethno-sectarian division. It will also examine which channels are resistant to foreign programming, and which import foreign programs, both political and entertainment.

State-Owned Media

The Coalition Provisional Authority (CPA) in Iraq established the Iraqi Media Network (IMN). In its initial phases the Network included a terrestrial TV channel, two radio stations, and the *Al-Sabah* newspaper. The IMN faced two challenges. The first was to demonstrate that it could function as a public service broadcaster, serving as the voice of all Iraqis. The second was to establish a satellite channel that had the broadcast infrastructure and lively and informative programming to compete with the regional satellite channels being watched in Iraq, such as Al-Jazeera and Al-Arabiyya, and the Iranian-based Arabic language

channel, Al-Alam. In this regard, the IMN was restructured into the Al-Iraqiyya network and expanded to two terrestrial TV channels and the Al-Iraqiyya satellite channel. The satellite channel began transmissions in May 2003. While it was first broadcast from the morning to the evening, it now broadcasts 24 hours a day. It is the only national public service channel; its financing comes from the coffers of the Iraqi state, and the Ministry of Finance approves the channel's budget.

The development of Al-Iraqiyya reflected the evolution of Iraq's post-war political process. In its initial phases, the channel was used by the CPA as a means to communicate with the Iraqis, and thus considered a tool of "American propaganda." It eventually established itself as a channel free of U.S. editorial interference, but then began to reflect the agenda of the interim Iraqi government of Iyad Allawi, who attempted to co-opt the channel to support his party in the January 2005 election. Given that the current government in Iraq is dominated by an alliance of Shi'a Islamist groups, known as the United Iraqi Alliance, and an alliance of ethnic Kurdish groups, known as the Kurdish Coalition, according to its critics the station has an inherent Shi'a-Kurdish bias. In the past, the station rarely showed news conferences of leading Sunni Islamist political parties, and ethnic Turkmen complained of a pro-Kurdish bias. The station has tried to address these issues by allowing more of its content to be devoted to Arab Sunni and Turkmen guests, who use the channel to express their grievances, if not criticize the government directly. Since Iraq's majority population is Shi'a, the station reflects this sectarian group's majority status by featuring the Shi'a call to prayer.[7]

In its depictions of violence in Iraq, the station reflects a pro-government line. For example, the content of Al-Iraqiyya's programming tends to feature mostly pro-government frames that stress "optimism" in the progress being made in "reconstruction" and "security." The operations of the Iraqi security forces are highlighted, giving viewers the impression that they are taking an active role in quelling insurgent and sectarian violence, a key frame that seeks to buttress the legitimacy of the Iraqi state itself. The channel usually has access to live footage of Iraqi government military campaigns, which serves as an additional reminder to Al-Iraqiyya's audience that the state is in fact taking action against the violence in Iraq. Members of the Iraqi security forces killed in action are referred to as "martyrs" (*shuhuda'*). The international (predominantly American) forces in Iraq are usually referred to as "Coalition" or "Multi-national Forces" and the insurgents are usually called "terrorists" (*irhabiun*).[8] Supposedly random interviews with people on the street are designed to give the impression of public condemnation of the "terrorists'" activities in Iraq. Al-Iraqiyya also seeks to frame state violence as legitimate by featuring public service announcements calling upon the Iraqi public to volunteer information on the "terrorists."

Al-Iraqiyya's entertainment programming also seeks to portray the state's active role in cracking down on violence. The show "Terrorism in the Hands of Justice," is filmed live in a courtroom setting where those accused of taking part in "acts of terrorism" deliver live confessions. The program shows confessions of insurgents who admit that they are working for financial motives, in other words to depict them as "criminals" opposed to a "legitimate national resistance." However the show has ramifications for Iraq's inter-communal violence. One commentator writes about the show, "On one episode an interrogator

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7   The crucial difference between Shi'a and Sunni call to prayer is the inclusion of an additional line referring to Ali bin Abi Talib, the first Shi'a Muslim Imam.

8   Those taking part in the violence in Iraq against Coalition forces, the Iraqi government and civilians have been referred to as either "resistance fighters," "terrorists" or "foreign jihadists." For the sake of this article, the term used most often in the media on Iraq, "insurgent" has been employed. The term is by no means neutral however. It was the same term that British authorities in the twenties used to refer to those Iraqis taking part in the 1920 revolt against the UK's role in the Mandate of Iraq.

accused the members of important Sunni tribes—the Juburi, Janabi, and Duleimi—of all being terrorists. The show only heightened Sunni fears that the Shi'a security forces were targeting them en masse."[9]

Al-Iraqiyya also accuses its competition, the other regional satellite channels, of stimulating the ongoing violence in Iraq, a direct acknowledgement by the state's public broadcaster of the power of TV to incite violence. In January 2006, the channel reported that the "suggestive material" of "certain" satellite channels had the potential to incite viewers to "conduct criminal and terrorist acts." Al-Iraqiyya did not specify whether it was referring to pan-Arab channels Al-Jazeera and Al-Arabiyya, or local channels inside of Iraq. The station's news program interviewed Iraqi psychologists who stated the other channels had the capability of influencing its viewers to conduct violence.

Although Al-Iraqiyya features the Shi'a call for prayer, the station attempts to minimize the differences between Iraq's Sunni and Shi'a by broadcasting live coverage of Friday sermons where religious leaders from both communities preach against the nation's sectarian divide and stress "Iraqi unity." It also holds televised meetings between Shi'a and Sunni leaders as a means of inter-sectarian dialogue. Even music videos are imbued with lyrics and images with Iraqi nationalist themes.

Al-Iraqiyya also provides a space for Iraq's citizens to interact and communicate with politicians and the government, providing an alternative for the acts of violence that are in themselves protests against the Iraqi state. Shows such as "The Iraqi Podium" have a live call-in segment where viewers can direct questions about political affairs to the guests, ranging from various civil society leaders to journalists, academics and intellectuals. The program "Open Encounter" hosts government officials and political leaders to discuss elections, military operations and the agendas of various Iraqi political parties, with studio audience participation. Corruption, a topic rarely discussed on state channels in the Arab world, is addressed on programs such as "You and the Official." Other programs deal with local socio-economic issues: in "The People's Concerns," the viewer can phone in to express opinions on unemployment, as well as government corruption. "Al-Iraqiyya with You" serves as a forum for public advocacy where the hosts of the program seek to capture on film the poverty and unemployment among the Iraqis and then call upon the Iraqi government to address these social problems. In contrast with many Arab states, with an official state channel owned by a Ministry of Information, Al-Iraqiyya seems to be moving toward a role as public service broadcaster.

Given Al-Iraqiyya's role as a public service broadcaster, most of its shows deal with politics, economics, social issues or religion. In its beginning phrases, it broadcast older Egyptian dramas, but it does not import as much foreign programming as the independent channels or even the more secular Kurdish and Turkmen-owned stations.

Media Owned by Political Islamists

Arab Shi'a Media

All the Shi'a political parties operate their own radio stations, newspapers and satellite channels. The strongest Shi'a parties dealt with in this study are political Islamist groups that seek a greater role for Islam in the state and public life, though they may differ on how large a role Islam should play in Iraq. The four

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9   Nir Rosen, "Anatomy of a Civil War: Iraq's Descent into Chaos," *Boston Review*, November/December 2006, http://www. bostonreview.net/BR31.6/rosen.html.

prominent Shi'a Islamist political factions include the Supreme Council for the Islamic Revolution in Iraq (SCIRI), the Al-Da'wa Party, the Sadr Trend of Muqtada Al-Sadr, and the Iraqi Hizbullah.[10]

SCIRI owns and finances the Al-Furat satellite channel, based in Baghdad. Al-Furat, which began broadcasting in November 2004, is run by Ammar Abd Al-Aziz, the son of the party's leader.

The dominant frames on Al-Furat are the "progress" SCIRI is making as the largest constituent party in the Iraqi government in terms of "reconstruction" and providing "security." Therefore, the channel's content supports the government, as well as the possibility of a federal Iraq. It marks victimization in terms of attacks by Sunni Arab militants referred to as "*takfiri*." "*Takfiri*" is a euphemistic term that literally means, "those who condemn others as 'unbelievers,'" and usually refers to members of the Al-Qa'ida Organization in Iraq, or in general foreign volunteers from the Arab world who came to Iraq to combat the United States and Iraqi security forces. Nevertheless, Iraqi Sunni argue the term is used as a justification for operations against their community for allegedly giving tacit or overt support for their co-religionists fighting in Iraq.

Since Al-Furat is owned by SCIRI, a Shi'a political Islamist group, much of its programming is religious, but the channel does not focus on issues of ethnicity and avoids direct references to the Shi'a as a distinct religious group. Rather, the channel emphasizes Iraqi unity based on an inclusive Iraqi Muslim identity. In other words, the channel tries to gloss over the ethnic differences between Arabs and Kurds, and stresses the unity of Islam in Iraq, both Shi'a and Sunni. The news program rarely refers to Iraq as part of the "Arab world" as do other Arab Sunni or independent Iraqi satellite channels.

Religious programs include "The Talk of Friday," which interviews religious figures, and a cartoon show with Islamist themes, "The Most Virtuous People on Earth." The station has coverage of Friday sermons, primarily from Shi'a mosques. The channel also prominently features the activities of the leader of SCIRI, Abd Al-Aziz Al-Hakim. During the run up to the December 15, 2005 elections for the permanent National Assembly, Al-Furat featured campaign ads only for the Shi'a coalition, the United Iraqi Alliance, and not for other parties. As part of its religious programming, female presenters on this channel don the Islamic headscarf.

Given that SCIRI is dominant in the government, this channel tends to frame violence in Iraq with a pro-government stance, just as the Al-Iraqiyya channel does. Since members of SCIRI have a prominent role in the armed forces, the channel prominently features the role of the "security forces" and their efforts to "eliminate terrorism" in Iraq by reporting on their activities in the first few minutes of the news programming as well as by providing extended coverage of security operations. When some of these security forces were implicated in a scandal involving the Ministry of Interior (headed by an SCIRI member) maintaining a secret underground prison, these incidents were played down on the Al-Furat channel. The channel has also featured speakers who have criticized other Arab states for failing to condemn the violence committed by "terrorists" in Iraq. Promotional ads (public service ads paid for by the government) on the channel also serve to condemn the violence. One ad features what appears to be a handwritten note by a child in Arabic, with a stick figure of a child looking at another stick figure of what appears to be an angry insurgent. The text of the note reads: "I wish I could stop you. If I were bigger and stronger, I would not let you destroy

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10   Each of these factions also owns various newspapers, radio stations, and terrestrial TV channels, such as SCIRI's Ghadir TV, the Da'wa Party's Al-Masar TV, the Sadr Trend's Al-Salam TV and Ayatullah Sayyid Hadi Al-Mudarissi's short-lived Ahl Al-Bayt TV.

my country. I would hand you over to the police because you are bad, and Iraq needs everything you have stolen from it."

Coverage of inter-sectarian violence against Iraqi Shi'a Muslims are prevalent in Al-Furat's coverage, although the station does not advocate revenge but rather patience and obedience to those Shi'a leaders who have called for restraint.

The channel frames a federated Iraq (one of the primary political platforms of SCIRI) as a positive development, and calls on all Iraqi communities to unite.

Public advocacy programs include a live call-in program "Al-Furat and the People," and "Al-Furat Reports," an investigative show which deals with domestic issues affecting the lives of everyday Iraqis. "Deported in The Homeland" profiles internally displaced families who have relocated due to sectarian violence. It can be gleaned from the last names of those interviewed, and the phrases used, that most of the victims in this show are Shi'a. While the channel has a distinct Shi'a leaning, songs in between programs support peace and unity among Iraq's various ethnic and sectarian communities.

 Al-Furat's programs are mostly religious. It does not feature popular entertainment shows such as Arabic-dubbed Latin American soap operas, Hollywood films, or music videos from Arabic pop-stars.

Arab Sunni Media

The Arab Sunni Islamist factions developed political associations relatively later than Shi'a and Kurdish groups in Iraq's post-war dynamics. A mistaken assumption prevalent in external discourses on Iraq is that Iraqi Sunni Arabs dominated the Ba'ath Party, even though Kurds and Shi'a made up some of its leadership and party cadres. Iraqi Sunni Arabs, however, were also involved in forming exile organizations, such as the Islamist Iraqi Islamic Party, and many of them returned to Iraq to represent their constituencies in post-war Iraq. Other prominent Sunni groups include the General Dialogue Conference, the Association of Muslim Scholars (technically not a political party), and the Unified National Movement.

These parties coalesced into the Al-Tawafuq Front. The satellite channels that represent the Front's political agenda are the Rafidayn Channel and the Baghdad Satellite Channel. The latter began to transmit in August 2005 and will be the focus here. The channel primarily depends on advertising from the Arab Sunni community, but also receives advertising revenues from the Sunni political parties in Iraq.

A dominant frame on this channel is "resistance" to the U.S. military forces, referred to as "occupation forces." This view of violence in Iraq mirrors the Front's. Unlike Al-Iraqiyya or Al-Furat, this station refers to insurgents as "armed men" rather than "terrorists." It views a future federated Iraq as a "foreign scheme" to divide the nation, reflecting Arab Sunni fears of Kurdish and Shi'a entities in the north and south of Iraq, respectively, that would leave them in a landlocked rump state. Another prominent frame is that of the Arab Sunni as the victims at the hands of "militias" that are linked to the government or have "infiltrated" the security forces.

Given the channel's sympathies to the Al-Tawafuq Front, it only featured campaign advertisements for the Front during the Iraqi elections in December 2005, and carries live press conferences of the Front. Such sympathies manifest themselves in a news program that features the headlines from various Iraqi newspapers with Sunni Arab Islamist tendencies. Islamist themes are also evidenced by anchorwomen who don the head scarf, as in the SCIRI's Al-Furat channel. Religious programming includes "Explaining the Holy Quran," where Arab Sunni clerics offer religious interpretations of the sacred text, "In the Shadow

of the Shari'a," discussing topics on Islamic law, and "Fatwas on the Air," which examines various religious rulings. Political programs feature a mix of guests, including government officials, but mostly feature Arab Sunni politicians.

The channel also has programs for Iraqis to express themselves, many of whom vent their frustrations over unemployment and the lack of basic utilities. "Baghdad Daily" features on-the-street interviews to give the "common man" view of current events in Iraq, particularly related to the security situation and the reconstruction efforts. "Your Place is Empty" focuses on the plight of Iraqi prisoners, a good number of which happen to be Arab Sunni, showing the circumstances of the prisoner's arrest by interviewing the prisoner's families.[11]

Although the Baghdad Satellite Channel's shows are mostly religious in nature, some deal with culture, the arts and sports. The channel imports other programs that deal with Islam, but does not feature popular entertainment shows such as soap operas or films, either imported from the region or internationally.

Media Owned by Ethnic Parties

Iraqi Kurds, Turkmen and Christian Assyrians have established their own ethnic media empires, with the Kurds having a "head start" as they have enjoyed relative autonomy in the north of Iraq since the end of the 1991 Gulf War. A sample of their media outlets is included in Appendix A.

Kurdish Media

The Kurdish satellite channels examined in this policy paper are the Kurdistan Democratic Party's (KDP) Kurdistan Satellite Channel, which began broadcasting in 1999, and the Patriotic Union of Kurdistan's (PUK) satellite channel KurdSat. Both channels are non-profit and financed by their parties. While the directors of both channels stress that their stations have editorial independence from the PUK and KDP respectively, the content suggests that both channels serve as mouthpieces for the parties.

The dominant frames in both channels are the progress of the Kurdish north, the ability of the KDP and PUK to provide security, support for Kurdish members of the government, support for a federated Iraq, with a northern Kurdish state that includes the oil-rich city of Kirkuk, and victimization in terms of attacks by Sunni Arab militants referred to as "terrorists."

The content of the two channels owned by the Kurdish parties are similar in that they offer news about their political parties, events in the Kurdish areas of Iraq (referred to as the Kurdish Regional Government), and political and socio-cultural programs in the Kurdish language. On the KDP's Kurdistan Satellite Channel, programs review the headlines from the Kurdish papers. On the KDP's Kurdistan Satellite Channel and the PUK's KurdSat, the content of the political programs is primarily devoted to events of the KDP and PUK, respectively.

KDP programs dealing with social affairs range from "Hello People," a call-in show addressing social issues in the north of Iraq, to the locally-produced "Kamo," a children's show hosted by a puppet. Social-cultural

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11   While most of the prisoners that appear on this show are Sunni Arabs, there are no accurate figures on Iraq's prison population, so it is difficult to ascertain whether the program is accurately representing the prison population.

programs on the PUK include shows such as "Kultur we Rawshangari." An example of programming that is influenced from abroad is "Star Kurd," an entertainment music show.

Media Owned by Entities Calling for Violence

Though the Iraqi media described in the preceding sections belong to ethno-sectarian factions and at times expose sectarian tensions and give the impression that their communities are under attack, they usually call for restraint and national unity, and do not specifically exhort viewers to engage in violence. However, at least one channel has recently emerged that not only calls upon Iraqis to take part in violence, but also serve as a means for insurgent groups to publicize their attacks.

THE CASE OF AL-ZAWRA

Al-Zawra satellite channel is owned by the family of Mish'an Al-Juburi. The channel, which first emerged as an entertainment channel, later served as a mouthpiece for Mish'an's December 2005 parliamentary bid. With Mish'an's expulsion from the Iraqi National Assembly, the channel eventually evolved into a platform for insurgents.

Mish'an comes from the northern Iraqi city of Mosul, from the Juburi tribe. He was a member of the Ba'ath Party, and became the leader of the post-2003 Arab Front for Reconciliation and Liberation and a parliamentarian in the post-war National Assembly. He later fled Iraq on charges of embezzlement. His son Yazin Al-Juburi is the managing director of the station and has been the target of an assassination attempt.

The channel's slogans include "Al-Zawra, The Voice of the Excluded and Marginalized," and "Al-Zawra, Favors the Nation, The Nation as a Whole." The station does not have a fixed schedule, but rather regularly airs videos produced by the insurgents, with footage of attacks against multinational forces. For a period following a government crackdown, old footage was looped continuously, 24 hours a day.

When former Iraqi President Saddam Hussein's death sentence was announced on November 5, 2006, Al-Zawra featured videos and songs supportive of the outlawed Ba'ath party, as well as exhortations for Iraqis to join groups fighting the US "occupation forces" and the Iraqi government and its "sectarian gangs." The Iraqi government ordered the station to be closed down on charges of "inciting violence." The closure order came from the Iraqi Ministry of the Interior, which also ordered the closure of the less well known Salah Al-Din satellite channel. The closure was justified by the Ministry, not under regulation of the Communications and Media Commission (CMC) but under the Anti-Terrorism Law, a distinction which Al-Juburi made clear in an interview with an Arab newspaper: "The decision to close the station was issued by the Interior Ministry and not by a relevant body, like the Iraqi Communication and Media Commission, which is responsible for granting transmission and frequencies licenses."[12] Al-Sharqiyya (an independent channel with Arab Sunni sympathies that will be discussed later) carried footage of Iraqi security forces allegedly raiding the offices of the two channels.

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12   Ma'ad Fayyadh, "Mish'an Al-Jaburi lil-Sharq Al-Awsat: Sana'ridh liqitat yu'akad tamthil bijitha Saddam," (We will show a video to prove that Saddam's body was mutilated), Al-Sharq Al-Awsat, January 14, 2007, http://www.aawsat.com/details.asp?section=4&issue=10274&article=401559.

However, the station has been able to circumvent the closure through its use of transnational satellites. It is unclear where its operations are now centered: Mish'an claims that the station still has many centers in Iraq, protected by Iraqi "resistance groups." Other conflicting reports claim that the channel is based in Irbil, in the north of Iraq, or in Syria. Both the Kurdish Regional Government and the Syrian government deny such claims.

As Al-Zawra has shifted its transmission tactics, its content has become increasingly incendiary. After the government's closure of the office the channel's content focused on footage of insurgent attacks against U.S. and Iraqi forces. The channel produces its own announcements that directly incite violence by calling on Iraqis to join the "jihad" against "U.S. and Iranian occupation." Its attacks on Iran reflect a pro-Iraqi Arab Sunni sentiment that alleges Iran is aiding its coreligionists in Iraq. Announcements on the channel denounce the "crimes of Muqtada and of the gangs Aziz Al-Hakim," a reference to Muqtada Al-Sadr, leader of the primarily Shi'a Sadr Trend, and Abd Al-Aziz Al-Hakim, leader of the SCIRI group. The station calls upon the "free youth of Iraq" to join the groups that are "defending" the nation to keep "Baghdad free from the Safawis," referring to the 16th to 18th century Safavid Empire of Iran, but meant as a derogatory term against Iraq's Shi'a. The channel also features footage of what it alleges are "Sunni civilians" attacked by Shi'a militias. The channel's discourse and that of its owner has reached a point where even Iraqis refer to a "Mish'an" rhetoric.

Al-Zawra's news anchors, a male, and a female wearing the veil, are dressed in military uniforms, and regularly read statements delivered by Iraq's insurgent groups. Most of their news footage is provided directly by groups such as the Islamic Army in Iraq, an Islamist organization primarily comprised of Iraqis. It also carries relatively sophisticated documentaries produced by the insurgent groups, which feature English subtitles and are directed to Western viewers. One documentary claims that an armed group "wiped out" an entire American unit; the same documentary claimed that 15,000 Americans had been killed by improvised explosive devices. The station also carries video footage of attacks carried out by Nizar Al-Juburi, who achieved notoriety in Iraq as the "Baghdad Sniper." Foreign reporting of this channel has claimed that Al-Zawra is an "Al-Qa'ida channel." However, though the channel often features grisly footage of insurgent activity, it has never aired videos produced by the Al-Qa'ida Organization in Iraq and its owner has declared that he refuses to do so.

There are no statistics about the numbers of viewers of this channel, but there are scattered reports about viewer reactions in Iraq and the Arab world. In Iraq, parliamentary critics of the station have been vocal about the station's content, and death threats have been directed to its owners. At the same time, one correspondent in Iraq quoted one of the channel's young fans as saying, "I watch this channel every night. I don't like encouraging violence, but it is something unusual in the argument against the Americans. I am hooked."[13] Another report states how a Saudi cleric has issued *fatwas* (religious declarations) encouraging Saudis to watch "the channel of the *Mujahidin*" (religiously inspired fighters), declaring that, "it teaches the art of jihad, a matter the youth of our *Umma* [religious community] desperately need."[14]

In terms of the effectiveness of Iraqi government actions, Mish'an Al-Juburi claims that the channel still broadcasts "from underground areas controlled by the Iraqi resistance, especially in northern Baghdad all the way to Mosul and Al-Ramadi, using mobile transmission equipment out of fear of the US forces shelling

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13 Michael Howard, "Insurgent TV Channel Turns Into Iraq's Newest Cult Hit," The Guardian, January 15, 2007, http://www.guardian.co.uk/Iraq/Story/0,,1990545,00.html.

14 "Media Aid: Iraq's Al-Zawra TV Serves as Insurgent Propaganda Vehicle," Open Source Center (OSC) Media Aid, OSC Document: FEA20070202087288, December 17, 2006 to February 1, 2007.

them." He also claims that "[o]ur six correspondents remain on the run, roaming the Iraqi countryside in a satellite truck, from which they beam their programming to an Egyptian satellite distributor called Nilesat, which then retransmits the channel across the Middle East."[15] Lawrence Pintak interviewed Mish'an and described how his channel continued to operate:

> … his teams in Iraq have sporadically managed to feed video to Cairo "through SNG [satellite news gathering]," which apparently refers to the same kind of portable satellite dishes used by television news teams to transmit their material from the field. He says the material is recorded on a "server" in Cairo, then forwarded to Nilesat. "And it keeps transmitting even if we are not transmitting from Iraq," he adds. Much of the footage is shot on inexpensive video cameras and cell phones.[16]

In February 2007, Al-Zawra also began transmission on the Saudi-based regional satellite system Arabsat, on the BADR-4 satellite.[17] This means that audiences in Iraq as well as the greater Arab world can watch its contents. Mish'an Al-Juburi has sought to broadcast the channel via European carriers such as Eutelsat in France.[18]

The Iraqi and U.S. governments have made efforts to have the Egyptian satellite provider, Nilesat, shut down the channel's satellite transmission over its transponders. More than a month after the closure of its terrestrial operations and offices in Iraq—in late December 2006—Al-Zawra began to broadcast what it claimed was new footage of "Iraqi resistance" activities over its satellite channel. In January 2007, Al-Zawra was broadcasting continuous footage of old jihadist videos, a trend which continued until the end of February. This suggested that Nilesat, bowing to pressure, had stopped transmitting new Al-Zawra broadcasts that it sent from undisclosed locations in Iraq.[19]

Mish'an has claimed that the Egyptian government caved under U.S. pressure and prevented Nilesat from broadcasting any new material: "The Egyptians confirmed that they came under U.S. pressure. Anas Al-Fiqi, the Egyptian Minister of Information, admitted this, and Anas Basyuni, chairman of Nilesat directorate, agreed that U.S. Ambassador in Cairo, Ricciardoni exerted pressure on them to stop the transmission of Al-Zawra."[20]

The Egyptian Culture Minister challenged this claim, stating "it is none of our business what the channel airs once it has booked its share in the satellite and has paid all fees due."[21] The chief engineer of Nilesat said that it was Al-Zawra which asked the satellite carrier to continue transmitting old material: "They asked us—please, when we don't send, loop for us what you have." In regards to the issue of diplomatic pressure, the chairman of Nilesat denied ever receiving an Egyptian government request or an American or Iraqi government request to cut the channel's transmission.

Egypt's Information Minister stated that Iraqis had threatened the Egyptian diplomatic mission in Baghdad if Nilesat continued carrying Al-Zawra. Some Egyptian sources claimed that these threats came

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15   Ibid.

16   Lawrence Pintak, "War Of Ideas: Insurgent Channel Coming To A Satellite Near You," January 10, 2007, http://uscpublicdiplomacy.com/index.php/newsroom/pdblog_detail/070110_war_of_ideas_insurgent_channel_coming_to_a_satellite_near_you/ .

17   BBC Monitoring, World Media, February 1, 2007, 27.

18   Fayyadh, op. cit.

19   Marc Santora and Damien Cave, "Banned Station Beams Voice of Iraq Insurgency," *The New York Times*, January 21, 2007: A8.

20   "Israr Al-Zawra wa 'Alaqatha biharith al-dhari wal-musalihin wal-jaysh al-islami," (The secrets of Al-Zawra and its relations with Harith Al-Dhari and the Armed Men and the Islamic Army), Al-Arabiyya Net, January 29, 2007, http://www.alarabiya.net/Articles/2007/01/29/31185.htm

21   Pintak, op cit.

from Muqtada Al-Sadr's militia, the Mahdi Army, which led to the decision to stop broadcasting new material. This explanation does not explain why Nilesat continues to loop Al-Zawra's jihadist footage, which the Iraqi government and Sadr's militia would most likely still find offensive.

The case of Al-Zawra, an entertainment channel that evolved into an insurgency channel, represents a worse case scenario for the Iraqi media, demonstrating the ineffectiveness of punitive measures, such as the closure of its Baghdad office, in the face of new transnational transmission technologies. It is plausible that a channel owned by other political, ethno-sectarian factions, or even an independent channel, could undergo a similar transformation. Punitive legislation and action against media that incite violence is only a partial solution. Even the speaker of Iraq's parliament declared that the Al-Zawra channel incident demonstrated the dangers of shutting down a channel and called for media responsibility. The recommendation section in this paper suggests that one of the solutions to this dilemma rests in creating alternative media that can attract audiences through creative means of communicating national reconciliation.

Independently-Owned Media

There are several channels that do not receive funding from any political or religious groups, depending on advertising revenues and financing by wealthy Iraqi or Arab investors, as well as by foreign governments, and primarily broadcast entertainment programs. The independent satellite channels examined in this policy paper are Al-Baghdadiyya, Al-Diyar, Al-Fayha, Al-Sharqiyya and Al-Sumariyya. While the content of Al-Baghdadiyya, Al-Fayha and Al-Sumariyya are directed towards an Iraqi audience, the channels are based in Cairo, Dubai and Beirut respectively, due to the security situation in Baghdad. These channels are independent, but critics argue that due to sectarian ownership, Al-Baghdadiyya and Al-Sharqiyya have an Arab Sunni bias, while Al-Fayha has an Arab Shi'a bias. Al-Baghadadiyya's director is Arshad Tawfiq, a former Ba'athist diplomat, who has stated that the station is financed by Iraqis. Al-Sharqiyya is owned by Sa'ad Al-Bazzaz, the former editor of the newspaper *Al-Jumhuriyya* in Ba'athist Iraq. Al-Diyar is directed by Faysal Al-Yasiri, a former media figure in Ba'athist Iraq, and the channel is partly owned by a group of Iraqis and the regional Arab Radio and Television (ART) company. Al-Fayha is an independent Iraqi channel owned by an Iraqi Shi'a businessman. Al-Sumariyya is owned by a group of Iraqis under the rubric of CET (Communication Entertainment and Television), and depends on advertising revenues from both Iraqi and Arab companies.

Ethno-sectarianism and Islam

The aforementioned channels claim to be independent in both financing and content of any ethno-sectarian or political Islamist faction. In surveys distributed to these channels, when asked if they refuse to air any material, they indicated a refusal to air programming that incites ethnic or sectarian divisions. The stations seek to reduce tensions among Iraq's ethno-sectarian political factions in various ways. For example, Al-Sumariyya does not carry live statements or press conferences of any Iraqi politicians, indicating the station's effort to maintain its neutrality, and claims non-affiliation with any sectarian, ethnic or political party. It stays clear of the Arab-Kurdish-Turkmen conflict as well as the inter-sectarian Shi'a-Sunni conflicts. The channel does not carry religious programs; rather it usually gives summaries of statements of religious figures during its news broadcasts. While other channels carry state-run public service announcements calling for national unity, Al-Sumariyya produces its own announcements that call for peace among Iraq's communities. The station also features on-the-street interviews with the Iraqi public, and interviews with program guests, who stress unity among Sunni and Shi'a.

Al-Sharqiyya claims that it has no connections with any political, ethnic, or religious faction, and refuses to air any programming that encourages sectarianism. However, it openly supported Iyad Allawi, a secular Iraqi politician, during the electoral campaign in December 2005. The channel has minimal religious programming, and airs programs such as the "The Horoscope," an entertainment program that deals with astrology, which is considered a taboo in Islam.

Al-Baghdadiyya stresses that it seeks to promote Iraqi culture and "the unity of Iraq" and it refuses to air any content that is "against" this unity.[22] The channel urges Iraqis "to unite" through various advertisements and music clips and ensures that its guests include Arab Shi'a and Sunni, Kurds, and Christians. The channel has minimal religious content. In its responses to the questionnaire, the channel claims to have sought to increase entertainment programs such as music shows and drama series that are not usually found on channels owned by Islamist parties. In fact, the popular show "Other Eye" brings in guests to discuss topics considered taboo from an Islamic perspective, such as local Iraqi superstitions, magic in Iraqi folklore, and hypnosis and exorcisms. Other programs that demonstrate the secular nature of this channel include "Shahrazad's World" which deals with current fashion trends and beauty tips.

TELEVISED VIOLENCE

Independent channels deal with violence in Iraq in different ways, with some highlighting ethno-sectarian fighting and attacks against U.S./Coalition forces, while others following a policy of not airing violent scenes. For example, Al-Diyar rarely shows live footage of the aftermath of insurgent attacks. Its news programs usually focus on domestic news, with an emphasis on social affairs rather than violence.

Al-Sumariyya describes itself as "an independent satellite television which aims at showing the world the true face of Iraq, and not only images of violence."[23] While the channel depends on advertising revenues, other sources of financing come from Iraqi shareholders who insist that news programming not just focus on the violence, and support the station for its emphasis on entertainment as a means to take the public's mind off of the bloodshed in Iraq. Lead news items on Al-Sumariyya include events occurring in Iraq, but the channel, like Al-Diyar, does not show live coverage of the aftermath of insurgent attacks.

In contrast, Al-Fahya's news programs deal primarily with the security situation. Like Al-Iraqiyya and Al-Furat, Al-Fahya runs public service announcements highlighting anti-terrorist measures.

Of the independent channels, Al-Sumariyya employs the most neutral and objective language in its news programs. When presenting casualties among the Iraqi security forces, Al-Sumariyya uses the term "killed" as opposed to "martyred," the term employed by Al-Fahya as well as by Al-Iraqiyya and Al-Furat. While Al-Sumariyya refers to the insurgents as "gunmen" and U.S. forces as "Coalition forces," Al-Baghdadiyya uses the terms "armed men" and "occupation forces," respectively, and Al-Fayha presents the insurgents as "terrorists."

Themes of violence and post-war instability are also prevalent in entertainment programs on these channels, including satirical comedies, dramas and even music clips, discussed in the section below.

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22   "Media Aid: Survey of Al-Baghdadiyah Television," Open Source Center, October 5, 2005.
23   Described on Al-Sumariyya's website, http://www.alsumaria.tv/en/about_us.html.

Public Advocacy

All the independent channels feature public advocacy programs. These programs offer the Iraqi citizen a chance to address constructive criticisms to the Iraqi government through studio interviews or on-the-street interviews or viewer call-ins. For example, Al-Sumariyya's "Who is Responsible?" interviews Iraqi citizens on the hardships they face in Iraqi society, and then allows the invited guest on the show, usually a government official, to discuss how he is dealing with these problems. "Files" deals with lack of infrastructure and basic utilities, and questions both the national and state officials about these problems. "Behind You, Behind You" also highlights particular social problems faced by individual Iraqis.

Al-Diyar also offers programming that deals with the daily hardships faced by Iraqis, such as lack of basic utilities and insecurity. Iraqis can voice their concerns on the news program "The Screen is Yours," which interviews random citizens on social and political issues that concern them.

Al-Fayha's "Hand in Hand We Build Up Our Homeland" is a news program dedicated to the reconstruction efforts and "What If You Were…?" features comments by ordinary Iraqis expressing what they would do if they were head of a government ministry. This program deals with the shortcomings of the various ministries that deal with reconstruction and unemployment. The shows "Iraqi Testimonies" and "Bars" deal with the political conditions of Ba'athist Iraq and allows those Iraqis who were victimized during this period to relate their experiences.

Al-Sharqiyya features programs that seek to aid Iraqis in need. "Materials and Labor" is a reality TV-type show where the station finances the repair of homes destroyed by violence. "Blessed Wedding" is another reality program that finds a young couple in need of funds to hold a wedding. The station then finances the ceremony and films the festivities. "The Ration Card" is similar to a lottery program where prizes are given out to the numbers associated with a family's ration card, a system initiated during the UN sanctions period. This channel uses sarcasm to poke fun at political life in Iraq, and such satirical programs, often banned in the region, are quite popular in Iraq. One of the most well-known shows in this genre is "Karikatira," a comedy skit program that finds humor in scenarios of post-war Iraq.

Al-Baghdadiyya also uses the station's resources to aid Iraqis. "A Drop of Hope" is a reality show where Iraqis with medical conditions are financed by the station for treatment abroad. "Youth Chat" is a talk show which allows teenagers and college level students to discuss issues of popular culture such as film and television, and social issues that are of concern to them. It takes various issues such as fuel, electricity and water shortages and frames them in a comic matter. "The Dialogue of the Deaf" is a critique of Iraq's social problems, with skits similar to Al-Shariqyya's "Karikatira" that mock the political establishment.

Global and Regional Influences and Local Reactions

Al-Sumariyya's programming is primarily dedicated to entertainment, including music videos and soap operas. Other series are imported from Egypt, Latin America and the United States, for example dubbed Disney programming such as the "Lion King" and "Aladdin, and Warner Brothers shows such as the young Superman series "Smallville." One of the effects of globalization is evident in the show "Iraqi Star," the local equivalent of "American Idol." The advertising during this program generates significant revenues for the channel. Programs in a similar format include "Stars of Poetry," a contest for aspiring Arabic poets.

Al-Diyar is also primarily an entertainment channel (entertainment constitutes approximately 80 percent of its content). It imports foreign films and comedy series, both American and Egyptian. Nevertheless, the majority of its programs, including local soap operas, are produced in Iraq.[24]

Al-Sharqiyya was the first to respond to Iraqis' desire for entertainment that related to their daily lives, and is an indirect acknowledgement that some were growing tired of imported series dramas from Egypt or Latin America. Most of its Arabic drama shows are produced locally and filmed in the Iraqi dialect. One of the most popular series it produced was "Love and War," a soap opera detailing the lives of Fawzi and Fatin, a couple who lives through the March 2003 Iraq War and the ensuing post-war chaos.

Like Al-Sharqiyya, Al-Baghdadiyya claims to be an "Iraqi channel for Iraqis." It has made an effort to increase the number of Iraqi-produced programs and estimates that 90 percent of its programming is produced inside of Iraq.[25]

Iraq's Media and the Regional Satellite Environment

While this study focuses on the dangers posed by ethno-sectarianism in the Iraqi media, ethno-sectarian tensions in Iraq can also be heightened by regional channels.

This policy report does not provide a program analysis of Middle Eastern regional satellite channels broadcast into Iraq, such as the Qatar-based Al-Jazeera, the UAE-based Al-Arabiyya or the Iran-based Arabic language Al-Alam. While they have large audiences in Iraq, this report seeks to analyze those media that serve as a reflection of the factions and communities in Iraq itself. Nevertheless, the regional satellite channels do play a role in ethno-sectarian tensions in Iraq, and media policy will have to consider how to deal with the ramifications of ethno-sectarianism and its portrayal in the regional media outlets as well as the Iraqi media.

The influence of regional satellite channels in ethno-sectarian tensions in Iraq was amply demonstrated in January 2007 during a heated exchange on an Al-Jazeera political debate program between an Iraqi Shi'a, Sadiq Al-Musawi, and the owner of the Al-Zawra channel, Mish'an Al-Jaburi. The tensions began at the opening of the show when Mish'an offered a prayer for "the soul of the martyred President Saddam Hussein." Al-Musawi was immediately offended by this action and replied that Saddam, whom he referred to as Mish'an's "father," "had killed Kurds." Mish'an responded on numerous occasions "You are a Persian shoe!" (*qundara*), a deeply offensive reference in the Iraqi culture; he also alleged that Al-Musawi's loyalties lay with Shi'a Iran.[26] In this case, not only did a regional channel potentially exacerbate tensions in Iraq, but also highlighted regional sectarian tensions.

There are no statistics for the rate of consumption of channels like Al-Jazeera, Al-Arabiyya or Al-Alam in Iraq. The studies that have been conducted have been by private firms for various clients. One of the recommendations in this study calls for a publicly-released media consumption survey, so that one can better grasp how the Iraqis are consuming media in a time of bitter conflict.

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24   Stanhope Centre for Media Research Questionnaire, Aug. 2006 (on file with author).
25   Ibid.
26   Karen DeYoung, "Sunni-Shiite Fight Flares in Broadcasts," *The Washington Post,* January 21, 2007: A18.

The Future of Iraq's Media

The Iraqi media have expanded since the end of the 2003 Iraq war. Citizens have various outlets, such as talk shows, call-in programs and man-on-the-street interviews to express their desires, complaints and frustrations. Additionally, news makers and prominent members of civil society can use televised panel discussions to give their opinions about salient issues in the nation's development. While most media in the Middle East serve as tools to legitimize the state, in Iraq, various media outlets have assumed their Fourth Estate role by challenging the incumbent government for its shortcomings. Specific programs often carry out this role by highlighting the daily difficulties faced by the average Iraqi, with channels calling on the government to address their needs. Issues such as government corruption, poverty and unemployment may be taboo subjects in Middle Eastern countries with only a handful of state-owned channels; in Iraq, various media address these challenges directly. Additionally, some Iraqi channels feature entertainment (either locally-produced or imported), particularly humor, music and drama, to relieve the stresses of Iraq's post-war society. All of these developments are positive indications for the future of Iraq's media and for its civil society. Nevertheless, there are some disturbing trends emerging as well.

Well before the 2003 Iraq war, the Iraqis were viewed by foreign media through a "tri-ethnic prism" focusing on divisions between Shi'a, Sunni and Kurds, while ignoring Turkmens, Assyrian and Chaldean Christians, Yazidis and Sabaens, as well as the country's more traditional fault lines, such as class, rural-urban, religious-secular and tribal divisions *within* the three communities. It has been a fashion in the foreign media to essentialize Iraqis into three "ethnic" categories, leading to erroneous notions such as viewing Iraq's Shi'a as an "ethnic" group or neglecting that the majority of Kurds are also Sunni.

Nevertheless, an examination of the media sphere in Iraq suggests that past misguided observations have unfortunately become reality. Indeed, Iraq's media are increasingly divided along ethno-sectarian lines, with an independent media competing for audiences that have grown weary of ethno-sectarian media. One article refers to this situation as the "Lebanonization" of the Iraqi media: "With Iraq's TV menu growing increasingly sectarian, it is possible to draw a parallel with Lebanon's highly sectarianized hodgepodge of channels—linked directly or loosely with political parties—which regularly report sect-specific news."[27] The Iraqi media scene is pluralistic, but also fragmented. This plurality can be positive: the Iraqi media serve as outlets for all of Iraq's ethno-sectarian communities, regardless of political persuasion, profession or gender. Such developments are beneficial for Iraq's painful transition to democracy. Marginalized groups who otherwise would have had no means to communicate their desires in Ba'athist Iraq theoretically now have the means to do so.

However, there are negative aspects of pluralism when it emerges as a result of chaos. Media pluralism in Iraq allows for ethnic and sectarian political groups to consolidate powerful media empires, including print, radio and TV, and broadcast in Iraq and internationally. While there is freedom of the press, the freedom of journalists to cover a story or have access to information is severely restricted. Certain political parties are content when their political platform is expressed, but will violently target journalists and media professionals who may report on news in a way that displeases them. Pluralism, without regulation, can also lead to the rise of media that can be abused as a means of encouraging violence.

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27   Paul Cochrane, "The 'Lebanonization' of the Iraqi Media: An Overview of Iraq's Television Landscape" *Transnational Broadcasting Studies*, June-December 2006.

The ethno-sectarian control of Iraq's media landscape reveals another trend in Iraq's political dynamics—the lack of political parties running on non-ethno-sectarian platforms that can transcend Iraq's divisions. Secular parties, such as the Iraqi National Accord, the Iraqi Communist Party, the United Nation Party, or the Independent Democrats Grouping, own newspapers but not satellite TV stations, the most widely-consumed media in Iraq. These parties have not been able to rally enough followers and have faired poorly in Iraq's elections. These parties simply do not have access to the funds that the ethno-sectarian political parties have.

At the beginning of this paper, four phases were identified as necessary for the emergence of a conflict media: 1) a strong ideology, 2) control over a mass media, 3) psychological preparation to hate, and 4) a call to violence. I would argue that Iraq's ethno-sectarian media has entered phase three. This policy paper (and the appendix which outlines the reach of the faction in Iraq's politics) demonstrate that the sectarian Islamist groups as well as ethnic parties are dominant in the Iraqi media. Following the bombing of the Shi'a Al-Askariyya shrine in the city of Samarra in February 2006, the various sectarian and ethnic media outlets escalated tensions but eventually called for restraint among Iraq's communities.

The content analysis of the various ethno-sectarian channels did not find that coverage directly demonized the other communities. However, each sectarian and ethnic group uses their media to demonstrate that they are the victims in Iraq's ongoing violence. While they do not explicitly exhort violence against other communities, as would happen in phase four, their continued portrayal of respective victimization serves as a means of encouraging Shi'a and Sunni to "defend" themselves in the ensuing sectarian violence. After the 2006 bombing, for example, the Arab Sunni-oriented Baghdad Satellite Channel focused its coverage on the Arab Sunni killed in retaliation, while the Arab Shi'a-oriented Al-Furat focused on the actual damage to their sacred structure. According to one account, "Al-Furat was even more aggressive, encouraging Shi'a to 'stand up for their rights.' On a Shi'a radio station's talk show, one caller announced that those responsible for the attack were Abu Bakr, Omar, and Othman, the three first caliphs whom Sunni venerate and whom Shi'a reject as usurpers of the position that rightfully belonged to Imam Ali, the prophet Muhammad's cousin and son-in-law."[28]

When a particular channel reports a violent incident in Iraq, as, for example, an Arab Shi'a militia killing an Arab Sunni family in their home, or when another channel reports on Arab Shi'a killed in a marketplace by Arab Sunni suicide bombers, neither channel directly calls for revenge against the other. In these cases, the channels may not even invoke the term "Shi'a" or "Sunni." Usually viewers can identity the victims by the location of the attack, or the perpetrators by the method of attack used. A Shi'a channel will not specifically mention that they were the victims of "Sunni aggression" and vice versa, though that association is strongly implied. For example, if Baghdad Satellite Channel states that the Abu Hanifa Mosque was attacked by mortar rounds, an Arab Sunni viewer will most likely infer that the rounds were launched by the Shi'a Mahdi Army from the adjacent neighborhoods. The respective audience members who feel victimized may take matters into their own hand in "self-defense," which in most cases manifests itself in revenge attacks. Even if the "victimized" fail to act, the worsening security situation may generate support for the respective militias, and not the state, to provide protection.

The biases and victimization in Shi'a and Sunni reporting was expressed by Ahmed Rikabi, an Iraqi journalist who has had extensive experience in post-war media. On the CNN program "International Correspondents," in reference to the Iraqi media, Rikabi stated:

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28   Rosen, op. cit.

> Well, the sectarian tension is so strong in Iraq today. And I think this guy whose name is Omar, it's clearly that this is a Sunni guy, when he goes and tries to cover an incident in a Shi'ite area, he feels like one of the victims. He doesn't go and feel like a neutral person covering this. And so is the case for the Shi'ite Ali, who goes to that Sunni area and trying to cover. You also feel the fear. He feels that those people standing there, they might kill him as well. So that probably also affects him somehow. I mean, whether he is very objective or whether he is very normal or neutral or unbiased, but he can't help it that he's got a certain name. And that name might get him killed. And that will influence his way of thinking or approaching the subject.[29]

A month later, Al-Rikabi stated explicitly that the media in Iraqi have emerged as a tool of conflict: "We are witnessing a civil war. And this civil war is conducted by different religious groups and different political groups. And of course, the media is an extension of this sectarian violence we are witnessing today."[30]

If Iraqi ethno-sectarian media have reached stage three, they are laying the psychological groundwork for hating the other. To reach stage four, these factions would need to make direct exhortations to violence. If the security situation were to worsen, the other political factions would have the option of using their media as mouthpieces to exacerbate the conflict, by whipping up ethnic and sectarian feelings or even directing the conflict. So far, these other factions have used their media to stress unity among Iraq's communities, but they nevertheless have the potential to instigate conflict with these means if it suits their interests.

According to my fieldwork on the media in Iraq, a common perception held amongst the Iraqi public, and even journalists themselves, is that different factions have used the newspapers, radio and TV as "tools of war." As the Iraqi political parties rarely communicate directly with each other, they have expressed their grievances through the media, with some media discreetly encouraging violence against the incumbent government. While observers of the situation in Iraq argue whether a "civil war" has emerged in Iraq, a "civil war of words" has at least emerged in the Iraqi media according to some Iraqi journalists that I interviewed.

Most, but not all, of the journalists I spoke to were hesitant to be quoted by name. One, Saleh Al-Shibani, stated in regards to political factions who own newspapers, "Every party, every party leader, basically everyone who can afford it has launched a newspaper. And each newspaper speaks for the entity it represents, makes a claim to the truth, assuming the right not only to criticize but to insult its adversaries; this is particularly easy in the light of the legal void."[31] Another Iraqi journalist, Muhammad Sahi, wrote a critical essay in the *Al-Zawra Newspaper*, a weekly published by the Iraqi Journalists Association, unrelated to the Al-Zawra satellite channel. His article serves as a lament of the state of the Iraqi media. He writes of the media: "They not only increased sectarianism and deepened ethnicity in society, but also are responsible for the fading of the concept of nationalism and patriotism and their actual dimensions."[32] He cites a list of the vast array of media aligned to political factions, which he argues are "mere fronts, whose main goal is to promote the ideologies and ideas of their affiliated political parties and forces," and "have confused the Iraqi citizens and created a psychological barrier, in one way or another, between them." According to Sahi, the pluralism in the Iraqi media, which often results in conflicting news reports about the same event on different satellite channels, depending on affiliation, has divided, confused and enraged the Iraqi viewer. Sahi admits that some channels are trying to avoid promoting sectarianism, but they do cover statements

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29   International Correspondents, Cable News Network, 14:00 EST, October 13, 2006.
30   International Correspondents, *Cable News Network*, 14:00 EST, November 17, 2006.
31   Nermeen Al-Mufti, "Can You Help Me Not Miss Them?" *Al-Ahram Weekly*, March 23-29, 2006.
32   Muhammad Sahi, Television Map in Iraq; Iraqi Satellite Television Channels Between Politics and Promotion of Sectarianism, Al-Zawra, March 27, 2006, 2.

made by Iraqi politicians who he states are divided by "sectarian inclination that escalate sectarian tension and crisis."[33] Sahi's final assessment of the Iraqi media is as follows:

> Accordingly, the Iraqi street and viewers are being divided with regard to their favored channels and news coverage based on their political loyalties and inclinations. Hence, it is inevitable for them to adopt the political discourse of their favored television channels and to act in accordance with the statements made by political leaders. The Iraqis have found themselves to be indirectly involved and supporting some political leaders or perhaps even among their followers.[34]

Conclusion

Most of the plans to stabilize Iraq, such as that of the Iraq Study Group released in late 2006, suffer from one inherent weakness: they view the conflict in Iraq by primarily focusing on "hard power" or "hard conflict."[35] The purpose of this assessment has been to illustrate media's potential as a tool of soft power, and to demonstrate that the pattern of Iraqi media development should be viewed as a matter of concern for Iraq's long term stability. While attention on Iraq's situation focuses on actual acts of insurgent groups or sectarian militias, one has to also realize that ethno-sectarian divisions, even if they are opaque, have proliferated in the tele-visual and print spheres as well, and have the potential of exacerbating tensions.

This potential was demonstrated in the light of events that occurred in Sadr City in late November 2006, when multiple car bombs caused the highest amount of casualties in a single incident since the cessation of the war. The Iraqi government accused various networks, both Arab and Iraqi, of inflaming the conflict through their coverage, and threatened to prosecute these channels. The President of Iraq, Jalal Talibani, went as far as blaming the media for inciting the violence. The fact that government officials have been so vehement in their criticisms of various television channels and newspapers is an indirect acknowledgement of the power of the media. Their criticisms also reveal the challenge of dealing with the violence in Iraq that is fought not only on the streets, but also in the tele-visual sphere. The government sought to make an example of the Al-Zawra station in November by closing down its office. However, satellite television and the Internet have proven that strict punitive measures are ineffective in dealing with media that can be transmitted trans-nationally.

Events in Iraq could stabilize and as a result the Iraqi media may not proceed beyond stage three. Nevertheless, in the long term, various ethno-sectarian media outlets in Iraq still could prove problematic in another fashion. Rather than a media sphere, Iraq has ethno-sectarian media "spherecules" that have the potential to further the gap between Iraq's communities, developing identities along ethno-sectarian lines and weakening any kind of national belonging. Additionally, these media "spherecules" owned by Islamist groups have the potential to increase sectarian nationalism in the guise of political Islam in Iraq. At the same time, independent media are trying to provide an alternative to the ethno-sectarian media. The recommendations below are directed to internal as well as external actors as to how to prevent the Iraqi media from developing into a tool that can enhance conflict.

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33   Ibid.
34   Ibid.
35   Iraq Study Group Report can be found at the website of the United States Institute for Peace, http://www.usip.org/isg/iraq_study_group_report/report/1206/index.html.

Recommendations

In Izabella Karlowicz's work on media development in post-conflict Balkans she offers recommendations over three phases: set up, implementation and capacity building. This framework can also be applied to the Iraqi situation. While the post-war Iraqi media have passed the "set up phase," there are still some important recommendations that can be made that were ignored in the first phase. In the case of the Balkans, Karlowicz's recommendations are designed to highlight "the dangers of poorly planned assistance to the development of the Fourth Estate in post-conflict areas, which may cause an outburst of ethnic conflict rather than fostering peaceful cohabitation."[36] An "outburst of ethnic conflict," or in the Iraqi case, "ethno-sectarian conflict," has become a reality. The media should emerge as a "safety valve" for the nation by ensuring that these differences are debated on the airwaves, rather than in the streets. The key for the future of Iraq's stability is using the media to address the grievances of all of Iraq's ethno-sectarian communities, thus transforming this debate into a constructive one.

1. ASSESS THE IRAQI MEDIA LANDSCAPE

Any attempt at making recommendations should first begin with an assessment of the Iraqi media landscape for local and international organizations.

A) Create a National Media Directory

An Iraqi or international organization should compile a comprehensive national directory of all local media (radios, newspapers, terrestrial TV stations). This step is crucial as most media in Iraq developed in the post-war chaos, before the establishment of any regulatory or licensing body. Such a directory should provide an assessment of which media have a proven record of promoting ethno-sectarian tensions, and will be a useful guide for international donors. This policy report concludes that the only satellite channel that can be considered entirely non-partisan and non-sectarian is the Al-Sumariyya channel, and local Iraqi media specialists and journalists have echoed this statement.

B) Conduct a Media Consumption Assessment

The Iraqi media landscape is changing quite dramatically. A second assessment needs to be conducted of Iraq's media consumption in Iraq, including how many people watch a particular channel or specific programs on a channel, as well as channels from foreign countries. A local Iraqi body or international organization should take the initiative in commissioning a survey of Iraqi media consumption. While such surveys are costly, a set of regularly updated surveys should be available publicly as a common database for Iraqi actors, regional media organizations and international donors to better assess the media environment. Reputable agencies such as InterMedia have conducted media surveys for specific clients. One of the weaknesses of this paper is that while various private surveys, as well as interviews with local journalists, indicate that consumption of ethno-sectarian media is on the rise in Iraq, reliable statistics on Iraqi audience preferences and media consumption are lacking. Such trends need to be documented in a proper survey to help both local and international actors and policymakers in devising the most

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36   Karlowicz, op. cit., 127.

effective strategy to prevent the emergence of media that encourage violence or at least provide a viable alternative.

C) Conduct an Audience Research Survey

There are no reliable statistics of audiences in Iraq. Audience research can determine how age, location and income affect media consumption. Such information will be valuable to advertisers and boost the revenues of independent media in Iraq, thus strengthening an alternative to media dominated by political factions.

2. IMPROVE AND IMPLEMENT MEDIA REGULATION

The principal media regulatory body in Iraq is the Communications and Media Commission of Iraq (CMC), formed in 2004. The function of the CMC is similar to the American Federal Communications Commission (FCC) or the UK's Office of Communication (OfCom). The CMC is a body designed as an independent regulatory authority for Iraqi communication industries, including television (both satellite and terrestial), radio, telecommunications and wireless communications such as Internet. According to the 2005 Constitution, the CMC falls under the jurisdiction of the Iraqi parliament. In terms of this policy paper, the CMC is important as it is charged with establishing the framework and editorial guidelines for the content of TV and radio programs. In the past, these functions were controlled by the Iraqi Ministry of Information, with the Ministry essentially using the media to disseminate Ba'athist propaganda, so the establishment of the CMC is a positive step. (The Ministry was abolished after the 2003 Iraq war.)

Several recommendations can be made to the CMC and other Iraqi governmental entities. Karlowicz's study notes:

> In some countries where conflict was fuelled by ethnic hatred (e.g. Rwanda, Burundi, Bosnia, Kosovo) an initial "hard hand" on the media may be necessary to stop further incitement of violence. Temporary and emergency measures such as a hate speech regulation, applicable to both the print press and broadcast media, may be necessary to keep the fragile peace under control. However, such measures should *only* be implemented at the very initial phase of the mission when journalistic self-regulation is largely absent.[37]

The interim administration of Iyad Allawi demonstrated its "hard hand" when it closed the offices of the pan-Arab channels Al-Jazeera and Al-Arabiyya in August 2004 for "incitement to hatred." It charged that these channels bestowed regional legitimacy upon the insurgents by framing them as an "Iraqi resistance." Now, the Commission will also have to deal with the local Iraqi channels as well.

A) Increase Awareness of Media Regulation in Iraq

The CMC needs to increase its profile among journalists. I realize that many of the journalists I interviewed had not even heard of the body. Other journalists have expressed critiques of the Commission, arguing it has not done enough. Sa'ad Al-Saraf of the Star TV Network stated in regards to the CMC: "Indeed, there seems to be a sort of 'look the other way' approach to enforcing the commission's rules, such as the ban on 'spreading sectarian, racial and religious sedition and strife.'"[38]

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37   Karlowicz, op. cit., 131.
38   Cochrane, op. cit.

B) Enhance the Existing Broadcasting Code of Practice, Create a Code for Reporting Ethno-Sectarian Issues and Further Fund the Monitoring Body

The CMC operates under an Interim Broadcasting Program Code of Practice that was inherited from former CPA Order 65, which restricts media messages that "incite violence." The second recommendation calls upon the Iraqi National Assembly to urgently deal with a draft law introduced by the CMC to replace the CPA Order. The CPA Order has a stigma in Iraq, as many would point out that it was those CPA Orders that called for the closure of Muqtada Al-Sadr's outspoken *Al-Hawza* newspaper, which ultimately ended up inciting violence between his forces and the U.S. military. Passing this law will give both the CMC and its codes more legitimacy in the Iraqi media environment.

If this legislation passes, the "Interim" Broadcasting Program Code of Practice would presumably become "permanent." The Code, as is, seeks to protect freedom of speech, as long as that freedom is not abused by inciting violence or upsetting ethno-religious dynamics in Iraq. However, this Code will need to be more specific in defining what constitutes "incitement to violence." Agreeing on this matter should be done with the CMC and with a body of Iraqi journalists so that such a code can be based on consensus. Such a Code must give concrete examples of how tele-visual media in the past have "incited violence." Second, such a Code should specify the punishments that will be meted out to channels that intentionally incite violence. Additionally this Code should acknowledge, with concrete examples, how ethno-sectarian violence may be encouraged indirectly by the media, and indicate that equal punishments will be incurred for such infractions. The court system in Iraq is inundated with cases, so a special body for media arbitration should be created for the media outlets to settle media related disputes.

While enhancing the existing Code of Practice will be a positive step, this policy paper recommends creating a specific Code for Media Reporting on Ethno-Sectarian Issues. This recommendation is based on a past precedent where the CMC created a Code for Media During Elections, which laid out rules on how the Iraqi media should cover the 2005 electoral campaigns. Creating a separate Code for Ethno-Sectarian Issues will demonstrate that the CMC acknowledges the problem and is serious about resolving it.

The question remains as to how to prevent ethno-sectarianism in the Iraqi media, while still allowing for free speech. The first step is for the CMC to elaborate on a code of ethical journalistic practices when reporting on ethno-sectarian issues. Such a code will demonstrate to all Iraqi media outlets that the CMC's actions are based on a set of values reached by consensus, rather than arbitrary sanctions imposed by an organization akin to the former Ministry of Information.

In order to ensure that stations comply with this code, the CMC will have to ensure continuous monitoring of the Iraq media. The CMC has an established Monitoring and Research Department which surveyed the media during the elections to ensure compliance with their elections reporting code. The relevant entities in the Iraqi legislature should increase funding to the CMC so it can expand this Department to carry out this monitoring task. In the long term, this Department should make public the findings of this body, with regards to the media's incitement of ethno-sectarian tensions, as well as issue a report of media seeking to defuse tensions.

C) Apply Specific Measures to Deal with Ethno-Sectarian Media

The government and the CMC should adopt measures making special provisions for political, sectarian and religious broadcasters. License renewal can be connected to requirements that these channels have

a board or staff that are heterogeneous. These stations could be required to include programming that reflects Iraq's ethno-sectarian mix in a positive manner

3. INCREASE INTERNATIONAL ASSISTANCE

A) Create an Iraqi Media Loan Fund

International donors and NGOs have aided with media development projects and this trend should continue. A loan fund should be established to develop support, capacity building and training for non-partisan media in Iraq. An example of such an initiative includes the South African Media Development Fund, which was developed in conjunction with the Free Voice of the Netherlands and Open Society Initiative of Southern Africa (OSISA).

B) Create an Iraqi Media Development Network

International actors have made positive contributions to the Iraqi media. Various ministries of the governments of the UK, Germany and the Czech Republic have offered assistance to the developing media in Iraq. Al-Mirbad Radio and TV in the south of Iraq was established with a grant from the UK Department for International Development, with the BBC World Service Trust providing training and infrastructure needs. The German Foreign Ministry sponsored Telephone FM, a youth program produced in Germany and then broadcast by FM stations in Iraq. The independent news outlet Aswat Al-Iraq was established with aid from the Reuters Foundation and UNDP. The Institute for War and Peace Reporting (IWPR) and International Media Support (IMS) have been active in developing the Iraqi media. Other NGOs have had experiences in training Iraqi practitioners in Jordan, while still others are seeking to develop Iraq's cultural, entertainment and film media. These various actors should "pool" their expertise together in a common network so that each party benefits from the others' experiences with the Iraqi media.

4. IMPROVE MEDIA EDUCATION

The solutions to the status quo in the Iraqi media landscape cannot solely rest with legislation against media outlets that incite hatred. Media regulation does not solve the problem of educating journalists on social responsibility and reporting during times of conflict. One of the problems in Iraq is that professional standards and practical training for journalists are relatively new in a society that repressed its media in the past. Though journalism schools existed during the Ba'athist era, instruction focused on promotion of the views of the Ba'ath Party. Under the circumstances of ethno-sectarian reporting in Iraq, international media organizations should raise awareness of international standards in journalism to local media practitioners.

A) Improve Training for Iraqi Media Practitioners

In a survey distributed to the Iraqi radio and TV channels, the most common request was the need for "technical training of their staff." Often media stations in Iraq would receive donations of high-tech equipment that their staff did not know how to use. Granted, the security situation makes such future cooperation difficult in the country itself, as foreign trainers may be hesitant to travel to Iraq. Such difficulties can be overcome by holding workshops abroad to train Iraqis to serve as media trainers once

they have returned to Iraq. International assistance should be dedicated to financing Iraqis to take part in these training sessions abroad. Training should include technical matters and issues of media law and ethics, such as those offered at the Program for Comparative Media Law and Policy at Oxford University (http://pcmlp.socleg.ox.ac.uk/).

B) Improve Local Media Educational Institutions

International assistance should also be directed towards developing the institutional capacity of Iraqi media. Education in these institutions could focus on how journalists can conduct balanced reporting at a time when their nation is on the brink of a "civil war," and thus create an alternative to an ethno-sectarian media. Baghdad University's College of Mass Communications, as well as other Iraqi universities with Communications departments, is in desperate need of updated technical equipment. Faculty at these universities can benefit from intellectual development by revising their syllabi and curricula; this process can be facilitated by hosting Iraqi media professors in foreign universities.

Outside of the university system, most media practitioners agree that an independent institute should be created to offer professional and mid-level training to Iraqi media practitioners. In this capacity, international donors can offer financial and technical expertise for establishing such an institution.

5. Protect Iraqi Journalists

A free and pluralistic media cannot emerge when the journalists are themselves targets of the violence they seek to cover. Improving education for Iraqi journalists may seem like a moot point, when once they have acquired their skills they could be targeted in Iraq's ensuing violence. Protecting Iraqi journalists would seem to be crucial, yet it is most complex, as it involves security organizations not necessarily involved with media. The plight of the independent journalist in Iraq in between conflicting ethno-sectarian media should be emphasized. Refusing to comply with pressures from competing political factions to portray a party in a positive or negative light can result in significant dangers. Organizations such as the International Federation of Journalists have called on the Iraqi and U.S. governments to make a commitment to protecting journalists and freedom of the press, as well to bring to justice those who target journalists in violent attacks. Yet the question is, how to protect journalists, if the Iraqi security forces can barely protect themselves? Iraqi journalists could embed with Iraqi security forces, but that may also make them a target, or influence their reporting. Given the current security situation in Iraq, an independent NGO or other international organization should develop a standardized program that deals with reporting in conflict zones and offers training for Iraqi journalists to learn to better protect themselves while covering potentially dangerous topics or areas.

6. Create a "Peace Media" Alternative

While this policy paper has highlighted how media have emerged as powerful tools in increasing awareness of ethno-sectarian divisions in a deeply-divided society, it has also shown that they have the potential to shape and influence public attitudes in overcoming tensions. The media can channel communication between parties and serve a dialogical role in the ethno-political context, ultimately building confidence between parties. The cases of such a "peace media" are rare, yet there are organizations that can offer advice to Iraqi journalists on how to create such a media.

A) Learn From Other Applied Experiences in Peace Media

The NGO Search for Common Ground (SFCG) has had extensive experience in creating "peace media" and offers three strategies for transforming the media in areas of conflict. First, they advocate the media playing a role where they deliver a free flow of accurate and constructive information and counteracting misperceptions. Second, they suggest that the media can build confidence and mediate between conflicting parties by fostering dialogue and communication between the parties. Finally, they state that the media can serve a "watchdog" role, or as instruments of early warning for the potential escalation of a conflict.

SFCG advocates a holistic approach to societies where conflict has occurred or has the potential to break out. In their opinion, addressing only media institutions fails to bring in other actors who have a role in the conflict. They stress that a sustained effort to transform a conflict has to involve efforts to change the mentalities of individuals as well as societies, and thus they seek to involve governmental organizations, non-governmental organizations, businesses (including media owners), public opinion leaders, academics and marginalized sections of society into their programs.[39]

The Search for Common Ground techniques include training workshops for media practitioners in African countries such as Angola, Burundi, Rwanda, Liberia, the Democratic Republic of Congo, and Sierra Leone; the Balkans in Macedonia and Albania; as well as the Middle East, Sri Lanka, Cyprus and its Greek-Turkish project. Their assistance focuses on three different aspects of local media structures in conflict zones that seek to create a media culture that allows for a variety of opinion, provide professional training for journalists and provide equipment to local media.

B) Develop a Peace Media Strategy

The following techniques adopted by Search for Common Ground should be applied inside of Iraq:
- Workshops on dialogue facilitation and collaboration for Iraqi media practitioners
- Workshops to educate journalists, station owners and producers on how to defuse inflammatory coverage
- Training local journalists and students in conflict resolution skills using various media and materials
- Joint media projects between the various ethno-sectarian groups
- Facilitating meetings between owners of independent and ethno-sectarian media
- TV and Radio programs fostering dialogue and cooperation between journalists from different ethno-sectarian groups
- Documentaries about initiatives that bring ethno-sectarian groups together
- Drama series that use entertainment to convey themes of ethno-sectarian cooperation
- Programming for children that deals with these themes

C) Focus Attention on the Entertainment

Peace media strategies should focus on entertainment, such as films, drama series and comedies, as these programs can reach wider audiences and provide a release from the daily violence in Iraq. Entertainment

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39   Sandra D. Melone,, Georgios Terzis, and Ozsei Beteli, "Using the Media for Conflict Transformation," Berghof Research Center for Constructive Conflict Management, April 2002, 10.

that can include fictional characters representing all of Iraq's communities, as well as actors from Iraq's ethno-sectarian mosaic, can provide a tele-visual alternative for the Iraqi public to the news of continued inter-ethnic and inter-sectarian strife.

D) Provide Literature on Peace Media

Existing material on peace media and journalism is primarily in English. Useful articles and handbooks should be translated into Arabic, Kurdish and Turkish to be distributed at media institutions and educational facilities.

This paper demonstrates that the media landscape in Iraq is at a juncture where it has the potential to exacerbate the ethno-sectarian tensions that already exist. Rather than waiting for the media to turn into instruments of hate and further distancing these communities, the policy recommendations in this report are essentially proactive measures to ensure that the media can serve as tools of reconciliation, if not cohesion.

Appendix A:
Sample of Ethno-Sectarian Media in Iraq

Political Islamist Media

Arab Shi'a Media

<u>SCIRI</u>

Al-Adala (Justice) daily paper

Al-Wahdah (Unity) weekly paper

Al-Ghadir radio station

Al-Furat (The Euphrates) satellite channel

<u>The Da'wa Party</u>

Al-Da'wa (The Call) daily paper

Al-Bayan (Announcement) weekly paper

Al-Masar radio station

Al-Masar TV channel

<u>Sadr Trend</u>

Ishraqat Al-Sadr daily paper

Al-Hawza Al-Natiqa (The Active Hawza) weekly paper

Al-Salam radio station

Al-Salam TV station

<u>Iraqi Hizbullah</u>

Al-Bayyinah (Evidence) paper

Arab Sunni Media

<u>Iraqi Islamic Party</u>

Dar Al-Salam (House of Peace) radio station

Dar Al-Salam (The House of Peace) newspaper daily paper

General Dialogue Conference

Al-'Itisam (The Guardian) daily newspaper

The Unified National Movement

Al-Sa'ah (The Hour) biweekly newspaper

The Association of Muslim Scholars

Al-Basa'ir (Insights) daily newspaper

Ethnic Based Media

Kurdistan Democratic Party (KDP)

Khabat daily newspaper in Kurdish

Al-Ta'akhi (Brotherhood) daily newspaper in Arabic

Voice of Iraqi Kurdistan radio station

Kurdistan Satellite Channel

Patriotic Union of Kurdistan (PUK)

Al-Ittihad (The Union) daily newspaper in Arabic

Kurdistan Nuwe daily newspaper in Kurdish

Al-Hurriyya (Freedom) radio station

Al-Hurriyya (Freedom) terrestrial Arabic TV station in Sulaymaniyya

Voice of the People of Kurdistan radio station

KurdSat satellite channel

Iraqi Turkmen Front

Turkmenelli (The Turkmen Nation) daily newspaper in Turkish

Turkmenelli (The Turkmen Nation) radio station in Kirkuk, Tal Afar and Mosul

Turkmenelli (The Turkmen Nation) terrestrial TV in Kirkuk

Assyrian Democratic Movement

Bahra Al-Diya (The Light) newspaper

Ashur (Assyria) terrestrial Arabic TV station in Sulaymaniyya in Mosul

Appendix B: References

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Toward an Understanding
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