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Legislative Strengthening Program

MP ORIENTATION MANUAL

March 2011

Contract No. 263-I-03-06-00015-00 (REDI Task Order No. 3)

March 29, 2011

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MP ORIENTATION MANUAL

March 2011

Submitted by:
AECOM
2101 Wilson Boulevard, Suite 700
Arlington, VA 22201, USA

T: +1.703.528.7444
www.aecom.com

In association with:
Management Systems International

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من الشعب الأمريكي

LEGISLATIVE STRENGTHENING PROGRAM

برنامج دعم وتطوير البرلمان پرۆگرامی پشتگیری و پەرەپێدانی پەرلەمان

Parliamentary Toolkit

A Concise Manual for MPs

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Introduction

"Iraq's parliamentary experience dates only from the last century. Yet, its pivotal place as the world's first civilization gives us pride and confidence as we face the future.

"The relationship between Iraqis and Americans is based on genuine friendship, mutual respect and cooperation."

His Excellency, Mr. Speaker Osama al-Nujaifi
Council of Representatives

"Iraq finds itself at a promising and challenging juncture in its democratic development. The United States, through USAID, is proud to work with the Council of Representatives as it moves forward."

Dr. Alex Dickie
USAID Mission Director

"This program is being implemented in cooperation with USAID. The main objective is building the capacity of the COR and, especially, assisting MPs to get fully acquainted with their responsibilities and duties."

Amjad Abdul Hameed
Secretary General, Council of Representatives

Dear Member of Parliament,

In most democratic legislatures, the elected representatives are a diverse group of people with life experiences and skill-sets that cover a broad range. From entrepreneurs to educators, from architects to lawyers, they bring impressive talent to their new jobs. Iraq's Council of Representatives is no different. You and your colleagues come from every walk of life in this great nation and bring with you many of the tools required to ensure that the COR fulfills its function in a thorough and exemplary manner.

However, notwithstanding your competence in your previous fields of endeavor, you will have already realized that your new job as an MP is not quite like anything else that you have experienced. Much is expected of you. You have been mandated to be a guardian of the Iraqi constitution, a lawmaker, a watchdog of government spending and a representative of the people.

This Parliamentary Toolkit is intended to assist you in carrying out your parliamentary responsibilities. In this manual, you will find basic information about your role in the COR's plenary sessions and in committees, guidelines for effectively representing your constituents and tapping into civil society, tips on dealing with the media and much more.

The presentations contained in this booklet were delivered at a conference of Iraqi MPs held in early 2011. It is sincerely hoped that you and your work will benefit from the ideas and suggestions included in the following pages.

Sincerely yours,

Dr. Stephen Harris
Chief of Party
Iraq Legislative Strengthening Program

Chapter

1

The Role of a Parliamentary Secretariat

An effective legislature depends on its permanent, apolitical staff. Constituents expect that their elected representatives will become instant experts on policy matters that, in most cases, fall outside the scope of their representatives' professional background. MPs rely on the objective research and analysis of experienced, specialized staff. Moreover, parliamentarians operate in a body with inherent weaknesses in institutional memory; in a healthy democracy, MPs sometimes lose elections. The presence of an administrative machinery that endures across legislative terms provides welcome continuity and efficiency to the environment in which MPs work. The purpose of the parliamentary secretariat is to serve MPs. At the same time, MPs must remember that the efficacy of the secretariat depends on their respect for the secretariat's political neutrality and meritocratic culture.

The Role of a Parliamentary Secretariat

John Pullinger

Director General, Information Services, House of Commons, United Kingdom

Note: The following is the abridged version of a speech delivered to MPs at the COR in January 2011

It is an honour and a privilege to have been invited by your authorities to talk to you today about the role of a parliamentary secretariat. I come to you with greetings from John Bercow, the Speaker of the United Kingdom House of Commons, who wishes you every success in the development of your Parliament.

In my presentation to you I am not offering a recipe for success. I am not aiming to tell you what to do. I am, humbly, going to share with you what happens in the Parliament of my country, an institution I have been proud to serve as a member of its Management Board for the last six years.

In my six years service I have experienced two general elections. The most recent, in 2010 resulted in a large change in Members of Parliament. 232 were newly elected.

At a time of major political change, the stability of the parliamentary administration has been an essential element. It has enabled alternative, conflicting, political voices to be heard in consideration of new laws, challenge of the executive and representation of the people.

I, and my fellow administrators, are servants of the House. We are employed by the House. We have no other allegiance. The core ethics of each person within the administration are integrity, professionalism and teamwork.

By integrity, I mean honesty and also impartiality: we must serve Members of all parties and none equally. Every single Member of the House should receive the same service from the administration.

By professionalism, I mean excellence and also expertise: Members of the House come from a wide variety of backgrounds, some are experts in particular subjects but as a Member of Parliament, Members need to be “instant experts” on many topics. We are there to equip them for this challenge.

By teamwork, I mean that the whole administration works together in a cooperative manner to meet the needs of Members and the House as whole and also that individuals are committed to the service of the institution and are continuously learning and improving their personal effectiveness and the effectiveness of the parliamentary process.

So, how does it all work? Effective governance is essential. The governing body for the House of Commons administration is the House of Commons Commission. The House of Commons Commission is chaired by the Speaker and includes five other senior Members from the main

political parties. It is responsible for setting the budget, the policy framework for the administration and the rules for staff.

The House of Commons Commission is supported by other committees of Members. These are known as Domestic Committees. These committees review standards of service to Members and priorities for the administration. They provide a sounding board to ensure that the voices of Members are heard by the staff.

In addition, individual staff develop close working relationships with individual Members. This enables the administration to get to know Members well enough to ensure that their needs can be anticipated and that the service is well attuned to their requirements. Staff in our Parliament are not remote from Members sitting behind a desk. It is the closeness to Members that gives us the ability to provide a unique service.

The mechanisms for governance and the relationship between staff and Members are complemented by mechanisms for management of the administration. The Chief Executive is the head of the administration. He is the Accounting Officer, ensuring that the budget agreed by the House of Commons Commission is spent with due regularity, propriety and economy. He is also the principal advisor to the Speaker.

The Chief Executive is supported by the Management Board comprising the heads of the four House of Commons departments plus two external members. To give an idea of the nature of the service we manage I will give you two examples from the department which I head: the Department of Information Services.

The first example is the service dedicated to library, research and information services for Members. The service is similar in its scope to that of the department in the Iraq COR headed by Dr Mayada.

In this service we provide responses to enquiries from individual Members. Typically we receive about 100 enquiries per day when the House is sitting. About 75 per cent of Members are regular users of this service and we have a team of specialist lawyers, constitutional experts, economists, scientists, statisticians and others on hand to provide analysis on any aspect of the parliamentary work of Members, whatever their political affiliation.

As well as providing answers to enquiries, we prepare briefings in advance on topics we know will be of interest to Members. These include briefings on legislation being considered by the House, debates and issues of current political interest. Perhaps 50 each week of these are prepared and released as paper documents and also online through the website and intranet.

In addition, subject specialists are available to provide training for Members to help them understand complex or technical questions such as on European law, science, technology or statistics.

My second example is the service dedicated to providing information to the public about the work and role of Parliament. The service is similar in its scope to that of the department in the Iraq COR headed by Mr Mohamad Abubakr.

In this service we have put a lot of effort in recent years into the development of the website. This allows us to make use of the power of visual images of Parliament through a range of means from broadcasting to YouTube. The website also enables us to engage with audiences that Parliaments often struggle to reach by using Twitter, Facebook and online games. In addition, and most fundamentally, the website enables us to show that Parliament is open. It contains huge amounts of information that is easily available to all citizens.

Alongside development of the website, we have been improving our services for visitors to the parliamentary buildings. Our goal is to make Parliament welcoming whilst recognising the challenges imposed by security, the need not to impede parliamentary business and the constraints of physical space.

In addition, this service seeks to reach out to citizens across the country and engage them in the processes of legislation and challenge of the work of the executive. Working closely with the media is an important element of this. As too is working with younger people and schoolteachers.

These examples are designed to give you an idea of the range of services that could be offered by the parliamentary administration. The services that are to be provided in any individual case need to be determined by the needs and resources of the institution.

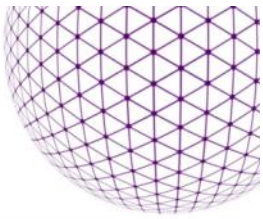
The most important elements, however, that I want to leave you with today are, that in the United Kingdom, I, and other parliamentary staff, are there to serve each individual Member of Parliament impartially, whatever their political position. I, and other parliamentary staff, are there to give each individual Member of Parliament the benefit of our expertise on all aspects their parliamentary work. I, and other parliamentary staff, are dedicated to the success of our Parliament. We have no other allegiance.

In turn, I would like to dedicate this speech to you, the parliamentarians of Iraq. I wish you every success in your work. Thank you very much.

Chapter 2

The Role of Parliament

The Iraqi Constitution clearly articulates the role of the Council of Representatives. Articles 47, 49, and 61 stipulate that the COR is responsible for legislating, overseeing the executive, and representing Iraq's citizens. The role of the individual parliamentarian is less clear: MPs derive their mandate from their constituents and set their own agendas, often in collaboration with their respective political blocs. Political rivalries are a healthy aspect of the democratic system, and individual MP agendas have the potential to invigorate the COR. At the same time, by putting aside political differences, MPs can work together to harness the strengths of the COR, which range from its distinct constitutional powers, such as the ability to call ministers to testify, to its internal resources, such as the talents of the parliamentary staff.



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The Role of Parliament

Greg Power

Director

The purpose of support to the Council of Representatives

- Not our role to determine change
- The Majlis Nuwab must define the problems and find its own solutions
- Impossible to transplant one political system into another country
- But we can provide international insights, experience and expertise

Project team

- Greg Power - Former UK government adviser and international parliamentary expert
- Faten Hussein - Project co-ordinator, Middle East programmes
- Lord Kirkwood - Former MP, committee chair
- Meg Munn MP - Former Foreign Office minister, and minister for women
- Colin Breed - Former MP, defence committee member, health expert

The role of parliament

Three key roles:

- Legislation, oversight, representation
  - Individual members determine how parliament works
  - Three key determinants:
    - How members define their role and tasks
    - How well parliament performs a strategic role in government
    - How the institution develops and uses its processes and resources

The role of the representative

- The job of the MP is not like any other
  - There is no job description or person specification
  - There is very little training
  - There is little which tells you how to do the job
    - Rules of procedure explain how the institution is run – not what you should do or how you should do it
- MPs themselves decide how to do their job
  - And, in doing so, decide how effective the institution will be

Challenges of developing MPs role

- High turnover at election, large number of new MPs
  - Importance of 'institutional memory'
- Different perceptions of:
  - How institution should be run
  - The role of the member of parliament
  - The relationship between parliament and government
- Policy priorities will differ amongst, MPs, parties, blocs
  - But parliament only effective if general agreement on process
- Decorum in the plenary session
- Committee working methods

Parliament's strategic value - legislation

Stages of legislative scrutiny

- Approving the principle of the law – does parliament agree with the purpose of the law?
- Detailed examination and amendments of law's provisions – is the law properly drafted?
- Test the implications of the law – will it do what it is designed to do?
- Final approval and agreement

Parliament's strategic value - oversight

The oversight role

- Transparency– government policies and actions are debated, exposed to scrutiny and held up to public opinion.
- Delivery - whether government policies have been implemented, and whether they are having the desired impact.
- Value for money - to approve and scrutinise government spending.
- Tackling misuse of power - protect the rights of citizens by detecting and preventing abuse of power.

Oversight mechanisms

- Plenary session
  - Debates, questions, interpellations
- Committees
  - Inquiries, evidence-gathering, questioning ministers
- External oversight agencies
  - Supreme audit institution, ombudsmen

Parliament's strategic value - representation

Representation

- Listening – identifying and understanding public concerns
- Articulating – raising issues within parliament to government on behalf of voters
- Calling to account – seeking to change policy or legislation
- Responding to the needs of individuals and groups

A realistic assessment of parliamentary power

- Parliaments do not 'implement', they monitor
- Parliaments do not have the same capacity or resources as ministries
- Politicians do not have the same policy expertise as government departments
- The role of parliaments is to draw out the political, economic and social significance from issues for the public
- Individual politicians have less impact when they work in isolation

Key parliamentary resources

- Internal – especially parliamentary staff
  - The role of staff
    - Information and research
    - Advice and guidance on procedures
    - Delegation of tasks
    - External – the public and outside expertise
  - Political opinion must be based on evidence
    - Outside experts: academics, policy specialists
    - Government information and polling
    - The public

Parliamentary control

Parliamentary oversight "is not a stop switch, it is the tuning, the tone and the amplifier of a system of communication which tells government what the electorate want"

"Parliamentary control of the Executive – rightly conceived – is not the enemy of good government, but its primary condition"

Professor Bernard Crick, 1970

Characteristics of effective international parliaments

- Clear understanding, and common acceptance of rules and procedures
- Cross-party collaboration around specific policy objectives
- Internal organisation and efficient administration
- Where power is limited, creative use of rules to question ministers and amend legislation
- Oversight not always adversarial – scrutiny for a purpose
- Effective use of limited resources

Chapter 3

How Parliamentary Committees Work

Committees are the policy engines of parliament. After first gathering information and input from both ministries and civil society, committees initiate and refine policy and scrutinize its implementation. In order to function effectively, a committee must determine its priorities, establish a workplan, and adopt procedures which facilitate consensus. MPs who work across party lines in committee will produce tangible results for the Iraqi people. Their records of success will enhance their public profile, distinguishing them in the eyes of the electorate from those who offer only aspirational statements or identity-based slogans.

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How Parliamentary Committees Work

Greg Power

Director

The functions of committees

- Article 77 – questioning ministers
  - The Committee, with the agreement of the majority of its members, and after informing the Speaker of the COR and the Prime Minister, may invite any Minister or those with the rank of a minister for clarifications. The invited official should attend the committees' meetings within seven days from the date of receiving the invitation.
- Article 118
  - The ministries are obliged to inform the competent committees of the strategic decisions, administrative matters and professional instructions issued by them
- Article 87 – legislation and oversight
  - Every standing committee may propose laws related to its jurisdiction according to the procedures stipulated in this Rules and Procedures
  - Each committee of the Standing Committees shall study the bills and draft laws related to its jurisdiction, and shall express its opinion on these bills and on other subjects … related to its jurisdiction
  - Each committee should follow up and monitor the maintenance of balance in institutions related to its jurisdiction
- Article 113
  - All committees shall, within the limits of their jurisdiction, follow up the statements of the ministers on all subjects and make recommendations in this regard

Challenges for committees

- Committees are the engine of parliamentary work – co-ordinating committee and plenary
- Problem of only reacting – how to balance legislation and oversight
- Creating effective cross-party collaboration
- Limitations to formal power
- Limited resources

A strategic approach to committee work

- Establish purpose and vision
- Develop a workplan for the next 12 months
- Establish and agree internal systems and processes
- Planning and implementing committee enquiries
- Co-ordinating between different committees

Establishing committee purpose: Health Committee example

- The role of the Committee relates to the Ministries of Health and the Environment, and extends to a) legislating in accordance with the constitution and b) amending existing legislation in line with the new health and environmental policies in Iraq. It is also responsible for overseeing the performance of the administration of Health institutions and the spending of the Health budget approved by the Council.
- Through the work of the Committee, we aimed to achieve the following:
  - The implementation of a new health system in Iraq
  - The identification and removal of all obstacles preventing its successful implementation
  - Putting pressure on the state to increase the budget of the two ministries and overseeing its delivery

Establishing committee purpose: Health Committee example

- The priorities for the Committee were the realisation of a new health system up-to-date with internal and external changes on the medical and technical fronts, and the development of rapid solutions to the various crises in the health sector. The most significant of these were the drug shortage in hospitals, the blackmail of patients during their hospitalisations, the lack of primary healthcare, and the inability to treat many conditions within Iraq for a variety of reasons linked to the capabilities of the health institutions and those working within them.
- As such, the Committee's key objectives were:
  - Providing a new and developed health system
  - Ending the health crises
  - Amending health legislation and providing new legislation
  - Providing and promoting a previously unseen level of parliamentary oversight

Core tasks – examples

- Legislation – introducing laws, reviewing draft government legislation, and providing an opinion to the Council before voting on the legislation takes place
- Policy – questioning the direction, priorities and content of ministry policy, questioning ministers and holding public inquiries in to the impact of policy
- Finance – examining the budget, and reviewing the costs and expenditure of the ministries and related institutions
- Operation and administration – examining the operational performance and mechanisms of work management of the ministries and institutions

Planning the committee's work

Anticipating the workload

- How many laws will come before the committee?
  - Which ones? When?
  - How much time will each take?
  - What resources are needed?
- Are there other events that the committee will need to respond to?
  - e.g. International events, policy announcements, ministerial questions
- Anything else?

Deciding committee priorities

- Which issues does the committee want to examine?
- What investigations will it initiate?
- Where does it want to be most effective/influential?

Establishing internal working methods

- The roles of the chair, deputy chair
- Appointment of rapporteurs or sub-groups of committee
- Choice of committee priorities
  - Reflecting interests of all members
- The role of staff
  - Delegation of key tasks
- Processes for dealing with routine matters
  - Correspondence, questions

Committee enquiries and reports

- Stages for planning committee enquiry
  - Agree subject and issues to be examined
  - Identify key experts to give evidence
  - Issue public call for written evidence
  - Conduct oral hearings with selected witnesses
  - Transcribe hearings, check detail with witnesses
  - Identify committee recommendations
  - Draft, amend and agree report and recommendations
- Committee reports are only as powerful as the evidence on which they are based

Co-ordinating the work of the committees

- Committees likely to have greater impact around issues of common interest
  - Key policy issues such as public services which cross departments
- Financial oversight
  - Policy committees and finance committee
- Sharing information
  - Regular meetings of committee chairs or staff
- Timing of enquiries and reports
- Linking committees to the plenary session

Committee reporting

Structured annual reports

- List of members
- Committee purpose and core tasks
- Working methods
- Activities and achievements
- Assessment of government progress
- Policy and procedural challenges
- Recommendations

Characteristics of effective committees

- Strong collective purpose – cross-party collaboration and core tasks
- Clear planning and procedures – job descriptions and delegation of tasks
- Opinions based on facts – committee reports only as strong as the evidence
- Constant monitoring – efficient committees make government aware of being watched
- Strategic analysis and recommendations – committees do not implement, they monitor

Chapter 4

Protecting the Public Purse

Iraqi citizens expect accountability from their government in matters of spending. The Iraqi people entrust part of their wealth to the government and expect that it be used effectively. MPs have a responsibility to ensure that all government spending is in the public interest. Iraqi citizens have empowered their MPs to actively reshape the draft budget to ensure that the national budget reflects national priorities. Protecting Iraq's wealth does not end with the passage of the budget; it is a continuous process. Drawing on information and analysis from parliamentary staff, independent experts, and ministries, MPs must monitor spending by measuring results and exposing waste and fraud.

Protecting the Public Purse

Yassir Mohammed Tahir

Senior Budget Oversight Advisor

General principles

- The government's money is the people's money
- Because a country's public resources belong to its citizens, all government funds belong its citizens
- The government is responsible for the management of public funds
  - Government must manage public funds properly (without waste or fraud) in the interest of the people
  - Government must be accountable to the people in how it spends public funds
  - Government must develop an annual spending plan, referred to as a budget, that is based on estimates of revenue and expenditure
- The budget law is important because it functions as an authorization for all government activities

Budget planning

- Two main aspects of budget planning
  - Revenue: Money collected by the government from any source, including oil sales and taxes
  - Expenditure: Money spent by the government
- Types of public expenditures
  - Operating expenditures: Expenses resulting from wages, goods, services, and grants
  - Investment expenditures: Expenses from reconstruction and development
- If revenues exceed expenditures, then a surplus will occur. A surplus can invested or can be used to pay off debt.
- If expenditures exceed revenue, then a deficit will occur. Deficits can be financed with savings or by issuing government debt.

The purpose of the budget

- The budget reflects government priorities and the framework for achieving governmental objectives
- The budget is an official government document that allows the public to compare its priorities to those of the government
- The budget moors government action to economic predictions

The formation of the budget

- Forming the budget requires attention to both revenue and expenditure
- The revenue plan is based on the expected future price of oil and on the development of the tax system
  - Oil revenue expectations are grounded in the forecast for the price of oil during the upcoming fiscal year. Because approximately 90% of Iraq's revenue is derived from oil, it is especially vulnerable to unexpected drops in the price of oil. This vulnerability can be mitigated by including a reserve fund in the budget and by being deliberately conservative in forecasting the future price of oil. This vulnerability can be further mitigated by diversifying the sources of government revenue by developing the tax system. In Iraq, implementing an effective tax system will require economic diversification.
- To spend money effectively, government must be realistic about how much money is needed to achieve its goals
- The COR must be given sufficient time to examine and amend the budget
- A deadline for submission of the draft budget law is included in the Financial Administration Law
- The Ministry of Finance
  - The Ministry of Finance coordinates the formation of the draft budget and reviews the spending plans of other ministries. The Ministry of Finance is also responsible for predicting government revenue.
- Financing deficits
  - In prior years, Iraq has budgeted (planned) deficits. However, problems with budget execution led to unexpected surpluses. These surpluses can be rolled over to finance part of the anticipated deficit reflected in the FY 2011 Budget.

The role of the Council of Representatives (COR)

- The COR's work on the budget should reflect the public interest. The COR's definition of public interest should be informed by regular consultations with Iraqi citizens and civil society organizations.
- The COR may amend or reject the draft budget submitted by the Council of Ministers
- Analytical reports prepared by either ministries or the COR may be attached to the budget. Note that the Finance Committee is specifically tasked with drawing on the BRD and outside experts to analyze the draft budget critically. This analysis is circulated as a report among all MPs.
- The COR may pass separate legislation with budgetary implications. Legislating an increase in public-sector salaries, for example, would increase government expenditures in the current year and in subsequent years.
- After passing the budget, the COR must follow up by overseeing the execution of the budget to determine if money is being spent effectively and as directed

The budgetary role of committees

COR committees may advise, oversee, or coordinate on budgetary matters

- Committees can play an advisory role by commenting on the work of ministries that fall under their areas of specialization
- Committees can play an oversight role by comparing ministerial action to the budget and by measuring the impact of that action
- Committees can coordinate policy development between the COR and the executive

Input vs outcome

- Input refers to the resources, including financial resources, dedicated to a policy. Outcome refers to the result of a policy. Measuring inputs is not the same as measuring outcomes. In order to achieve the desired outcome, policies must be built on sound assumptions and inputs must be used efficiently.
- Inputs may deviate from the amount budgeted for unanticipated reasons. For example, construction costs will exceed the budget if the price of steel rises unexpectedly.

What needs to accompany the budget?

- A comprehensive strategic statement identifying key priorities
- The anticipated budget for the following year
  - Including the anticipated budget for the following year can contextualize discussions of the present budget
- A medium-term (three-year) development plan
  - Including a medium-term development plan can assist MPs is making informed decisions about investment spending
- A comparison between actual and budgeted revenues and expenditures from prior years
  - Including a historical comparison between actual and budgeted revenues and expenditures will assist MPs in producing a more accurate budget

The Finance Committee's budget report should include

- Expenditures by sector (health, defense, education, etc.)
- Expenditures by administrative unit (ministry, directorate)
- Revenues by source
- An explanation of the economic assumptions underlying the budget
- A discussion of the risks that the budget faces

Common questions raised by MPs regarding the budget

- If this law is passed, how with it affect my constituency and my committee's area of responsibility?
- Where can I find funding for a particular activity in the budget?
- How is the budget developed?
- How can I amend the budget?
- What will the impact of my work on the budget be?

Financial and administrative corruption

- Financial and administrative corruption impose social and economic costs
  - Corruption retards economic and political development. Because corruption undermines public institutions and adversely affects citizens, it must be attacked using all possible means.
- Promoting transparency within public institutions
  - In addition to implementing mechanisms that hold corrupt officials accountable, Iraq must also promote a culture of anti-corruption and transparency with respect to financial reporting. These measures will enhance public trust in government.
- The COR has the right to monitor government performance
  - Financial and administrative corruption should be a top oversight priority
- The judiciary must be independent
  - Independence from the executive allows the judiciary to be neutral in adjudicating cases of alleged public corruption
- The Board of Supreme Audit
  - The Board of Supreme Audit (BSA) is one of the COR's most powerful anti-corruption tools. The BSA is an independent body that reports to the COR. The BSA scrutinizes government financial and administrative activities to determine if they comply with the law.
- The Commission on Public Integrity
  - The Commission on Public Integrity is an independent body that reports to the COR. It scrutinizes the activities of individual government officials.

Chapter 5

Constructive Parliamentary Opposition

Many democracies have a formalized parliamentary opposition, usually stipulated in the constitution and/or the legislature's rules of procedure. In Canada, for example, the leader of the party with the second-largest number of seats in Parliament is known as the Leader of the Opposition. The same is true in Australia, India, and other jurisdictions.

In the US Congress, the leader of the party not in control of the Senate is called the Minority Leader and spearheads the opposition to the majority party's agenda and regularly proposes alternatives to the program of the majority party. The US House of Representative also has a Minority Leader who functions in a similar manner.

The current Iraqi reality is quite different. There is no party in the Council of Representatives which, by law or precedent, can claim to be the official opposition. Indeed, most of the political blocs are partners in the current national government.
There is, nevertheless, an important role to be performed by all members, whether or not their blocs are included in the national government. Constructive opposition is the prerogative and the responsibility of every MP.

Good government depends on good opposition. A proposed public policy initiative will be improved if the government has to defend and amend it in response to concerns expressed by individual MPs acting in the best interests of their constituents and the nation as a whole.

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Constructive Parliamentary Opposition

Elvis Zutic

Governance Program Director

Parliamentary opposition

- Key element of a genuine democracy
- Opposition must be able to participate in a meaningful manner - democracy is an inclusive process
- Opposition members and those members of parliament who support the government must be treated equally

Who is the opposition?

- Members who do not belong to the party or coalition which forms the government
- Members who vote against the Cabinet at the time of its appointment

Different types of parliamentary opposition

- Wesminster Model:
  - The Opposition consists of MPs who do not belong to the party/coalition which forms the government
  - The largest opposition party/bloc is known as the Official Opposition. Its head is called the Leader of the Opposition and receives a salary
  - The Official Opposition is often referred to as the "government in waiting" or "shadow government"
  - Opposition blocs and members hold the government to account and may propose alternate policies
- Continental-German-Scandinavian Model:
  - Parliamentary republic, proportional representation system, coalition majority in the legislature
  - Multiple opposition parties with very little in common and minimal desire to form united bloc opposed to the government
  - Opposition agreement is required for adoption of important public policy decisions

- Parliamentary-Presidential Model:
  - Typical example France
  - President, directly elected by voters, has a wide range of powers
  - Weak parliamentary opposition, does not participate in policy-making process
  - No special status or compensatory powers
  - Non-parliamentary forms of protest — strikes, rallies, demonstrations

Key functions of the opposition

- To offer a reliable alternative to the majority in power
- To provide other policy options for public consideration
- To oversee and criticize the work of the ruling government
- To continuously evaluate government action
- To ensure transparency of public decisions and defend the public interest by opposing the misuse of public funds

Rights of the opposition

- To express their ideas freely
- To have equal treatment and same work conditions to as those members who support the government
- To receive priority during question time (ask more questions of the government than members of majority)
- To initiate motions of non-confidence in the government
- To set the agenda of certain parliamentary sittings
- To request the setting-up of a committee of inquiry
- To participate in the management of parliamentary business (as speaker or other parliamentary officer)
- To get its fair share of parliamentary speaking time
- To participate in committee work (at least one committee should be chaired by a member of opposition)
- To have full access to media

Responsibilities of the opposition

- To offer a reliable alternative to the ruling party or coalition
- To propose valid alternatives to the political choices made by the government
- To influence and improve government policies for the sake of the general interest
- To exercise their responsibilities with due respect to the constitution and the law
- To enhance the effectiveness of parliament
- To act in the best interests of citizens and the state

Concept of the 'opposition day'

- The day on which the opposition sets the parliamentary agenda
- UK: 20 opposition days per session - Canada: 22
- Opposition days allocated among opposition parties in proportion to their membership in the parliament
- Opposition day excellent chance to criticize the government and their policies
- Opportunity to focus attention on issues that government would rather ignore
- Gives opposition increased parliamentary influence
- Example: defeat of British Prime Minister Brown during opposition day - Gurkha policy

How to be a constructive opposition

- By submitting legislative proposals
- By amending government legislative proposals
- By submitting written and oral questions to government ministers, Prime Minister, Presidency Council, government agencies
- By attending committee meetings and hearings
- By being active in constituencies; solving constituents' cases
- By collecting petitions of support for opposition initiatives

Chapter 6

Collaboration with Civil Society

There are hundreds of civil society organizations in Iraq which, together, cover a broad range of issues from community service to media rights to farmers' issues. MPs must identify those organizations that have the independence and capacity to assist them in their legislative and oversight roles.

Civil society groups can be a very valuable source of information, ideas, and support. Their assistance in formulating policy and their role as a bellwether and shaper of public opinion can help MPs design targeted, effective policies and generate constituent input into difficult decision-making. Members of the Education Committee in the First Parliament, for example, invited student associations to provide testimony during a public committee hearing.

Collaboration with Civil Society

Jamal Abu Khadijah

Government Oversight Specialist

Outreach with civil society and citizens

- The Council of Representatives (COR) conducts effective outreach to civil society to discuss and exchange views with regard to the general policies, draft laws and issues considered by the Council. Outreach is done through means of dialogue, consultative meetings, and electronic publishing. Meetings are going to be held in Baghdad and at the local level in the provinces. They include face to face meetings, meetings done by visual and audio means "video conference," and exchange of information through the Internet as well.
- Outreach helps the Council of Representatives to improve and develop the quality of draft laws and policies by getting informed about views of civil society on several issues of concern to the Iraqi citizen. By seeking the views of specialized civil society organizations, and listening to the opinion of the citizens through consultation with civil society organizations whose membership includes the rich and the poor and which forms a full base that can be leaned upon when taking decisions. It also helps promoting the principle of transparency and accountability and the people's understanding of the work of the Council of Representatives.
- The Council of Representatives (COR) as the legislative power in Iraq, realizes the responsibility it is shouldering in order to improve the life-way of citizens and partnership with civil society in promoting and strengthening local communities.
- The COR sheds, through its website, light upon bills it has issued or under its consideration, and meetings minutes, committees activities which may capture the interest and / or the participation of civil society

How can I be aware of the news, recent developments and the activities of the Council of Representatives related to the civil society?

- The COR website on the internet, which contains important information such as draft laws being considered by the Council, events, and policies
- COR provincial offices
- COR Newsletter issued after sessions
- Committees' activities at COR website

The reason behind the COR interest in working with civil society institutions

- The COR realized through dealing with the institutions of civil society in the first parliamentary session that these organizations could play an important role in communicating citizens' voice and involving them in the process of making decisions that affect their welfare, and develop effective and sustainable development, government

accountability, and policies makers. The participation of civil society will lead to enhance the performance and work of the COR through the contribution of local and technical expertise, present the creative and brainstorm solutions and the use of partnership method in solving problems and issues faced by the citizens.

Does COR consult with civil society on bills and policies?

- COR consults widely with civil society organizations on the draft laws and policies, issues and strategies, such as the sectoral strategies (such as health and agriculture sectors) and on key issues such as unemployment, services and education

How can I get information from COR?

- COR seeks to explain its work to the largest possible number of civil society institutions and citizens to promote the principle of accountability and transparency in the work of the Council. Also, Council's documents are ought to be accessible to the public, through the website of the Council on the internet.
- The Council of Representatives established its offices in the provinces that can be visited by citizens or they can direct inquiries and complaints, either through attendance in person or by phone or email. Each of these offices works as a central point of contact in the province for people who wish to obtain data, documents or information about the work and achievements of the Council.
- COR provincial offices play a key and pivotal role in informing the institutions of civil society and the public on the work of COR and educate them about its role, functions, its activities and achievements
- The COR offices in the provinces is communicating through the use of the mechanisms of control visits, open meetings, newsletters and brochures

How to outreach with the Council of Representatives

- The COR can be communicated by:
  - COR website on the internet
  - Directly with the MPs
  - Committees
  - COR Media Directorate
  - COR provincial offices
    - Complaints Committee
    - MPs Affairs Committee
    - Regions Committee

Chapter 7

Effective Use of Parliamentary Provincial Offices

The COR's provincial offices can help MPs to effectively represent their constituents through regular contact with citizens and communities. In addition to serving as a conduit for constituent complaints to the COR and helping MPs stay informed about local matters, provincial offices can also improve the image of the COR and enhance respect for the position of a parliamentarian. If MPs continuously monitor and respond to the needs and attitudes of the electorate, they will continue to be worthy of the people's trust.

Effective use of Parliamentary Provincial Offices

Karim Shaaban

Provincial Offices and Donor Coordination Specialist

Overview

- What is an Iraqi Council of Representatives' provincial office?
- How Can Provincial Offices Facilitate Your work as a MP?

What is a provincial office?

- General structure of a provincial office
- Overview of the functions of each unit within a provincial office
- Vision, values, and objectives of the Iraqi Council of Representatives' (COR) provincial offices

Management Department

This unit is connected directly to the COR's Provincial Offices Department, a subdivision under the COR Parliamentary Affairs Directorate. A highlight of this Department's responsibilities include:

- Managing the overall logistics, operations, administration, human resources, and accounting of the COR provincial office
- Ensuring non-partisan use of the provincial office and equal access to all citizens
- Monitoring local media for relevant news to the offices' duties
- Providing civic education to citizens on the work of the Iraqi Council of Representatives

Complaints Department

This unit reports directly to the COR's Complaints Committee. Highlights of this Department's responsibilities include:

- Receiving all valid complaints and suggestions from citizens and civil society organizations
- Contributing to solving complaints locally through coordination with local governmental and non-governmental institutions. If the complaint cannot be resolved locally, this unit will refer the complaint to the Complaints Committee for further referral and will it monitor it until the complaint is responded to and/or resolved.
- Report regularly on solved, unsolved, and under-process complaints to the Complaints Committee. Reports are intended to be objective and non-partisan.
- Make use of technology to facilitate the complaint resolution life-cycle of constituent complaints (via a networked system)

Regional Affairs Department

This unit is reports directly to the COR's Regions and Governorates Affairs Committee. Its activities include the following:

- Monitoring and following-up on the fair distribution of the federal budget to regions and provinces with a focus on the provincial development plan, current and future projects, and shared services

- Participating and liaising with the province councils on behalf of the COR and facilitating local-federal government relations
- Producing reports to the Governorates Affairs Committee on the relevant regional of provincial needs and issues (i.e. fair participation in the management of various federal government institutions, missions, scholarships, and international, national and local conferences)

MP Affairs Department

This unit is connected directly connected to the COR Committee on Member's Affairs and Parliamentary Development (MAPDC). This Department performs the following services to MPs:

- Assists and organizes MPs' schedules in the province
- Organizes appointments for institutions, civil society organizations and constituents to meet MPs from their province
- Provides logistical support to MPs in organizing events in the province and to connect them to local media
- Reports on the MPs activities to the MAPDC

Vision, mission, values, and objectives of COR provincial offices

- A COR provincial office is an extension of Council of Representatives in the province
- It is a resource on parliamentary work for ordinary citizens, students, civil society organizations, professional organization,…etc.
- It serves as a constituency office for a member
- It is a <u>politically neutral</u> place and does not belong to <u>any</u> political party

COR provincial offices aim to:

- Strengthen the Parliament's representational and oversight functions
- Shorten the distance between citizens and the Parliament in a way that guarantees freedom and respect of free speech
- Provide civic education to constituents in a manner that fosters trust between a constituency and its MPs

Message

To link constituents and the Iraqi Council of Representatives

How can provincial offices facilitate your work as an Iraqi MP?

Core functions of a member of parliament

- Legislative
- Representative
- Oversight
- Party advocate

Three audiences of COR provincial offices

- Committees
- Representatives
- People

Legislative

- As a MP, you are the voice of the people in Parliament
- Provincial offices can give you access to local NGOs and citizens' groups
- A good legislator must work across party lines in the interest of their province
- Informed legislation leads effective laws

Representative

- Office hours
- Case work
- Public meetings
- Media outreach

Oversight

- Information gathering on government-funded programs
- Access to community contacts, local experts and local government officials
- Organize field hearings
- Coordinate follow-up post-oversight visits
- Media outreach

Benefits of provincial offices

- Smooth transition from one MP to another
- Effective constituent outreach
- Civic education and fostering trust between MPs and citizens
- Strengthen the effectiveness and image of the Parliament
- Promote stability, development, and a brighter future for Iraq

POs are your tool to

Link constituents and the Iraqi Council of Representatives

Chapter 8

Communications and Handling the Media

A vibrant media is essential to the effective functioning of a democratic parliament. The people have a right to be kept up-to-date on legislative changes, government spending programs, and all other matters that affect their daily lives.

A culture of transparency will serve the interests and enhance the legitimacy of the COR. MPs who regularly engage reporters with respect and honesty can be very effective in communicating their message to the Iraqi public.

Communications and Handling the Media

Trish Conrad

Outreach & Communications Specialist

The media: outreach to the citizens

- The media can be used as a means of broad communication
- Print, broadcast and new media reach households across Iraq
- The media communicates the activities of the COR and your activities as a parliamentarian
- While they may not always communicate your message, the media is not necessarily the enemy

The media: building relationships

Key components

- Consistent contact
- Be honest, but not a sieve
- Understand that you need each other
- Develop a database of local TV, radio, print, and on-line journalists
- Your relationships with media contacts must be regularly maintained and updated
- Make sure your press contacts know they can rely upon you to inform them of information regarding the speaker and his office

The media: building credibility

- Develop good rapport
  - Be likeable and caring
  - Relate personal experience
  - Preview interviewer
- Communication
  - Access
  - Honesty
  - Information
  - Consistency

The media: building value

Key components

- Develop a proven track record
- Be able to address many subjects
- Helps to be quoted
- Be accessible

The media: your turn to ask questions

- How can I help you?
- Is now a good time to talk or is another time better?
- What would you like me to send you in advance of the interview?
- Would you like suggestions for other sources for your story?
- Are you looking for information you are having trouble finding?
- Would you like suggestions for setting or photo ideas?
- What visual supports would you like me to provide?
- Do you need additional documentation of any topics we discussed?
- Do you have all of my contact information in case you think of something else you need?

Chapter 9

Parliament's Relationship with Provincial Councils

This presentation surveys and analyzes constitutional factors pertinent to greater engagement by the Iraqi national parliament (or Council of Representatives) with the Kurdish Regional Government and provinces organized according to Law 21 of 2008. In particular, the presentation highlights the vertical relationship of the COR to the KRG and the provinces and the horizontal relationship between elected and appointed officials at both the national and sub-national levels. The presenter argues that although the Iraqi governmental system remains largely ministerial, there is scope within both the constitution and the national budget law for the assertion of parliamentary authority. He concludes that experience from the provinces suggests the involvement of elected officials increases the efficiency and accountability of appointed ones.

Parliament's Relationship with Provincial Councils

Lamar Cravens

Chief of Party

Introduction

The Iraqi Constitution of 2005 sketches out a government separated into legislative, executive and judicial powers. From the order of its chapters, it could be concluded that the legislative power is of first importance. In practice, however, the Government of Iraq operates as predominately executive. The constitution also does not articulate a working relationship between the legislative power and that of either the regions or provinces not incorporated into a region that the constitution allows. Five years since the ratification of the constitution and over two years since this adoption of a law of governorates, it is possible to offer a rationale for increased engagement between the national parliament and the provinces by examining questions of sovereignty and federalism contained in the constitution and some practical lessons from capital budgeting.

Sovereignty

Sovereignty rests with the state of Iraq. Whatever theoretical assertion of its ultimate source – be it Nature or God or the People – the Iraqi Constitution of 2005 states that "[t]he law is sovereign."[1] The voting population might grant a government legitimacy and authority[2] by electing it, but ultimately the constitution is 'preeminent and supreme,'[3] superior to any law that contradicts it and the creative force behind the regions and provinces. That constitution denotes three levels of government – central, regional and provincial.[4] It also recognizes a separate status for Baghdad as the nation's capital[5] and requires that both the provinces not incorporated into a region[6] and Baghdad be regulated by a law, presumably issued by the national parliament.[7] Although the constitution describes the new Iraq as federal and democratic[8] (and calls for the provinces to be organized in accordance with the principle of administrative decentralization[9]), it speaks of these things generally, leaving to a contemplated future parliament the task of defining them further with subsequent legislation. Of particular note is the breadth of choice left to subsequent parliaments to define the jurisdiction of each.

Articles 110, 114, 115 and 122 hint at a division of authority between incompletely defined central and provincial governments. Article 110 offers the most clarity when it describes national security

[1] Iraqi Constitution of 2005, Article 5: "The law is sovereign."
[2] Article 5: "The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot."
[3] Article 13: "First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.
Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void."
[4] Article 116: "The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations."
[5] Article 124, First: "Baghdad in its municipal borders is the capital of the Republic of Iraq and shall constitute, in its administrative borders, the governorate of Baghdad."
[6] Article 119: "One or more governorates shall have the right to organize into a region based on a request to be voted on in a referendum . . ."
[7] Article 122, Fourth: "A law shall regulate the election of the Governorate Council, the governor, and their powers." [That law is Law 21 of 2008, the Law of Governorates not Incorporated into a Region]; Regarding Baghdad, see Article 124, Second: This shall be regulated by a law. [To date, despite competing drafts, no capital law has been adopted.]
[8] Article 109.
[9] Article 122, Second.

and foreign affairs (for example) as being among the exclusive jurisdiction of the central government.[10] This exclusivity makes sense in that it is one of the attributes of state sovereignty to conduct foreign relations with other sovereign states. Nevertheless, this authority has occasionally been challenged by governors, who believe that they should be able to enter into agreements for investment, for instance, directly with foreign powers. So far, however, the central government has not allowed them to do so, consistent with international standards.

Regarding the other and frankly more obvious exclusive authority of a sovereign state – defense – no similar challenges by the provinces have been noted.

Beyond these two assertions of exclusive jurisdiction over foreign affairs and defense, the Iraqi constitution largely defers judgment. In Article 114, for instance, it says that some authorities shall be shared. Specifically, it lists seven 'competencies' to be shared between the central and regional governments.[11] The involvement of the provinces it anticipates is more nuanced. While it declares that a range of policy initiatives – from health to education – are to be shared between the central and regional governments, it limits the participation of provinces to either 'consultation,' 'coordination' or 'cooperation' or does not give them a role at all.[12] 'Consultation' is expected between the provinces and the central government in respects to education policy, 'coordination' with respects to customs duties and 'cooperation' with respects to environmental and health policy. In respects to electricity, water and development planning, by contrast it mentions only the regions.[13] What is significant about these distinctions is that they deny the provinces outright authority over health, education, environment or other policy. Instead, the regions are entitled to share authority and that sharing seems limited to the sharing of opinions. Frequently, Article 114 is cited as if the authority of the provinces over the seven policy areas listed were equivalent to that of a region or of the central government. Such an interpretation, however, is not supported by close attention to the words actually used. Instead, the authorities of the regions and provinces are clearly distinguished.

Finally, Article 115 curiously asserts that the authorities not exclusive or shared belong to the provinces.[14] Although this assertion fits stylistically with its two predecessors – describing a repository of authority within the provinces that have not been captured either by the exclusive authorities mentioned in Article 110 or the shared ones articulated in Article 114 – it does not fit with the majority of articles of the constitution. In my opinion, this article was a mistake because, as we have discussed, the notion of sovereignty contained in the Iraqi constitution is not popular, and as the slogan painted across the city rightly proclaims, the priority of sources of power in this country are "Allah, al Watan, as Sha'b".[15] Elsewhere, outside of the oddball Article 115, the

[10] Article 110, list nine exclusive powers of the central government, among them First, regarding foreign relations; and Second, regarding national security.
[11] Article 114: First**:** To manage customs,
Second: To regulate the main sources of electric energy and its distribution.
Third: To formulate environmental policy
Fourth: To formulate development and general planning policies.
Fifth**:** To formulate public health policy,
Sixth**:** To formulate the public educational policy
Seventh**:** To formulate and regulate the internal water resources policy
[12] Article 114 lists seven powers that are to be "shared between the federal authorities and regional authorities."
"Cooperation" with provinces not incorporated into a region is urged for the setting of environmental and health policy, "consultation" with them is urged for education policy, and "coordination" with them for customs.
[13] Article 114: "Second: To regulate the main sources of electric energy and its distribution;" and "Fourth: To formulate development and general planning policies."
[14] Article 115: "All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region."
[15] Article 5: "The law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional institutions." Had the sentence read "the people are sovereign," the argument for 'popular sovereignty' would be stronger.

constitution is clear: the central government defines and regulates the provinces out of its sovereignty; the provinces have not surrendered some of their sovereignty to create the central government.

Federalism

Support for the foregoing interpretation of Articles 110, 114 and 115 can be found in the relations between the central government and the Kurdish Regional Government (KRG).[16] As proof that the KRG is a 'government' consider this definition:

A government requires an elected council that chooses a chief executive officer.

If the definition ended there, we could describe the central, Kurdish regional and even the provincial as 'governments' because the central government has a parliament and elects a Prime Minister, the KRG has a parliament and elects its Prime Minister and the provinces have councils that elect a governor.[17] But if we extend that definition of a government to include the appointment of executive officers to oversee the administration of departments, then only the central and Kurdish governments deserve the name because only their Prime Ministers, in coordination with their respective parliaments, choose administrators (who in both places go by the title of 'minister'). The provincial councils and governors, in contrast, do not choose the directors or directors general responsible for the administration of departments on the territory of the province. Therefore, they cannot properly be described as 'governments.' Instead, the provincial councils are but one of numerous government actors working at the provincial level. This difference in definition has significant implications for how the COR interacts with both the KRG and the provinces.

Because the relationship between the central government and the KRG is federal in nature, it is distinguished by autonomy. The relationship between the two is the relationship between two governments. While ultimate sovereignty still resides with the state of Iraq, the Constitution of Iraq has devolved much of the attributes of sovereignty onto the KRG, making it largely autonomous of central decision making. The KRG therefore enjoys a degree of latitude in how it governs. Most notably, while still obligated to abide by the constitution, the KRG is not obligated to abide by other law passed by the COR or regulations issued by most Baghdad-based ministries (except for those of exclusive jurisdiction like foreign affairs and defense). Instead, it can exercise autonomy to enact laws and regulations that it thinks best for its region, regardless of what standards the center has adopted.

Provincial – Central

In contrast to the KRG, the provinces do not exercise the same amount of autonomy. As we have defined it, they therefore should not unthinkingly be called a provincial 'government' because the elected officials at the provincial level currently possess no authority to appoint administrators of departments active in the same territory. That remains the responsibility of a central government – of ministers and indeed of the national parliament itself – whose decisions, regulations and legislation are binding on government actors in the provinces, whether elected or appointed.

It remains a matter of debate whether elected actors at the provincial level should have jurisdiction over departments. As is well-known, legislation introduced by COR members before last

[16] Article 117 states: This Constitution, upon coming into force, shall recognize Kurdistan, along with its existing authorities, as a federal region.

[17] Law 21 of 2008, Article 26, Second: "The governorate council may elect the governor from within or outside the council."

year's elections would have transferred responsibility for Social Affairs from the Ministry of Labor to provincial governors[18] and would have entirely devolved the Ministry of Public Works to governors.[19] Many commentators saw this as the first step towards decentralization and the eventual dissolution of those Baghdad-based ministries that are not necessarily required by state sovereignty, such as defense, foreign affairs, and probably oil. As it turned out, of course, the Iraqi Supreme Court declared both laws unconstitutional because they had been introduced to the COR by parliament members themselves, rather than by the Council of Ministers' Executive Committee (COMSEC).[20] Therefore, at the present time, whatever one's opinion about what is best for Iraq or how relations between the central government and provinces ought to be defined, provincial elected officials have no direct oversight of departments. To restate it in terms of sovereignty, the central government has retained jurisdiction over the exclusive functions articulated in Article 110 and has chosen to keep whatever shared functions might be implied by Article 114. As the real source of authority, the state has not ceded power to the provinces, and so elected and appointed bodies at the provincial level remain separate.

In the event that elected and appointed bodies stay separate, what remains to the national parliament? In other words, what is the authority of parliament over the provinces?

If we look back at the constitution, and indeed the bylaws for the COR, we would conclude that the national parliament's principal responsibility is to issue law.[21] As the constitution instructs, the national council is a legislature,[22] and their bylaws articulate the process through which that legislature legislates.[23] While the legislative authority of a national legislature ought to be obvious from the nature of legislatures all over the world, and while that obviousness is re-enforced by explicit words in the constitution and an entire chapter in the bylaws, the Supreme Court's opinion from last summer challenges the assumption that the parliament itself is exclusively in charge of law making.

The court's opinion asserted that legislation, to be constitutional, had to be introduced into the parliament by the Council of Ministers.[24] This assertion, while correctly grounded in the constitution,

[18] February 16, 2010, Presidency Council Decision No. 16, approved Law 18 on the Dissociation of the Department of Social Affairs from the Ministry of Labor and the transfer of staff and property to the provinces. Art 1, Second of the law declares that: "Provincial councils in the governorates not incorporated into a region shall pass a legislation to develop in detail the structure and duties of the General Directorate of Social Affairs." Includes: directorates of 1. Social Care, 2. Social Protection, and 3. Juvenile Rehabilitation. Article 5 declares that "all powers of the Minister. . . shall be vested in the governors."

[19] January 25, 2010, Presidency Council Approved Law 20 on the Devolution of the Ministry of Municipalities & Public Works and transfer of its staff and property to the provincial governors. Article 1, Second directs PCs to issue legislation regulating the structure of the general directorate and its functions. Includes directorates of 1. municipalities, 2. water, 3. sewage, and 4 urban planning. States the Ministry will handover "projects under implementation and ongoing." Article 5, Third declares "all powers of the Minister. . . will be moved to the governors."

[20] July 12, 2010, Supreme Court opinions No. 43 & 44. The rationale given for the holding was the distinction between 'draft' and 'proposed' laws made by Article 60, First and Second. In the first paragraph, the constitution says that the President and Council of Ministers shall introduce 'draft' laws, whereas the second paragraph says that at least 10 members of the parliament or one of its specialized committees are to introduce 'proposed' laws. Though the constitution does not define the difference between draft and proposed laws, the Court concluded that there was enough of one to void laws introduced for passage without prior Council of Ministers' approval.

[21] June 14, 2006, Bylaws for the COR. Chapter 5, Article 31, lists the "legislative functions" of the COR. Chapter 16, Articles 128-136 & Chapter 17, Articles 137-8 details the legislative process.

[22] Article 48: "The federal legislative power shall consist of the Council of Representatives and the [never formed] Federation Council."

[23] Article 51: "The Council of Representatives shall establish its bylaws to regulate its work." And June 14, 2006, Bylaws for the COR. Chapter 5, Article 31, lists the "legislative functions" of the COR. Chapter 16, Articles 128-136 & Chapter 17, Articles 137-8 details the legislative process.

[24] July 12, 2010, Supreme Court Declares devolution of the Ministry of Municipalities & Public Works unconstitutional in violation of Art. 92 of the Iraqi Constitution and Art 5 of the Iraqi Supreme Court's internal regulations. Holding No. 43 of 2010 & the Court Declares dissociation of the department of Social Affairs from the Ministry of Labor unconstitutional in

ignores both the obvious meaning of a legislature and the COR's bylaws. It also, not inconsequentially, ignores other parts of the constitution itself, which, while acknowledging a process by which legislation can be introduced by COMSEC to the COR,[25] permits COR members themselves to initiate legislation on their own.[26] Indeed, before the Supreme Court's opinion, other law had been introduced by COR members, without first passing COMSEC. One example of that is Law 21,[27] which did not originate in the Council of Ministers, and has not been voided as a result of it. Nevertheless, since the court's opinion this summer, it is certainly questionable whether any similar, future initiative would be struck down by the Court.

The question is not merely academic. It touches the very center of the national parliament's means of relating to the provinces. If, for instance, COR members may not initiate legislation on their own, their ability to respond to the needs of their constituents in the provinces is limited. Instead of taking action on their own, they must first convince COMSEC of the need and the means to address it before the COR can act. In either event, of course, the constitution prescribes that legislation, once passed by the COR, has to be reviewed by the Shura Council for conformity to the constitution and other law in effect. In this guise, the Shura Council operates more like an office of legislative council, working as an adjunct to the COR than as a judicial body, passing judgment.

Returning to the question of where legislation originates, the constitution supports both the COR and COMSEC as permitted points of origin.[28] Reasserting that constitutional authority in light of last summer's Supreme Court ruling would seem critical to keeping the national legislature relevant to the provinces.

Assuming the COR as a permissible point of origin of legislation, there are at least three ways that it could contribute to the development of the provinces and exercise some influence over the performance of both the appointed and elected bodies there. The first of these is by further refinement of the authorities of provinces not incorporated into a region by amending Law 21.

As has already been stated, the fact that the constitution requires the provinces to be regulated by a law demonstrates incontrovertibly that the center gives to the provinces whatever authority they may exercise.[29] Implicit in that power to give is the power to take away, and in its first amendment to the law, the previous COR demonstrated its willingness to take back powers it had previously given. In January of last year, the COR passed the first amendment to the law of the provinces. In it, the national parliament asserted the power to overturn a decision by a provincial council and even dissolve it if the COR disagreed.[30] That amendment, along with the underlying law that preceded it, gives the lie to any notion of residual powers resting in the provinces or a version of popular sovereignty that asserts the central government was somehow created by the provinces. Despite the remedies the COR gave itself for correcting provincial councils with which it disagrees, the amendment did not create a hierarchy between the provincial council and the national legislature. The provincial councils do not now report to the COR any more than nahiya councils report to qada'a councils or qada'a councils report to provincial councils.[31] Neither in the text of Law 21 nor the

violation of Art. 92 of the Iraqi Constitution and Art 5 of the Iraqi Supreme Court's internal regulations. Holding No. 44 of 2010.

[25] Article 60, "First: Draft laws shall be presented by the President of the Republic and the Council of Ministers."

[26] Article 60, "Second: Proposed laws shall be presented by ten members of the Council of Representatives or by one of its specialized committees."

[27] March 19, 2008, COR adopts Law 21 of 2008, the Law of Governorates not Incorporated into a Region.

[28] Article 60.

[29] *Supra*, note 5.

[30] January 25, 2010, Presidency Council Approved Amendment No. 1 to Law 21 of 2008. Article 3, Second, Paragraph A gives the COR the authority to void decisions of PCs by simple majority; Paragraph B gives the COR the power to dissolve a PC by absolute majority.

[31] As is argued in "The Power of the Purse" section below, the provincial council's involvement in and oversight of the provincial budget does give it some control over what capital projects are undertaken at the level of qada'a and nahiya.

amendment to it is such a vertical reporting relationship mandated. Indeed, the condition imposed by the amendment reaffirms the role of the COR as guardian of the constitution as it is only authorized to overturn decisions or orders of provincial councils that contradict the constitution or other central government law. It does not establish a hierarchy or make the COR otherwise responsible to oversee the actions of 14 different provincial councils.

The second of the three ways that the COR can relate to the provinces is by passing other legislation. As we have just seen, the first amendment to Law 21 gives the COR the power to overturn decisions that contravene the constitution and other, national law. A simple example of such a potential conflict could be the amount of a national pension. If, for instance, Social Affairs had been dissociated from the Ministry of Labor and handed over to the governors to execute, and if the provincial council of some province had passed local legislation setting the pension to be paid in its provinces to 10% less than the national standard, the COR would have been right to strike down the new law as in conflict with a national one. Of course, MOLSA was not dissociated, but the example is useful when talking about the extent of the COR's law making authority.

So far, we have talked about the COR's relationship to elected provincial officials – provincial council members and governors – but as we have defined it, there is no provincial 'government'. Instead there are multiple actors working at the provincial level, and the majority of them still work for provincial level departments of central government ministries. So, if the COR can pass legislation affecting provincial councils, can it also not pass legislation affecting provincial departments?

Theoretically, the answer to this question must be yes, but the mere raising of this question raises the conundrum of a legislature in what amounts to a ministerial system. The Supreme Court's opinion from last summer reasserts the centrality of ministries by insisting that COMSEC be the exclusive origin of law introduced into the COR. And the rulemaking authority of ministers – their power to issue regulations without the endorsement of the national parliament – further seems to limit what the COR can do. If the majority of government actors at the provincial level are appointed, and if ministries themselves, rather than the COR decide what they are to do and how they are to perform, then the legislative authority of the national legislature is greatly circumscribed. I do not argue that it ought to be circumscribed; only that clarity ought to be obtained as to the extent of power that elected officials at the national level – specifically members of parliament – exercise over appointed ones, specifically ministers. Answering that question will answer the extent to which laws passed by the COR can determine the standards and practices of departments at the provincial level. In other words, the relationship between the legislature and the executive needs to be further defined.

While the extent of the parliament's influence over ministries and ministerial departments at the provincial level is a matter for debate, the COR does possess one, current power that could be the basis for its interaction with the provinces, and that is the third way the COR has to engage with provincial actors – passing a budget. According to CPA Order 95, the national parliament adopts an annual budget. That that budget might be prepared through a process involving ministries and departments does not diminish the fact that the annual budget has to be made law. Once passed, of course, the budget forms the foundation of ministerial regulations on how to implement that law, promulgated by the Ministry of Finance, but neither the process of how a budget is put together nor how it is implemented lessens the importance of the COR. Without an act of parliament, there can be no budget, and instead ongoing expenses such as salaries are paid on a 1/12 pro rata 'continuing resolution' until such time as a budget is passed. Because it can delay the operation of government by delaying a budget, the COR holds an extraordinary power, and with it an extraordinary opportunity.

The Power of the Purse

Simply put, that opportunity is to direct the reconstruction and development of the country first by passing a national budget *deliberately* and second by overseeing its implementation *carefully*.

Although CPA Order 95 imposes the obligation of passing a budget on the COR,[32] it does not simultaneously articulate any obligation for thoroughness before passing it. As a result, the budget formulation process is largely dominated by the Ministry of Finance, but such continued domination is neither required by the law or constitution nor healthy in itself if the COR is to play a participating role in Iraq's development. Instead, to play that role, the COR could make use of its authority over the budget to guide the direction of resources expended by ministries and therefore development of the provinces. By simply giving greater scrutiny to the budget submitted by the Ministry of Finance, and by tracking the development of budgets by other ministries, the COR could guide a process that, without their intervention, would be entirely executive. If the ministries themselves develop their budgets and the Ministry of Finance aggregates their budgets into a national one that the COR only sees when it passes into law, then a great opportunity for accountable, elective government is being lost.

Through regular interaction with ministries, through a committee structure that parallels the ministries, through commissions, investigations and reports – in brief through study – the COR can involve itself in the development of ministerial budgets before they are collected, harmonized and presented to the parliament for a formal review by the Ministry of Finance. But that process of engaging with the ministries, the departments by and through specialized, parallel committees need not be limited to only the deliberate preparation of budgets. In fact, although active engagement by the COR in reviewing the draft submission of the Ministry of Finance could greatly increase the accountability of the ministry and increase what is known in the academic literature as "allocative efficiency" or a closer match between the needs of the electorate and the resources of the government, it need not stop at the preparation of the national budget. It could continue into ongoing monitoring of how the ministries, and in the provinces the departments, are implementing their budgets.

The constitutional authority for the COR to get involved with monitoring of budget implementation can be found in Article 61, which empowers the national parliament to both enact laws and monitor their implementation by the executive.[33] In addition to this constitutional obligation to monitor, there is a practical need for increased scrutiny of the ministries as their disaggregated execution rates exhibit a lower level of spending by appointed officials at the provincial level than elected ones.

Statistics published by the Ministry of Finance itself show a consistent failure on the part of central ministries to spend the money allocated to them for capital improvements around the country. To cite only a couple of examples, in Dhi Qar province, in 2003 the provincial department of education had a budget execution rate of 20% but in 2010, that rate increased to 65%. Similarly, the department of health in 2003 had an execution rate of 10% but in 2010 that had increased to 55%. Roads and bridges grew from only 5% in 2003 to 43% in 2010. One of the major distinctions between 2003 and today was the involvement of elected provincial officials in preparing development strategy of the province and in determining the capital budget. While all of these departments – along with the beladiya – appear to have increased their efficiency as a result of involvement of

[32] June 2, 2004, Coalition Provisional Authority (CPA) issues CPA Order 95, Financial Management & Public Debt Law.
[33] Article 61: "The Council of Representatives shall be competent in the following:
First: Enacting federal laws.
Second: Monitoring the performance of the executive authority."

elected officials, one Dhi Qar service actually got worse, and not surprisingly it is a service where no local participation is permitted – electricity. Although officials statistics from 2003 show the budget execution rate for electricity in the province to be 100%, in 2010 it was only 34%. The conclusion that we have to draw is that the electricity department has failed to keep up with demand, in part because they have no engagement with elected officials to inform them accurately of the demand.

In high contrast to this failing, those provincial departments that work most closely with provincial councils have a consistently higher rate of budget execution. The numbers are tentative proof that elected and appointed officials can retain separate functions but work together. While I am not advocating that elected provincial councils or governors be given expanded jurisdiction over central government ministries operating on the territory of the same province, I am suggesting that appointed government seems to work more efficiently if scrutinized by elected government. I am also assuming that the same efficiency would result if elected members of parliament increased their engagement with central government ministries.

In summary, the Iraqi Constitution of 2005 acknowledges Islam, the nation and the people as sources of state sovereignty. The balance of its articles, however, suggests an empirical view that the provinces are the creation of the state; the state is not the creation of the provinces. The national parliament has been given the responsibility for defining both the boundaries of the provinces and the authorities of the governmental bodies operating there. Although the Constitution categorizes the authorities exercised by the central government and the provinces generally as exclusively national, shared and reserved, the state itself so far has only deemed to give to the provinces limited authority. Most significantly, by not giving elected officials at the provincial level direct authority over appointed ones there, it has not unified provincial 'government.' Instead, the relationship between elected and appointed officials at the provincial level remains separated. That relationship being defined by law, the national legislature can exercise influence over the direction and development of the provinces by amending existing or passing additional or supplemental law. While the ability of COR members themselves to introduce legislation for consideration and possible passage by the parliament has been called into question by a Supreme Court decision in the summer of 2010, being a legislature implies it can legislate. As the COR has already demonstrated its willingness and ability to first pass and then amend Law 21, it could, theoretically, pass equivalent legislation binding on the ministries. At a minimum, the authority given to it by CPA Order 95 to adopt the annual, national budget gives it an opportunity to insert itself into the processes of budget formulation and budget execution, the latter already showing greater efficiency at the provincial level when appointed officials work in concert with elected ones.

Chapter 10

Interparliamentary Relations

In healthy democracies, there is often a significant rate of turnover between legislative terms. As a result, even long-established parliaments struggle against limited institutional memory. Therefore, it is important for parliamentarians to seek out opportunities to consult with their peers, including their peers from foreign jurisdictions. Interparliamentary organizations formalize relationships between members of different parliaments. MPs can use these relationships to learn from their colleagues by discussing common challenges to better inform their attempts to strengthen their own parliament or their attempts to resolve a vexing policy problem. Moreover, regular contact between parliamentarians from different countries can improve foreign relations by deepening connections between jurisdictions.

Interparliamentary Relations

Meg Munn

Member of Parliament, United Kingdom House of Commons

Key purposes of Inter-parliamentary relationships

- Promote knowledge and understanding
- Share information and learn about issues of interest
- Provide influencing forums for parliamentarians
- Learn from other parliamentarians
- Provide support for developing democracies
- Promote peace and stability through friendship and co-operation

Activities and contacts

- Conferences
- Inter-parliamentary visits
- Seminars & workshops
- Newsletters
- Internet forums

Organisations 1

Inter-parliamentary Union – IPU

- Established 1889
- 155 members including Iraq
- Focal point for parliamentary debate
- Key areas – defense and human rights
- Supports United Nations and shares its objectives
- Organizes meetings for parliamentarians at international gatherings
- Other events include regional seminars
- Provides research information
- Website – www.ipu.org

Organisations 2

Regional organisations

- Parliamentary Assembly of Council of Europe
- Baltic Assembly
- Asia-Pacific Parliamentary Forum
- The Arab Inter-parliamentary Union (AIPU)

International agencies – parliamentary organisations

- NATO Parliamentary Assembly
- Parliamentary Network of the World Bank
- Commonwealth Parliamentary Association

Inter-parliamentary groups on specific issues

- African Parliamentary Network on Poverty Reduction
- World Organization of Parliamentarians against Corruption
- Coalition of African Parliamentarians against HIV/AIDS

Bilateral relationships

- Friendship Groups
- Inter-parliamentary Groups
- All Party Parliamentary Groups (APPGs)

USAID
من الشعب الأمريكي

LEGISLATIVE STRENGTHENING PROGRAM
برنامج دعم وتطوير البرلمان پرۆگرامی پشتگیری و پەرەپێدانی پەرلەمان

Members' Parliamentary Development Program

Mission Statement

The hopeful evolution of Iraq's nascent democracy and, especially, the influx of many first-time MPs present LSP with a unique opportunity to create a new culture within the Council of Representatives that understands the benefits of strengthening the institution, thus facilitating the fulfillment of its role as:

- ***the legitimate voice of the Iraqi people,***
- ***an equal and respected partner with the executive branch in the nation's governance and***
- ***a vigilant guardian of the democratic principles embodied in the Iraqi Constitution.***

LSP is wholly committed to fostering these vital COR roles and, through the Members' Parliamentary Development Program, will diligently pursue and reinforce the following themes, each of which is implicit in LSP's mandate to enhance the COR's capacity and MP effectiveness:

1. ***The power of the Iraqi Constitution and the source of the COR's authority rest with the people of Iraq.***
2. ***The COR is a co-equal branch of government, and legislators must have unfettered access to public policy information in order to achieve effective oversight of government actions.***
3. ***A strong legislature generates governance that is responsive to the people and strengthens the ability of caucuses to advance their agendas.***
4. ***MPs have an obligation to represent the electorate, and their work will be judged by the public in the next elections.***
5. ***MPs have a responsibility to communicate on a regular basis with those who elected them.***

LSP will ensure that:

- ***the content of each MPDP workshop explicitly reflects the above principles;***
- ***every workshop leader actively promotes these themes.***